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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

**Federal Trade Commission**

Plaintiff,

v.

**National Card Monitor LLC, also  
d/b/a  
Nationwide Card Monitor; and  
James Eric Cox,**

Defendants.

CV 12-2521-PHX-JAT

**ORDER FOR PERMANENT  
INJUNCTION AND FINAL  
JUDGMENT AS TO DEFENDANTS  
NATIONAL CARD MONITOR LLC,  
ALSO D/B/A NATIONWIDE CARD  
MONITOR, AND JAMES ERIC COX**

Plaintiff Federal Trade Commission (“Commission” or “FTC”) filed its Complaint for a Permanent Injunction and Other Equitable Relief pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310. On November 27, 2012, the Court issued a Temporary Restraining Order with Asset Freeze, Appointment of Temporary Receiver, Immediate Access to Business Premises, Expedited Discovery, and Order to Show Cause Why a Preliminary Injunction Should Not

1 Issue and Why a Permanent Receiver Should Not Be Appointed. On December 5,  
2 2012, the Court entered a Stipulated Preliminary Injunction With Asset Freeze,  
3 Appointment of Receiver, Limited Expedited Discovery, And Other Equitable  
4 Relief.

5 Plaintiff and Defendants National Card Monitor LLC and James Eric Cox  
6 (“Defendants”) have now agreed to entry of this Stipulated Order for Permanent  
7 Injunction and Final Judgment (“Order”) (Doc. 51) by this Court in order to resolve  
8 all claims against Defendants in this action. Plaintiff and Defendants have  
9 consented to entry of this Order without trial or adjudication of any issue of law or  
10 fact herein.

11 **NOW THEREFORE**, Plaintiff and Defendants, having requested the Court  
12 to enter this Order, and the Court having considered the Order reached between the  
13 parties, **IT IS HEREBY ORDERED, ADJUGED, AND DECREED** as follows:

14  
15 **FINDINGS**

16 The parties have stipulated to the following facts:

17 1. This is an action by the Commission instituted under Sections 13(b)  
18 and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act,  
19 15 U.S.C. §§ 6101-6108, and the TSR, 16 C.F.R. Part 310. Pursuant to these  
20 Sections of the FTC Act and the Telemarketing Act, the Commission has the  
21 authority to seek the relief contained herein.

22 2. The Commission’s Complaint states a claim upon which relief may be  
23 granted under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a),  
24 53(b), and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b).

25 3. This Court has jurisdiction over the subject matter of this case and  
26 personal jurisdiction over the Defendants.

27 4. Venue, process, and service of process are proper.  
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- 1           2.    **“Assisting others”** includes, but is not limited to:
- 2                   A.    performing customer service functions, including, but not
- 3                   limited to, receiving or responding to consumer complaints;
- 4                   B.    formulating or providing, or arranging for the formulation or
- 5                   provision of, any advertising or marketing material, including, but not
- 6                   limited to, any telephone sales script, direct mail solicitation, or the design,
- 7                   text, or use of images of any Internet website, email, or other electronic
- 8                   communication;
- 9                   C.    formulating or providing, or arranging for the formulation or
- 10                  provision of, any marketing support material or service, including but not
- 11                  limited to, web or Internet Protocol addresses or domain name registration
- 12                  for any Internet websites, affiliate marketing services, or media placement
- 13                  services;
- 14                  D.    providing names of, or assisting in the generation of, potential
- 15                  customers;
- 16                  E.    performing marketing, billing, or payment services of any kind;
- 17                  and
- 18                  F.    acting or serving as an owner, officer, director, manager, or
- 19                  principal of any entity.

20           3.    **“Credit related product or service”** means any product or service

21   that is purported directly or indirectly to provide to consumers, arrange for

22   consumers to receive, or assist consumers in receiving credit cards, unsecured

23   loans, or other extensions of unsecured credit.

24           4.    **“Debt relief product or service”** means any product, service, plan or

25   program represented, directly or by implication, to renegotiate, settle, or in any way

26   alter the terms of payment or other terms of the debt between a consumer and one

27   or more secured or unsecured creditors, servicers, or debt collectors, including, but

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1 not limited to, a reduction in the balance, interest rate, or fees owed by a consumer  
2 to any secured or unsecured creditor or debt collector.

3 5. **“Defendant Cox”** means Defendant James Eric Cox, by whatever  
4 name he may be known.

5 6. **“Defendant NCM”** means Defendant National Card Monitor LLC,  
6 and its successors and assigns, as well as any subsidiaries, and any fictitious  
7 business entities or business names created or used by any of these entities, or any  
8 of them.

9 7. **“Defendants”** means **Defendant Cox** and **Defendant NCM**,  
10 individually or collectively, and their successors and assigns, as well as any  
11 subsidiaries, and any fictitious business entities or business names created or used  
12 by either Defendant, or any of them.

13 8. **“Document”** or **“Documents”** means any materials listed in Federal  
14 Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts,  
15 photographs, audio and video recordings, computer records, and other data  
16 compilations from which information can be obtained and translated, if necessary,  
17 into reasonably usable form through detection devices. A draft or nonidentical  
18 copy is a separate Document within the meaning of the term.

19 9. **“Financial institution”** means any bank, savings and loan institution,  
20 credit union, or any financial depository of any kind, including, but not limited to,  
21 any brokerage house, trustee, broker-dealer, escrow agent, title company,  
22 commodity trading company, or precious metal dealer.

23 10. **“Financial related product or service”** means any product or service  
24 represented, directly or by implication, to:

25 A. provide any consumer, arrange for any consumer to receive, or  
26 assist any consumer in receiving debit or stored value cards;

27 B. improve, or arrange to improve, any consumer’s credit record,  
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1 credit history, or credit rating;

2 C. provide advice or assistance to any consumer with regard to any  
3 activity or service the purpose of which is to improve a consumer's credit  
4 record, credit history, or credit rating; or

5 D. provide any consumer, arrange for any consumer to receive, or  
6 assist any consumer in receiving, a secured loan or other extension of credit  
7 secured by collateral.

8 11. "**Person**" means a natural person, an organization or other legal entity,  
9 including a corporation, partnership, sole proprietorship, limited liability company,  
10 association, cooperative, or any other group or combination acting as an entity.

11 12. "**Plaintiff**" means the Federal Trade Commission ("Commission" or  
12 "FTC").

13 13. "**Telemarketing**" means any plan, program, or campaign which is  
14 conducted to induce the purchase of goods or services, or a charitable contribution,  
15 by use of one or more telephones, and which involves a telephone call, whether or  
16 not covered by the Telemarketing Sales Rule.

17 **I.**

18 **PERMANENT BAN ON TELEMARKETING**

19 **IT IS THEREFORE ORDERED** that **Defendants**, whether acting directly  
20 or through any **person**, trust, corporation, partnership, limited liability company,  
21 subsidiary, division, or other device, are permanently restrained and enjoined from  
22 participating in **telemarketing**, or **assisting others** engaged in **telemarketing**.

23 **II.**

24 **PERMANENT BAN ON MARKETING**

25 **CREDIT RELATED PRODUCTS OR SERVICES**

26 **IT IS FURTHER ORDERED** that **Defendants**, whether acting directly or  
27 through any **person**, trust, corporation, partnership, limited liability company,  
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1 subsidiary, division, or other device, are permanently restrained and enjoined from  
2 engaging in, participating in, or **assisting others** in the advertising, marketing,  
3 promotion, offering for sale, sale, or distribution of any **credit related product or**  
4 **service**.

5 **III.**

6 **PROHIBITED PRACTICES RELATING TO**  
7 **FINANCIAL RELATED PRODUCTS OR SERVICES**  
8 **AND DEBT RELIEF PRODUCTS OR SERVICES**

9 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
10 servants, employees, attorneys, and all other **persons** in active concert or  
11 participation with any of them, who receive actual notice of this Order by personal  
12 service or otherwise, whether acting directly or through any trust, corporation,  
13 partnership, limited liability company, subsidiary, division, or other device, in  
14 connection with the advertising, marketing, promotion, offering for sale, or sale of  
15 any **financial related product or service** or any **debt relief product or service**,  
16 are permanently restrained and enjoined from:

17 A. Misrepresenting or **assisting others** in misrepresenting, expressly or  
18 by implication, any material fact, including but not limited to:

- 19 1. The terms or rates that are available for any secured loan or  
20 other extension of credit secured by collateral, including but not limited to:
- 21 a. closing costs or other fees;
  - 22 b. the payment schedule, the monthly payment amount(s),  
23 or other payment terms, or whether there is a balloon payment; interest  
24 rate(s), annual percentage rate(s), or finance charge; the loan amount,  
25 the amount of credit, the draw amount, or outstanding balance; the  
26 loan term, the draw period, or maturity; or any other term of credit;
  - 27 c. the savings associated with the credit;
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1           d.     the amount of cash to be disbursed to the borrower out of  
2           the proceeds, or the amount of cash to be disbursed on behalf of the  
3           borrower to any third party;

4           e.     whether the payment of the minimum amount specified  
5           each month covers both interest and principal, and whether the credit  
6           has or can result in negative amortization;

7           f.     that the credit does not have a prepayment penalty or that  
8           no prepayment penalty and/or other fees or costs will be incurred if the  
9           consumer subsequently refinances; and

10          g.     that the interest rate(s) or annual percentage rate(s) are  
11          fixed rather than adjustable or adjustable rather than fixed;

12          2.     Any aspect of any mortgage loan modification service or  
13          foreclosure relief service, including, but not limited to, the amount of savings  
14          or reduction in interest rate, loan principal, or monthly payment that a  
15          consumer will receive from purchasing, using, or enrolling in such mortgage  
16          loan modification service or foreclosure relief service; the amount of time  
17          before a consumer will receive a mortgage loan modification or relief from  
18          foreclosure; the likelihood that a consumer will obtain a modified mortgage  
19          loan or relief from foreclosure; or the reduction or cessation of collection  
20          calls;

21          3.     Any aspect of any **debt relief product or service**, including,  
22          but not limited to, the amount of, or likelihood of obtaining, any reduction in  
23          the balance, interest rate, or fees owed by a consumer to any creditor or debt  
24          collector;

25          4.     That any **person** can improve any consumer's credit record,  
26          credit history, or credit rating by permanently removing negative information  
27          from the consumer's credit record, credit history, or credit rating, even where  
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1 such information is accurate and not obsolete;

2 5. Any **person**'s ability to improve or otherwise affect a  
3 consumer's credit record, credit history, credit rating, or ability to obtain  
4 credit; and

5 6. That a consumer will receive legal representation; and

6 B. For any secured loan or other extension of credit secured by collateral,  
7 advertising or **assisting others** in advertising credit terms other than those terms  
8 that actually are or will be arranged or offered by a creditor or lender.

9 **IV.**

10 **PROHIBITED PRACTICES RELATING TO**

11 **ANY PRODUCTS OR SERVICES**

12 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
13 servants, employees, attorneys, and all other **persons** in active concert or  
14 participation with any of them, who receive actual notice of this Order by personal  
15 service or otherwise, whether acting directly or through any trust, corporation,  
16 partnership, limited liability company, subsidiary, division, or other device, in  
17 connection with the advertising, marketing, promotion, offering for sale or sale of  
18 any product or service, are permanently restrained and enjoined from  
19 misrepresenting or **assisting others** in misrepresenting, expressly or by  
20 implication, any material fact, including but not limited to:

21 A. Any material aspect of the nature or terms of any refund, cancellation,  
22 exchange, or repurchase policy, including, but not limited to, the likelihood of a  
23 consumer obtaining a full or partial refund, or the circumstances in which a full or  
24 partial refund will be granted to the consumer;

25 B. That any **person** is affiliated with, endorsed or approved by, or  
26 otherwise connected to any other **person**, government entity, or public, non-profit,  
27 or other non-commercial program, or any other program;

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1 C. The total costs to purchase, receive, or use, or the quantity of, the  
2 product, or service;

3 D. Any material restriction, limitation, or condition on purchasing,  
4 receiving, or using the product or service; and

5 E. Any material aspect of the performance, efficacy, nature, or  
6 characteristics of the product or service.

7 **V.**

8 **SUBSTANTIATION FOR**  
9 **BENEFIT, PERFORMANCE, AND EFFICACY CLAIMS**

10 **IT IS FURTHER ORDERED** that each of the **Defendants**, and their  
11 officers, agents, servants, employees, attorneys, and all other **persons** in active  
12 concert or participation with any of them, who receive actual notice of this Order  
13 by personal service or otherwise, whether acting directly or through any trust,  
14 corporation, partnership, limited liability company, subsidiary, division, or other  
15 device, in connection with the advertising, marketing, promotion, offering for sale  
16 or sale of any product or service, are permanently restrained and enjoined from  
17 making any representation or **assisting others** in making any representation,  
18 expressly or by implication, about the benefits, performance, or efficacy of any  
19 product or service, unless, at the time such representation is made, the **Defendant**  
20 possesses and relies upon competent and reliable evidence that substantiates that  
21 the representation is true.

22 **VI.**

23 **MONETARY JUDGMENT**

24 **IT IS FURTHER ORDERED** that:

25 A. Judgment is hereby entered in favor of the Commission and against  
26 Defendants James Eric Cox and National Card Monitor LLC, jointly and severally,  
27 for equitable monetary relief, including, but not limited to, consumer redress and/or  
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1 disgorgement, in the amount of \$2,329,409.00 (TWO MILLION THREE  
2 HUNDRED TWENTY-NINE THOUSAND FOUR HUNDRED NINE  
3 DOLLARS), which is the total amount of consumer injury caused by the activities  
4 alleged in the FTC's Complaint.

5 1. *Provided, however,* that the Judgment for equitable monetary  
6 relief against **Defendant Cox** shall be suspended: (i) upon receipt by  
7 the Commission of funds as described in part (a) of this Paragraph,  
8 immediately below; and (ii) subject to the conditions set forth in  
9 Section VII of this Order;

10 a. **Defendant Cox** has authorized, and the Court hereby  
11 directs, JPMorgan Chase Bank to release all remaining funds to  
12 the Commission in the account belonging to **Defendant Cox**  
13 with account number ending in 3394. These funds shall be paid  
14 to the Commission or its designated agent by wire transfer  
15 within five (5) days of the date of service of this Order on the  
16 bank by fax, and in accordance with wiring instructions to be  
17 provided by counsel for the Commission, or by any other means  
18 as agreed upon by counsel for the Commission and the bank.

19 2. *Provided further,* that the Judgment for equitable monetary  
20 relief against **Defendant NCM** shall be suspended (a) upon receipt by  
21 the Commission of the funds that the Receiver is directed to turn over  
22 to the Commission pursuant to Section XV.A.3 of this Order, below,  
23 and (b) subject to the conditions set forth in Section VII of this Order;

24 B. All funds paid pursuant to this Order shall be deposited into a fund  
25 administered by the Commission or its agent to be used for equitable relief,  
26 including, but not limited to, consumer redress, and any attendant expenses for the  
27 administration of such equitable relief. **Defendants** shall cooperate fully to assist  
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1 the Commission in identifying consumers who may be entitled to redress pursuant  
2 to this Order. If the Commission determines, in its sole discretion, that direct  
3 redress to consumers is wholly or partially impracticable or funds remain after  
4 redress is completed, the Commission may apply any remaining funds for such  
5 other equitable relief (including consumer information remedies) as it determines  
6 to be reasonably related to **Defendants'** practices alleged in the Complaint. Any  
7 funds not used for such equitable relief shall be deposited to the United States  
8 Treasury as disgorgement. **Defendants** shall have no right to challenge the  
9 Commission's choice of remedies under this Section. **Defendants** shall have no  
10 right to contest the manner of distribution chosen by the Commission. This  
11 judgment for equitable monetary relief is solely remedial in nature and is not a  
12 fine, penalty, punitive assessment or forfeiture;

13 C. **Defendants** relinquish all dominion, control, and title to the funds  
14 paid to the fullest extent permitted by law. **Defendants** shall make no claim to or  
15 demand for return of the funds, directly or indirectly, through counsel or otherwise;

16 D. In accordance with 31 U.S.C. § 7701, as amended, **Defendant Cox** is  
17 hereby required, unless he has already done so, to furnish to the Commission his  
18 taxpayer identifying numbers (social security number or employer identification  
19 number), which shall be used for purposes of collecting and reporting on any  
20 delinquent amount arising out of **Defendants'** relationship with the government;

21 E. **Defendants** agree that the facts as alleged in the Complaint filed in  
22 this action shall be taken as true without further proof in any bankruptcy case or  
23 subsequent civil litigation pursued by the Commission to enforce its rights to any  
24 payment or money judgment pursuant to this Order, including, but not limited to, a  
25 nondischargeability complaint in any bankruptcy case. **Defendants** further  
26 stipulate and agree that the facts alleged in the Complaint establish all elements  
27 necessary to sustain an action by the Commission pursuant to Section 532(a)(2)(A)  
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1 of the Bankruptcy Code, 11 U.S.C. § 532(a)(2)(A), and that this Order shall have  
2 collateral estoppel effect for such purposes; and

3 F. Proceedings instituted under this Section are in addition to, and not in  
4 lieu of, any other civil or criminal remedies that may be provided by law, including  
5 any other proceedings the Commission may initiate to enforce this Order.

6 **VII.**

7 **RIGHT TO REOPEN**

8 **IT IS FURTHER ORDERED** that:

9 A. **Plaintiff's** agreement to, and the Court's approval of, this Order,  
10 including, but not limited to, the suspension of the monetary judgment against  
11 either of the **Defendants**, is expressly premised upon the truthfulness, accuracy,  
12 and completeness of **Defendant Cox's** representations regarding **Defendants'**  
13 financial conditions, as set forth in the Financial Statement of Individual  
14 Defendant, signed by **Defendant Cox** and dated November 29, 2012, the Financial  
15 Statement of Business Entity Defendant, signed by **Defendant Cox** and dated  
16 November 29, 2012, the 2010 U.S. Individual Income Tax Return Form 1040 for  
17 James E. Cox, dated July 15, 2011, and the 2011 U.S. Individual Income Tax  
18 Return Form 1040 for James E. Cox, dated October 8, 2012, all of which contain  
19 material information upon which **Plaintiff** relied in negotiating and agreeing to the  
20 terms of this Order;

21 B. If, upon motion of the Commission, the Court finds that either of the  
22 **Defendants** failed to disclose any material **asset**, materially misrepresented the  
23 value of any **asset**, or made any other material misrepresentation in or omission  
24 from the **Defendant's** financial statement or supporting **documents**, the suspended  
25 Judgment entered against that **Defendant** in Section VI shall become immediately  
26 due and payable (less any amounts already paid). *Provided, however*, that, in all  
27 other respects, this Order shall remain in full force and effect, unless otherwise  
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1 ordered by the Court; and

2 C. Any proceedings instituted under this Section shall be in addition to,  
3 and not in lieu of, any other civil or criminal remedies that may be provided by  
4 law, including, but not limited to, contempt proceedings, or any other proceedings  
5 that the Commission or the United States might initiate to enforce this Order. For  
6 purposes of this Section, **Defendants** waive any right to contest any of the  
7 allegations in the Commission's Complaint.

8 **VIII.**

9 **PROHIBITIONS REGARDING CONSUMER INFORMATION**

10 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
11 servants, employees, attorneys, and all other **persons** in active concert or  
12 participation with any of them who receive actual notice of this Order by personal  
13 service or otherwise, are permanently restrained and enjoined from:

14 A. Failing to provide sufficient customer information to enable the  
15 Commission to efficiently administer consumer redress. If a representative of the  
16 Commission requests in writing any information related to redress, **Defendants**  
17 must provide it, in the form prescribed by the Commission, within fourteen (14)  
18 days;

19 B. Disclosing, using, or benefitting from customer information, including  
20 the name, address, telephone number, email address, social security number, other  
21 identifying information, or any data that enables access to a customer's account  
22 (including a credit card, bank account, or other financial account), of any **person**  
23 which any Defendant obtained prior to entry of this Order in connection with the  
24 marketing or sale of any **credit related product or service**; and

25 C. Failing to dispose of such customer information in all forms in their  
26 possession, custody, or control within thirty (30) days after entry of this Order.  
27 Disposal shall be by means that protect against unauthorized access to the customer  
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1 information, such as by burning, pulverizing, or shredding any papers, and by  
2 erasing or destroying any electronic media, to ensure that the customer information  
3 cannot practicably be read or reconstructed.

4 *Provided, however,* that customer information need not be disposed of, and  
5 may be disclosed, to the extent requested by a government agency or required by a  
6 law, regulation, or court order.

7 **IX.**

8 **PROHIBITION ON COLLECTING ON ACCOUNTS**

9 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
10 servants, employees, attorneys, and all other **persons** in active concert or  
11 participation with any of them who receive actual notice of this Order by personal  
12 service or otherwise, whether acting directly, or through any trust, corporation,  
13 partnership, limited liability company, subsidiary, division, or other device, are  
14 permanently restrained and enjoined from attempting to collect, collecting, or  
15 assigning any right to collect payment from any consumer who purchased or  
16 agreed to purchase any **credit related product or service**.

17 **X.**

18 **ORDER ACKNOWLEDGMENTS**

19 **IT IS FURTHER ORDERED** that **Defendants** obtain acknowledgments of  
20 receipt of this Order:

21 A. Each of the **Defendants**, within 7 days of entry of this Order, must  
22 submit to the Commission an acknowledgment of receipt of this Order sworn under  
23 penalty of perjury.

24 B. For 5 years after entry of this Order, **Defendant Cox**, for any business  
25 that he, individually or collectively with any other Defendant, is the majority  
26 owner or directly or indirectly controls, and **Defendant NCM**, must deliver a copy  
27 of this Order to: (1) all principals, officers, directors, and managers; (2) all  
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1 employees, agents, and representatives who participate in conduct related to the  
2 subject matter of the Order; and (3) any business entity resulting from any change  
3 in structure as set forth in the Section titled Compliance Reporting. Delivery must  
4 occur within 7 days of entry of this Order for current personnel. To all others,  
5 delivery must occur before they assume their responsibilities.

6 C. From each individual or entity to which a Defendant delivered a copy  
7 of this Order, that Defendant must obtain, within 30 days, a signed and dated  
8 acknowledgment of receipt of this Order.

9 **XI.**

10 **COMPLIANCE REPORTING**

11 **IT IS FURTHER ORDERED** that **Defendants** make timely submissions to  
12 the Commission:

13 A. One year after entry of this Order, each Defendant must submit a  
14 compliance report, sworn under penalty of perjury.

15 1. Each Defendant must: (a) designate at least one telephone  
16 number and an email, physical, and postal address as points of contact,  
17 which representatives of the Commission may use to communicate with  
18 Defendant; (b) identify all of that Defendant's businesses by all of their  
19 names, telephone numbers, and physical, postal, email, and Internet  
20 addresses; (c) describe the activities of each business, including the products  
21 and services offered, the means of advertising, marketing, and sales, and the  
22 involvement of any other Defendant (which **Defendant Cox** must describe if  
23 he knows or should know due to his own involvement); (d) describe in detail  
24 whether and how that Defendant is in compliance with each Section of this  
25 Order; and (e) provide a copy of each Order Acknowledgment obtained  
26 pursuant to this Order, unless previously submitted to the Commission;

27 2. Additionally, **Defendant Cox** must: (a) identify all telephone  
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1 numbers and all email, Internet, physical, and postal addresses, including all  
2 residences; (b) identify all titles and roles in all business activities, including  
3 any business for which he performs services whether as an employee or  
4 otherwise and any entity in which he has any ownership interest; and (c)  
5 describe in detail his involvement in each such business, including title, role,  
6 responsibilities, participation, authority, control, and any ownership.

7 B. For 20 years following entry of this Order, each Defendant must  
8 submit a compliance notice, sworn under penalty of perjury, within 14 days of any  
9 change in the following:

10 1. Each Defendant must report any change in: (a) any designated  
11 point of contact; or (b) the structure of **Defendant NCM** or any entity that  
12 the Defendant has any ownership interest in or directly or indirectly controls  
13 that may affect compliance obligations arising under this Order, including:  
14 creation, merger, sale, or dissolution of the entity or any subsidiary, parent,  
15 or affiliate that engages in any acts or practices subject to this Order.

16 2. Additionally, **Defendant Cox** must report any change in: (a)  
17 name, including aliases or fictitious name, or residence address; or (b) title  
18 or role in any business activity, including any business for which he  
19 performs services whether as an employee or otherwise and any entity in  
20 which he has any ownership interest, and identify its name, physical address,  
21 and Internet address, if any.

22 C. Each Defendant must submit to the Commission notice of the filing of  
23 any bankruptcy petition, insolvency proceeding, or any similar proceeding by or  
24 against such Defendant within 14 days of its filing.

25 D. Any submission to the Commission required by this Order to be  
26 sworn under penalty of perjury must be true and accurate and comply with 28  
27 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under  
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1 the laws of the United States of America that the foregoing is true and correct.

2 Executed on:\_\_\_\_\_” and supplying the date, signatory’s full name, title (if  
3 applicable), and signature.

4 E. Unless otherwise directed by a Commission representative in writing,  
5 all submissions to the Commission pursuant to this Order must be emailed to  
6 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:  
7 Associate Director for Enforcement, Bureau of Consumer Protection, Federal  
8 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The  
9 subject line must begin: FTC v. National Card Monitor LLC (FTC Matter No.  
10 X130028).

11 **XII.**

12 **RECORDKEEPING**

13 **IT IS FURTHER ORDERED** that **Defendants** must create certain records  
14 for 20 years after entry of the Order, and retain each such record for 5 years.  
15 Specifically, **Defendant NCM** and **Defendant Cox**, for any business in which the  
16 **Defendant**, individually or collectively with any other **Defendant**, is a majority  
17 owner or directly or indirectly controls, must maintain the following records:

18 A. Accounting records showing the revenues from all goods or services  
19 sold, all costs incurred in generating those revenues, and the resulting net profit or  
20 loss;

21 B. Personnel records showing, for each **person** providing services,  
22 whether as an employee or otherwise, that **person’s**: name, addresses, and  
23 telephone numbers; job title or position; dates of service; and, if applicable, the  
24 reason for termination;

25 C. Complaints and refund requests, whether received directly or  
26 indirectly, such as through a third party, and any response;

27 D. All records necessary to demonstrate full compliance with each  
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1 provision of this Order, including all submissions to the Commission; and

2 E. A copy of each advertisement or other marketing material.

3 **XIII.**

4 **COMPLIANCE MONITORING**

5 **IT IS FURTHER ORDERED** that, for the purpose of monitoring  
6 **Defendants'** compliance with this Order, including the financial representations  
7 upon which part of the judgment was suspended and any failure to transfer any  
8 **assets** as required by this Order:

9 A. Within 14 days of receipt of a written request from a representative of  
10 the Commission, each Defendant must: submit additional compliance reports or  
11 other requested information, which must be sworn under penalty of perjury; appear  
12 for depositions; and produce **documents**, for inspection and copying. The  
13 Commission is also authorized to obtain discovery, without further leave of court,  
14 using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30  
15 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

16 B. For matters concerning this Order, the Commission is authorized to  
17 communicate directly with each Defendant. **Defendants** must permit  
18 representatives of the Commission to interview any employee or other **person**  
19 affiliated with any Defendant who has agreed to such an interview. The **person**  
20 interviewed may have counsel present.

21 C. The Commission may use all other lawful means, including posing,  
22 through its representatives, as consumers, suppliers, or other individuals or entities,  
23 to **Defendants** or any individual or entity affiliated with **Defendants**, without the  
24 necessity of identification or prior notice. Nothing in this Order limits the  
25 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of  
26 the FTC Act, 15 U.S.C. §§ 49, 57b-1.

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1 **XIV.**

2 **COOPERATION WITH FTC COUNSEL**

3 **IT IS FURTHER ORDERED** that **Defendants** shall, in connection with  
4 this action or any subsequent investigations related to or associated with the  
5 transactions or the occurrences that are the subject of the FTC's Complaint,  
6 cooperate in good faith with the FTC and appear, or cause their officers,  
7 employees, representatives, or agents to appear, at such places and times as the  
8 FTC shall reasonably request, after written notice, for interviews, conferences,  
9 pretrial discovery, review of **documents**, and for such other matters as may be  
10 reasonably requested by the FTC. If requested in writing by the FTC, **Defendants**  
11 shall appear, or cause their officers, employees, representatives, or agents to  
12 appear, and provide truthful testimony in any trial, deposition, or other proceeding  
13 related to or associated with the transactions or the occurrences that are the subject  
14 of the Complaint, without the service of a subpoena.

15 **XV.**

16 **COMPLETION OF RECEIVERSHIP**

17 **IT IS FURTHER ORDERED** that the appointment of Peter Davis as  
18 Receiver over **Defendant NCM** pursuant to Section XII of the Preliminary  
19 Injunction entered on December 5, 2012, is hereby continued in full force and  
20 effect except as modified by this Section.

- 21 A. The Receiver is directed and authorized to accomplish the following:
- 22 1. Complete, as necessary, the liquidation of the **assets** of the  
23 **Defendant NCM**;
- 24 2. Prepare and file with the Court a final report describing the  
25 Receiver's activities pursuant to this Order and the Preliminary Injunction  
26 Order, and a final application for compensation and expenses; and
- 27 3. Upon the Court's approval of the Receiver's final application  
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1 for compensation and expenses, distribute to the Commission any remaining  
2 liquid **assets** at the conclusion of the Receiver's duties.

3 B. Upon completion of the above tasks, the duties of the Receivership  
4 shall terminate, and the Receiver shall be discharged.

5 **XVI.**

6 **DISSOLUTION OF ASSET FREEZE**

7 **IT IS FURTHER ORDERED** that the freeze on the **assets** of **Defendant**  
8 **Cox** pursuant to the Preliminary Injunction entered in this action shall remain in  
9 effect until all funds described in Section VI.A.1 above have been transferred to  
10 the Commission. Upon receipt by the Commission of all such funds, the freeze  
11 against **Defendant Cox's assets** shall be lifted permanently. The freeze on the  
12 **assets** of **Defendant NCM** shall remain in effect until such time as the Receiver  
13 receives payment of all Court-approved fees and expenses of the Receiver and the  
14 Receiver is discharged pursuant to Section XVI of this Order. A **financial**  
15 **institution** shall be entitled to rely upon a letter from **Plaintiff** stating that the  
16 freeze on **Defendants' assets** has been lifted.

17 **XVII.**

18 **SEVERABILITY**

19 **IT IS FURTHER ORDERED** that the provisions of this Order are separate  
20 and severable from one another. If any provision is stayed or determined to be  
21 invalid, the remaining provisions shall remain in full force and effect.

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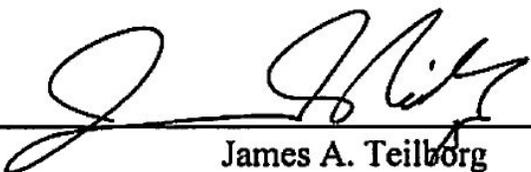
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**XVIII.**

**JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

DATED this 15<sup>th</sup> day of July, 2013.

  
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**James A. Teilborg**  
**Senior United States District Judge**