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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FREEDOM FORECLOSURE PREVENTION SERVICES, LLC, an Arizona limited liability company;

LOSS MITIGATION TRAINING CENTER OF AMERICA, LLC, an Arizona limited liability company and doing business as Mastermind Consulting Group;

JEFFREY C. SEGAL, individually and as an officer of Freedom Foreclosure Prevention Services, LLC and Loss Mitigation Training Center of America, LLC; and

MICHAEL R. WORKMAN, individually and as an officer of Freedom Foreclosure Prevention Services, LLC;

Defendants.

SEALED

Case No. CV-09-1167-PHX-
PJM

EX PARTE TEMPORARY RESTRAINING ORDER AGAINST DEFENDANTS FREEDOM FORECLOSURE, LOSS MITIGATION TRAINING CENTER, AND JEFFREY SEGAL

AND ORDER FOR ALL DEFENDANTS TO SHOW CAUSE WHY A PRELIMINARY INJUNCTION SHOULD NOT ISSUE

Plaintiff Federal Trade Commission ("FTC"), has filed a Complaint seeking a permanent injunction and other relief, pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), and a motion for an *ex parte* temporary restraining order

1 ("Order") pursuant to Rule 65(b) of the Federal Rules of Civil Procedure. This Court has
2 considered the Complaint, exhibits, memoranda, declarations, and other submissions of the
3 parties, and now being advised in the premises, finds that:

4 1. This Court has jurisdiction over the subject matter of this case, and there is good
5 cause to believe it will have jurisdiction over all the parties hereto.

6 2. Venue in the District of Arizona is proper under 15 U.S.C. § 53(b) and 28 U.S.C.
7 § 1391(b) and (c).

8 3. There is good cause to believe that Freedom Foreclosure Prevention Services,
9 LLC, Loss Mitigation Training Center of America, LLC and Jeffrey Segal (hereinafter referred
10 to as "TRO Defendants") have engaged, and are likely to continue to engage, in acts or practices
11 that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45, and that the FTC is, therefore, likely to
12 prevail on the merits of this action.

13 4. The evidence set forth in the Commission's Memorandum of Law in Support of
14 *Ex Parte* Motion for Temporary Restraining Order and Order to Show Cause ("TRO Motion"),
15 and the accompanying declarations and exhibits, demonstrates that the Commission is likely to
16 prevail on its claim that Defendants have engaged in deceptive acts or practices in violation of
17 Section 5(a) of the FTC Act by making deceptive representations in connection with the offering
18 for sale or sale of any business venture or investment opportunity and any mortgage loan
19 modification or foreclosure relief service.

20 5. There is a reasonable likelihood that TRO Defendants will violate Section 5 of the
21 FTC Act, 15 U.S.C. § 45, in the future unless TRO Defendants are restrained and enjoined by
22 order of this Court.

23 6. There is good cause to believe that TRO Defendants will continue to engage in
24 such unlawful actions if not immediately restrained from doing so by Order of this Court. There
25 is also good cause to believe that immediate and irreparable damage to the Court's ability to
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1 grant effective final relief in the form of permanent injunctive relief, rescission, restitution, and
2 disgorgement will occur from the destruction, transfer, or concealment by TRO Defendants of
3 their assets and business documents or records unless TRO Defendants are immediately
4 restrained and enjoined by order of this Court. Based on the evidence set forth in the
5 Commission's TRO Motion and in the accompanying declarations and exhibits, the Commission
6 is likely to be able to prove that TRO Defendants have engaged in a concerted course of
7 unlawful activity in connection with the deceptive marketing and selling of business
8 opportunities and mortgage loan modification or foreclosure relief services in violation of
9 Section 5(a) of the FTC Act. Furthermore, based on the evidence cited in the TRO Motion, the
10 Commission is likely to be able to prove that: (1) Defendant Segal repeatedly said that he
11 would hide his money in Costa Rica or flee to Costa Rica if he thought that the government was
12 catching on to his scam; (2) TRO Defendants use post office boxes and Domains by Proxy (a
13 domain registration privacy-protection service) to hide from law enforcement; and (3) TRO
14 Defendants shut down Freedom Foreclosure Prevention Services, LLC amidst mounting
15 consumer complaints and legal threats only to open up Loss Mitigation Training Center of
16 America, LLC, a business deceptively marketing virtually identical products and run by the same
17 principal. Thus, there is good cause to believe that TRO Defendants will continue to engage in
18 attempts to conceal the scope of their unlawful actions to avoid returning their ill-gotten gains to
19 consumers injured by their unlawful practices if not restrained from doing so by Order of this
20 Court;

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23 7. The Commission has not provided notice to the TRO Defendants due to the
24 likelihood that advance notice of this action will cause the TRO Defendants to abscond with or
25 destroy discoverable evidence and conceal or dissipate assets. The Commission's request for
26 this emergency *ex parte* relief is not the result of any lack of diligence on the Commission's part,
27 but instead is based upon the nature of the TRO Defendants' unlawful conduct. Accordingly,
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1 there is good cause for relieving the Commission of the duty to provide the TRO Defendants
2 with prior notice of the Commission's application;

3 8. There is good cause for the Court to order an asset freeze against the TRO
4 Defendants. Based on the evidence set forth in the TRO Motion, the Commission is likely to be
5 able to prove that TRO Defendants have generated significant revenues from activity that
6 violates Section 5(a) of the FTC Act, including misrepresenting to consumers that: (1) the TRO
7 Defendants will stop foreclosure in virtually all circumstances; (2) the TRO Defendants will
8 provide refunds of up-front fees paid if the TRO Defendants fail to obtain a loan modification;
9 and (3) consumers who purchase loss mitigation consultant opportunities are likely to earn
10 \$6,000-\$10,000 per month. An asset freeze as to the TRO Defendants is necessary in order to
11 preserve the possibility of complete and meaningful relief in the form of consumer redress
12 and/or disgorgement at the conclusion of this litigation;

14 9. Weighing the equities and considering the Commission's likelihood of ultimate
15 success, a temporary restraining order requiring an immediate freeze as to all of the TRO
16 Defendants' assets and accounting of assets, preserving business records, and providing other
17 equitable relief is in the public interest; and

18 10. Fed. R. Civ. P. 65(c) does not require security of the United States or an officer or
19 agency thereof for the issuance of a restraining order.

20 DEFINITIONS

- 21 1. "Assets" means any legal or equitable interest in, right to, or claim to, any real and
22 personal property, including, but not limited to chattel, goods, instruments, equipment,
23 fixtures, general intangibles, inventory, checks, notes, leaseholds, effects, contracts, mail
24 or other deliveries, shares of stock, lists of consumer names, accounts, credits, premises,
25 receivables, funds, and cash, wherever located, whether in the United States or abroad.
- 27 2. "Assisting others" means knowingly providing any of the following goods or services to
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1 another person or entity:

- 2 (a) Performing customer service functions, including, but not limited to,
3 receiving or responding to consumer complaints; or
4 (b) formulating or providing, or arranging for the formulation or provision of,
5 any telephone sales script or any other marketing material; or
6 (c) providing names of, or assisting in the generation of, potential customers;
7 or
8 (d) performing marketing services of any kind.
9

10 3. "Business venture" means any written or oral business arrangement, however
11 denominated, regardless of whether covered by the Franchise Rule or Business
12 Opportunity Rule, which consists of the payment of any consideration for:

- 13 a. the right or means to offer, sell, or distribute goods or services (regardless of
14 whether identified by a trademark, service mark, trade name, advertising, or other
15 commercial symbol); and
16 b. more than nominal assistance to any person or entity in connection with or
17 incident to the establishment, maintenance, or operation of a new business or the
18 entry by an existing business into a new line or type of business.
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20 4. "Corporate Defendants" means Freedom Foreclosure Prevention Services, LLC, Loss
21 Mitigation Training Center of America, LLC, and any affiliates, fictitious names, d/b/a's,
22 subsidiaries, successors, or assigns of the aforementioned entities.

23 5. "TRO Defendants" means: a) each Corporate Defendant and b) Jeffrey C. Segal.

24 6. "Defendants" means: a) each Corporate Defendant; b) Jeffrey Segal; and c) Michael
25 Workman.

26 7. "Document" is synonymous in meaning and equal in scope to the usage of the term in
27 Fed. R. Civ. P. 34(a), and includes writings, drawings, graphs, charts, photographs, audio
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1 and video recordings, computer records, and other data compilations from which
2 information can be obtained and translated, if necessary, through detection devices into
3 reasonably usable form. A draft or non-identical copy is a separate document within the
4 meaning of the term.

5 8. "Investment opportunity" means anything, tangible or intangible, that is offered, offered
6 for sale, sold, or traded based wholly or in part on representations, either express or
7 implied, about past, present, or future income, profit, or appreciation;

8 9. "Mortgage loan modification or foreclosure relief service" means any service, product, or
9 program that is represented, expressly or by implication, to assist a homeowner in any
10 manner to (A) obtain or arrange a modification of any term of a home loan, deed of trust,
11 or mortgage; (B) obtain or arrange a refinancing, recapitalization, or reinstatement of a
12 home loan, deed of trust, or mortgage; (C) obtain or arrange a pre-foreclosure sale, short
13 sale, or deed-in-lieu of foreclosure; (D) stop, prevent, or postpone any home mortgage or
14 deed of trust foreclosure sale; (E) obtain any forbearance from any beneficiary or
15 mortgagee, (F) obtain a loan or advance of funds that is connected to the consumer's
16 home ownership, (G) avoid or ameliorate the impairment of the owner's credit standing,
17 credit rating or credit profile that is connected to the consumer's home ownership, or (H)
18 save the owner's residence from foreclosure.

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20 10. "Person" means a natural person, organization, or other legal entity, including a
21 corporation, partnership, proprietorship, association, cooperative, or any other group or
22 combination acting as an entity.
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ORDER

PROHIBITED REPRESENTATIONS

I. IT IS THEREFORE ORDERED that:

A. In connection with the offering for sale or selling of any mortgage loan modification or foreclosure relief service, TRO Defendants, and their officers, agents, servants, employees, and attorneys, and persons in active concert or participation with him who receive actual notice of this Order by personal service or otherwise, are hereby temporarily restrained and enjoined from making, or assisting in the making of, directly or by implication, orally or in writing, any false or misleading statement or representation of material fact including, but not limited to:

1. that any TRO Defendant or any other person will
 - a. obtain or arrange a modification of any term of a consumer's home loan, deed of trust, or mortgage, including any recapitalization or reinstatement agreement;
 - b. obtain or arrange a pre-foreclosure sale, short sale, or deed-in-lieu of foreclosure;
 - c. stop, prevent, or postpone any home mortgage foreclosure sale;
 - d. save any consumer's residence from foreclosure;
 - e. obtain or arrange lower or affordable monthly mortgage payments for any consumer;
 - f. give a full or partial refund of any fees paid if the TRO Defendant or any other person fails to provide a mortgage loan modification or foreclosure relief service;
2. the terms that any beneficiary, mortgagee, or other home-loan holder will or is likely to offer or accept to cure any delinquency or default on, or to re-instate, any

1 mortgage, deed of trust, or other home loan;

2 3. the refund policy of any TRO Defendant or any other person, including but not
3 limited to the likelihood of a consumer obtaining a full or partial refund, or the
4 circumstances in which a full or partial refund will be granted to the consumer;

5 4. any other material fact.

6 B. In connection with the offering for sale or selling of any business venture or investment
7 opportunity, TRO Defendants, and their officers, agents, servants, employees, and
8 attorneys, and persons in active concert or participation with him who receive actual
9 notice of this Order by personal service or otherwise, are hereby temporarily restrained
10 and enjoined from making, or assisting in the making of, directly or by implication,
11 orally or in writing, any false or misleading statement or representation of material fact
12 including, but not limited to:

- 13
- 14 1. The potential income or profits that can be earned from operating any business
15 venture or from any investment opportunity;
 - 16 2. The number of persons who have purchased or are currently operating any
17 business venture or who have purchased any investment opportunity;
 - 18 3. The fact that any person has operated or purchased a business venture or
19 investment opportunity, or can provide an independent or reliable report about
20 any business venture or investment opportunity; or
 - 21 4. Failing to disclose any personal relationship with, or consideration promised or
22 paid, to any person identified by TRO Defendant as a purchaser or operator of a
23 business venture or investment opportunity.
- 24

25 **REQUIREMENT TO REPORT CUSTOMER STATUS**

26 **II. IT IS FURTHER ORDERED** that within five (5) calendar days from the date of this
27 Order, TRO Defendants shall provide the FTC with the following information for each
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1 homeowner: (a) who has paid any TRO Defendant for a mortgage loan modification or
2 foreclosure relief service; (b) who has paid any person for a mortgage loan modification or
3 foreclosure relief service following communications from TRO Defendants, their employees,
4 agents, representatives, independent contractors, or franchisees; or (c) from whose payments
5 Defendants have received any compensation:

6 A. the homeowner's name, address, telephone number(s), and email address(es);

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8 B. the total amount paid by the homeowner to TRO Defendants or any other person for the
9 mortgage loan modification or foreclosure relief service, the amount and date(s) of payments,
10 and the amount and date of any refund;

11 C. the name, address, telephone numbers, and addresses of every person with whom TRO
12 Defendants or their employees, agents, representatives, independent contractors, or franchisees,
13 have communicated in connection with the provision of the mortgage loan modification or
14 foreclosure relief service; the date of each such communication; and a summary of the nature of
15 the communication;

16 D. the name, address, telephone numbers, and email addresses of each person, including
17 attorneys, who have provided any services in connection with the provision of mortgage loan
18 modification or foreclosure relief service, and the amount paid to such person for such service
19 (in the event that the homeowner(s) paid another person for the mortgage loan modification or
20 foreclosure relief service and that person paid TRO Defendants for their services, provide the
21 amount paid to TRO Defendants by such person);

22
23 E. a description of the homeowner's circumstances that required the mortgage loan
24 modification or foreclosure relief service; and

25 F. the status, resolution, and results obtained by TRO Defendants of the mortgage loan
26 modification or foreclosure relief service.

ASSET FREEZE

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2 **III. IT IS FURTHER ORDERED** that each of the TRO Defendants is hereby temporarily
3 restrained and enjoined, until further order of this Court, from:

4 A. transferring, encumbering, selling, concealing, pledging, hypothecating, assigning,
5 spending, withdrawing, disbursing, conveying, gifting, dissipating, or otherwise disposing of any
6 funds, property, coins, lists of consumer names, shares of stock, or other assets, wherever
7 located, that are (1) owned or controlled by any of the TRO Defendants, in whole or in part; (2)
8 in the actual or constructive possession of any of the TRO Defendants; (3) held by an agent of
9 any of the TRO Defendants, as a retainer for the agent's provision of services to a TRO
10 Defendant; or (4) owned, controlled by, or in the actual or constructive possession of, or
11 otherwise held for the benefit of, any corporation, partnership, or other entity directly or
12 indirectly owned or controlled by any of the TRO Defendants;

14 B. opening or causing to be opened any safe deposit boxes titled in the name of any of the
15 TRO Defendants, or subject to access by any of the TRO Defendants;

16 C. incurring charges or cash advances on any credit or debit card issued in the name, singly
17 or jointly, of any of the TRO Defendants, or any corporation, partnership, or other entity directly
18 or indirectly owned or controlled by any of the TRO Defendants; and

19 D. failing to disclose to the FTC, immediately upon service of this Order, information that
20 fully identifies each asset of the TRO Defendants, and each entity holding such asset, including,
21 without limitation, the entity's name, address, and telephone number, the number of the account,
22 and the name under which the account is held.

24 E. Provided however, the freeze imposed in this Section shall be construed to apply to assets
25 that any of the TRO Defendants acquires following service of this Order only if such assets are
26 derived from activity prohibited by this Order.

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FINANCIAL REPORTS

IV. IT IS FURTHER ORDERED that within forty-eight (48) hours after service of this Order:

A. each of the individual TRO Defendants shall complete and deliver to the FTC the Financial Statement captioned "Financial Statement of Individual Defendant," a copy of which is attached hereto as Attachment A.

B. each of the corporate Defendants shall complete and deliver to the FTC the Financial Statement captioned "Financial Statement of Corporate Defendant," a copy of which is attached hereto as Attachment B. The Individual Defendants shall be jointly and severally liable for this obligation; and

C. TRO Defendants shall provide the FTC access to records and documents pertaining to assets of any of the TRO Defendants that are held by financial institutions outside the territory of the United States by signing a Consent to Release of Financial Records which is attached hereto as Attachment C.

FINANCIAL INSTITUTIONS

V. IT IS FURTHER ORDERED that any financial or brokerage institution, any business entity, or any other person having possession, custody, or control of any records of any of the TRO Defendants, or of any account, safe deposit box, or other asset titled in the name of any of the TRO Defendants, either individually or jointly or held for the benefit of any of the TRO Defendants, or which has maintained any such account, safe deposit box, or other asset at any time since November 1, 2003, shall:

A. hold and retain within its control and prohibit the transfer, encumbrance, pledge, assignment, removal, withdrawal, dissipation, sale, or other disposal of any such account or other asset, except for transfers or withdrawals authorized in writing by counsel for the FTC, or by further order of this Court;

1 B. deny access to any safe deposit box titled individually or jointly in the name of, or
2 otherwise subject to access by, any of the TRO Defendants;

3 C. provide to the FTC, within three (3) business days of notice of this Order, a sworn
4 statement setting forth:

- 5 1. the identification of each account or asset;
- 6 2. the balance of each account or a description of the nature and value of each asset
7 as of the close of business on the day notification of this Order is received, and, if the account or
8 asset has been closed or moved, the balance or value removed, the date on which was removed,
9 and the person or entity to whom it was transferred; and
- 10 3. the identification of any safe deposit box titled in the name of or subject to access
11 by any of the TRO Defendants;

12 D. upon request by counsel for the FTC, promptly provide the FTC with copies of all
13 records or other documentation pertaining to such account or asset, including but not limited to
14 originals or copies of account applications, account statements, signature cards, checks, drafts,
15 deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips,
16 currency transaction reports, 1099 forms, and safe deposit box logs.

18 REPATRIATION OF ASSETS

19 VI. **IT IS FURTHER ORDERED** that within five (5) business days following service of
20 this Order, each of the TRO Defendants shall:

21 A. repatriate to the United States all funds, documents, or assets in foreign countries held
22 either: (1) by them; (2) for their benefit; or (3) under their direct or indirect control, jointly or
23 singly;

24 B. the same business day as any repatriation under sub-section A above,

- 25 1. notify the FTC of the name and location of the financial institution or other entity
26 that is the recipient of such funds, documents, or assets; and
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1 and identify and locate assets. Accordingly, the TRO Defendants shall, within forty-eight (48)
2 hours of receiving notice of this Order, produce to the Commission and the Commission's
3 representatives, agents, and assistants for inspection, inventory, and/or copying, at Federal Trade
4 Commission, 600 Pennsylvania Avenue NW, Room H-288, Washington DC 20580, Attention:
5 Lisa Schifferle the following materials: (1) all customer information, including, but not limited
6 to, names, phone numbers, addresses, email addresses, customer complaints, and payment
7 information for all consumers and consultants who have purchased the TRO Defendants'
8 business opportunity and mortgage loan modification or foreclosure relief services (2) contracts;
9 (3) correspondence, including, but not limited to, electronic correspondence and Instant
10 Messenger communications, that refer or relate to the TRO Defendants' business opportunity
11 and mortgage loan modification or foreclosure relief services; (4) copies of all advertisements
12 for the TRO Defendants' business opportunity and mortgage loan modification or foreclosure
13 relief services; and (5) accounting information, including, but not limited to profit and loss
14 statements, annual reports, receipt books, ledgers, personal and business canceled checks and
15 check registers, bank statements, appointment books, copies of federal, state or local business or
16 personal income or property tax returns, and 1099 forms since 2003. The Commission shall
17 return produced materials pursuant to this Paragraph within five (5) business days of completing
18 said inventory and copying.
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20 **PRESERVATION OF RECORDS AND TANGIBLE THINGS**

21 **IX. IT IS ORDERED** that TRO Defendants and their successors, assigns, officers, agents,
22 servants, employees, and attorneys, and those persons or entities in active concert or
23 participation with any of them who receive actual notice of this Order by personal service,
24 facsimile transmission, email, or otherwise, whether acting directly or through any corporation,
25 subsidiary, division, or other device, are hereby enjoined from:
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27 A. destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing
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1 of, in any manner, directly or indirectly, any documents or records that relate to the business
2 practices, or business or personal finances, of TRO Defendants, or other entity directly or
3 indirectly under the control of TRO Defendants;

4 B. failing to create and maintain books, records, and accounts which, in reasonable detail,
5 accurately, fairly, and completely reflect the incomes, assets, disbursements, transactions and use
6 of monies by any TRO Defendant or other entity directly or indirectly under the control of any
7 TRO Defendants.

8 CONSUMER REPORTS

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10 X. **IT IS FURTHER ORDERED** that pursuant to Section 604(1) of the Fair Credit
11 Reporting Act, 15 U.S.C. § 1681b(1), any consumer reporting agency may furnish a consumer
12 report concerning any Defendant to the FTC.

13 MONITORING

14 XI. **IT IS FURTHER ORDERED** that agents or representatives of the FTC may contact
15 TRO Defendants or TRO Defendants' agents or representatives directly and anonymously for the
16 purpose of monitoring compliance with Section I of this Order, and may tape record any oral
17 communications that occur in the course of such contacts.

18 PROHIBITION ON RELEASE OF CUSTOMER INFORMATION 19 OR CUSTOMER LISTS

20 XII. **IT IS FURTHER ORDERED** that TRO Defendants and their successors, assigns,
21 officers, agents, servants, employees, and attorneys, and those persons or entities in active
22 concert or participation with any of them who receive actual notice of this Order by personal
23 service, facsimile transmission, email, or otherwise, are hereby temporarily restrained and
24 enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address,
25 telephone number, credit card number, bank account number, e-mail address, or other
26 identifying information of any person who paid money to any of the TRO Defendants for a
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1 mortgage loan modification or foreclosure relief service or who were contacted or are on a list to
2 be contacted by any of the TRO Defendants; *provided* that TRO Defendants may disclose such
3 identifying information to a law enforcement agency or as required by any law, regulation, or
4 court order.

5 NOTIFICATION OF BUSINESS ACTIVITIES

6 XIII. IT IS FURTHER ORDERED that:

7 A. each of the Individual TRO Defendants is hereby temporarily restrained and enjoined
8 from directly or indirectly creating, operating, or exercising any control over any business entity,
9 including any partnership, limited partnership, joint venture, sole proprietorship or corporation,
10 without first serving on counsel for the Commission a written statement disclosing the following:
11 (1) the name of the business entity; (2) the address and telephone number of the business entity;
12 (3) the names of the business entity's officers, directors, principals, managers and employees;
13 and (4) a detailed description of the business entity's intended or actual activities.

14 B. each of the Individual TRO Defendants shall notify the Commission at least seven (7)
15 days prior to affiliating with, becoming employed by, or performing any work for any business
16 that is not a named Defendant in this action. Each notice shall include the TRO Defendant's new
17 business address and a statement of the nature of the business or employment and the nature of
18 his or her duties and responsibilities in connection with that business or employment.
19

20 NOTICE TO EMPLOYEES AND AGENTS

21 XIV. IT IS FURTHER ORDERED that within three (3) calendar days following this Order,
22 TRO Defendants shall provide a copy of this Order to each of their employees, directors,
23 officers, subsidiaries, affiliates, attorneys, independent contractors, representatives, franchisees,
24 all persons in active concert or participation with TRO Defendants, and any person who has
25 solicited customers for TRO Defendants' mortgage loan modification or foreclosure relief
26 service or provide any aspect of that service. Within five (5) calendar days following this Order,
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1 TRO Defendants shall provide the FTC with an affidavit identifying the names, titles, addresses,
2 and telephone numbers of the persons and entities that TRO Defendants have served with a copy
3 of this Order in compliance with this provision.

4 LIMITED EXPEDITED DISCOVERY

5 **XV. IT IS FURTHER ORDERED** that, notwithstanding the provisions of Federal Rules of
6 Civil Procedure 26(d) and (f) and 30(a)(2)^{(A)(2)(C)}~~(A)(2)(B)~~, and pursuant to Federal Rules of Civil Procedure
7 30(a), 34, and 45, the FTC is granted leave, at any time after service of this Order, to:

8 A. take the deposition, on three (3) days' notice, of any person, whether or not a party, for
9 the purpose of discovering the nature, location, status, and extent of assets of the defendants, or
10 of their affiliates or subsidiaries; the nature and location of documents reflecting the business
11 transactions of these defendants, or their affiliates or subsidiaries; and the applicability of any
12 evidentiary privileges to this action. The limitations and conditions set forth in Fed. R. Civ. P.
13 30(a)(2)~~(B)~~ and 31(a)(2)~~(B)~~ regarding subsequent depositions of an individual shall not apply to
14 depositions taken pursuant to this Section. Any such depositions taken pursuant to this Section
15 shall not be counted toward the ten-deposition limit set forth in Fed. R. Civ. P. 30(a)(2)(A) and
16 31(a)(2)(A). Service of discovery upon a party, taken pursuant to this Section, shall be sufficient
17 if made by facsimile or by overnight delivery; and

18 B. demand the production of documents, on five (5) days' notice, from any person, whether
19 or not a party, relating to the nature, status, or extent of TRO Defendants' assets, or of their
20 affiliates or subsidiaries; the location of documents reflecting the business transactions of TRO
21 Defendants, or of their affiliates or subsidiaries; and the applicability of any evidentiary
22 privileges to this action, provided that twenty four (24) hours' notice shall be deemed sufficient
23 for the production of any such documents that are maintained or stored only as electronic data.
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ORDER TO SHOW CAUSE

XVI. IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 65(b) that Defendants shall appear on the 11th day of June, 2009, at 2:00 p.m. at the United States Courthouse, Courtroom 506, Phoenix, Arizona, to show cause, if any there be, why this Court should not enter a preliminary injunction, pending final ruling on the complaint, against Defendants enjoining them from further violations of the FTC Act and imposing such additional relief as may be appropriate.

EXPIRATION OF THIS ORDER

XVII. IT IS FURTHER ORDERED that the Temporary Restraining Order granted herein shall expire on June 11, 2009, at 11:59 PM, unless within such time the Order, for good cause shown, is extended, or unless, as to any TRO Defendant, the TRO Defendant consents that it should be extended for a longer period of time.

SERVICE OF PLEADINGS, EVIDENCE & WITNESS LISTS

XVIII. IT IS FURTHER ORDERED that:

A. Defendants shall file any answering affidavits, pleadings, or legal memoranda with the Court and serve the same on counsel for the FTC no later than five (5) business days prior to the preliminary injunction hearing in this matter. The FTC may file responsive or supplemental pleadings, materials, affidavits, or memoranda with the Court and serve the same on counsel for Defendants no later than one (1) business day prior to the preliminary injunction hearing in this matter; *provided* that service shall be performed by personal or overnight delivery or by facsimile, and documents shall be delivered so that they shall be received by the other parties no later than 4 p.m. (EST) on the appropriate dates listed in this sub-section A.

B. The question of whether this Court should enter a preliminary injunction pursuant to Rule 65 of the Federal Rules of Civil Procedure enjoining the Defendants during the pendency of this action shall be resolved on the pleadings, declarations, exhibits, and memoranda filed by, and

1 oral argument of, the parties. Live testimony shall be heard only on further order of this Court
2 on motion filed with the Court and served on counsel for the other parties at least five (5)
3 business days prior to the preliminary injunction hearing in this matter. Such motion shall set
4 forth the name, address, and telephone number of each proposed witness, a detailed summary or
5 affidavit revealing the substance of each proposed witness' expected testimony, and an
6 explanation of why the taking of live testimony would be helpful to this Court. Any papers
7 opposing a timely motion to present live testimony or to present live testimony in response to
8 live testimony to be presented by another party shall be filed with this Court and served on the
9 other parties at least three (3) business days prior to the preliminary injunction hearing in this
10 matter; *provided* that service shall be performed by personal or overnight delivery or by
11 facsimile, and documents shall be delivered so that they shall be received by the other parties no
12 later than 4 p.m. (EST) on the appropriate dates listed in this sub-section B.

14 **CORRESPONDENCE WITH PLAINTIFF**

15 **XIX. IT IS FURTHER ORDERED** that for the purposes of this Order, all service on and
16 correspondence to the FTC shall sent via U.S. Express Mail or Federal Express and be addressed
17 to: Lisa W. Schifferle, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room H-
18 288, Washington, DC 20580. Telephone: (202) 326-3377; Facsimile: (202) 326-3395.

19 **SERVICE OF THIS ORDER**

20 **XX. IT IS FURTHER ORDERED** that copies of this Order may be served by facsimile
21 transmission, personal or overnight delivery, or U.S. Express Mail, by agents and employees of
22 the FTC or any state or federal law enforcement agency or by private process server, on
23 Defendants or any other person or entity that may be subject to any provision of this Order.
24

RETENTION OF JURISDICTION

XXI. IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

IT IS SO ORDERED, this 1 day of June, 2009.

at 1:15 P.M.

[Signature]
UNITED STATES DISTRICT JUDGE

I hereby attest and certify on 6:40 PM that the foregoing document is a full, true and correct copy of the original of file in my office and in my custody.

CLERK, U.S. DISTRICT COURT
DISTRICT OF ARIZONA

By [Signature] Deputy