



1 California LLC with two members, Jose Mario Esquer and Valentin Benetiz. The  
2 Commission seeks sanctions against Dinamica and its members for this contumacious  
3 behavior including, but not necessarily limited to, coercive incarceration of one or both  
4 of these members.  
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7 In a July 31, 2008, Order (the "July 31 Order") (Docket Entry (DE) 13), this Court  
8 required Dinamica to produce to the Commission, within five (5) days of service of the  
9 July 31 Order, documentary evidence and written responses in compliance with a  
10 Commission Civil Investigative Demand (CID), served on April 22, 2008, in the course  
11 of a non-public investigation concerning an apparent mortgage foreclosure rescue and  
12 credit repair scam. The July 31 Order was personally served on Dinamica by a private  
13 process server by service on one of its two members, Valentin Benitez. (DE 15). The  
14 July 31 Order also was served by Federal Express on both Dinamica and its counsel,  
15 Marcus Gomez, on July 31, 2008 (DE 14). Dinamica has not produced any responses or  
16 documents pursuant to the Court's July 31 Order. (FTC Exhibit 12, ¶ 6). The  
17 Commission, therefore, requests that this Court find Dinamica in contempt of the July 31  
18 Order and coercively incarcerate at least one of the members of Dinamica until such time  
19 as Dinamica comes into compliance with the July 31 Order.  
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25 This petition is filed on an emergency basis because of the immediacy and  
26 magnitude of consumer harm that is at issue. Through its contumacious behavior  
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1 Dinamica continues to delay the Commission's investigation thereby thwarting the  
2 Commission's ability to obtain equitable relief under Sections 5(a) and 13(b) of the FTC  
3 Act, 15 U.S.C. §§ 45(a) and 53(b), including, but not necessarily limited to, preliminary  
4 and permanent injunctive relief to prevent further harm to consumers as well as  
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6 consumer redress.  
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8 In support of this petition, the Commission states the following:  
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10 1. The Second Declaration of Stacy Procter, which verifies certain facts  
11 contained in this Petition, is attached hereto as FTC Exhibit ("FTC. Exh.") 12.<sup>1</sup>  
12

13 2. The Commission is an administrative agency of the United States govern-  
14 ment, organized and existing pursuant to the FTC Act, 15 U.S.C. § 41 *et seq.* The  
15 Commission is authorized and directed by Section 5(a) of the FTC Act, 15 U.S.C.  
16 § 45(a), to prohibit unfair methods of competition and unfair or deceptive acts or  
17 practices in or affecting commerce. (FTC Exh. 12, ¶ 2).  
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19 3 Dinamica is a limited liability company formed pursuant to the laws of the  
20 State of California on August 28, 2000. It has two members, Jose Mario Esquer and  
21 Valentin Benetiz. Dinamica's principal place of business is or was located at 7857 E.  
22 Florence Avenue, Suite 201, Downey, California, 90240. Dinamica either has moved its  
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27 <sup>1</sup>The first eleven FTC Exhibits were filed in support of its Emergency  
28 Petition for an Order Compelling Compliance with the Commission's CID and  
were identified as Petition Exhibits. (DE 1).

1 principal place of business or opened a second office at 9550 Firestone Boulevard, Suite  
2 201, Downey, CA 90241. Dinamica is engaged in, and its business affects commerce as  
3 that term is defined in Section 4 of the FTC Act, 15 U.S.C. § 44. (FTC Exh. 12, ¶¶ 3 and  
4 4).  
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7 4. This Court has the inherent jurisdiction to issue an order of civil contempt  
8 so long as the Commission demonstrates by clear and convincing evidence that  
9 Dinamica has violated a specific and definite order of this Court, that Dinamica had  
10 sufficient notice of the terms of this Order, and that Dinamica has notice that it can be  
11 sanctioned for failure to comply with the Order. *E.g., FTC v. Enforma Natural Prods.*,  
12 362 F.3d 1204, 1211 (9th Cir. 2004); *FTC v. Affordable Media*, 179 F.3d 1228, 1239  
13 (9th Cir. 1999); *Internet Specialties West, Inc. v. ISPWest*, 2007 WL 1655732 at \*2  
14 (C.D. Cal. 2007); *Biovail Labs. Inc. v. Anchen Pharm. Inc.*, 463 F. Supp. 2d 1073, 1080  
15 (C.D. Cal. 2006); *FTC v. Gill*, 183 F. Supp. 2d 1171, 1180 (C.D. Cal. 2001).  
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20 5. On July 16, 2008, the Commission filed an Emergency Petition for an  
21 Order Enforcing Civil Investigation Demand (DE 1) to enforce compliance with a CID  
22 issued by the Commission on April 21, 2008, and served on Dinamica on April 22,  
23 2008. (DE 1 - FTC Exh. 2, pp. 21-35). This Petition was personally served both on  
24 Dinamica and its counsel. (DE 8, 9 and 10).  
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1           6.     On July 17, 2008, this Court issued an Order to Show Cause Why  
2 Respondent Should Not Comply with Federal Trade Commission Civil Investigative  
3 Demand. (DE 5). This Order required Dinamica to file any opposition to the  
4 Commission's Petition by July 24, 2008, and to appear before this Court on July 31,  
5 2008 at 10:00 a.m. *Id.* This Order was personally served on Dinamica and its counsel.  
6 (DE 6 and 7).  
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9           7.     Dinamica did not file a response to the Court's July 17 Show Cause Order.  
10 (FTC Exh. 12, ¶ 5).  
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12           8.     On July 31, 2008, the Court conducted a hearing on the Emergency Petition  
13 for an Order Compelling Compliance with the Commission's CID, as provided in the  
14 Court's July 17 Show Cause Order. Following this hearing, the Court entered an order  
15 compelling Dinamica to produce to the Commission, within five (5) days of service of  
16 the Order, all documentary evidence and written responses necessary to comply fully  
17 with the Commission's CID served on Dinamica on April 22, 2008. (DE 13).  
18

19           9.     The July 31 Order was personally served on Dinamica on July 31, 2008, by a  
20 private process server making personal service on one of Dinamica's two members,  
21 Valentin Benetiz. (DE 16). The July 31 Order also was served by Federal Express on  
22 Dinamica's counsel, Marcus Gomez, on July 31, 2008. (DE 15).  
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1           10.    The Commission has received no responses or documents from Dinamica as  
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3 required by the Court's July 31 Order. (FTC Exh. 12, ¶ 6).

4                   WHEREFORE, the Commission invokes the aid of this Court and prays:

5           a.       That the Court enter an Order directing Dinamica to show cause why it  
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7 should not be held in civil contempt for its failure to comply with this Court's July 31  
8 Order requiring it to provide complete responses and to produce all responsive  
9 documents as specified in the Commission's CID;

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11           b.       That the Show Cause Order contain express notice that Dinamica and its  
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13 two members, Jose Mario Esquer and Valentin Benetiz, may be sanctioned for  
14 Dinamica's failure to comply with the Court's July 31 Order and that such sanctions  
15 may include, but will not necessarily be limited to, coercive incarceration of one or more  
16 of Dinamica's members.

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18           c.       That this Court, upon a finding of contempt by Dinamica, coercively  
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20 incarcerate one or both of the two members of Dinamica until such time as Dinamica  
21 comes into compliance with the Court's July 31 Order; and

22           d.       For such other relief as the Court deems just and proper.  
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24                                   Respectfully submitted,

25                                   WILLIAM BLUMENTHAL  
26                                   General Counsel  
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1           **SECOND DECLARATION OF STACY PROCTER (FTC EXH. 12)**

2           I, Stacy Procter, state and declare as follows:

3           1.       I am an attorney employed in Los Angeles, California, by the Federal  
4 Trade Commission ("Commission") and am authorized to execute this declaration.

5 I am the attorney leading the Commission's investigation concerning possible  
6 misrepresentations made to consumers by Dinamica Financiera LLC ("Dinamica").

7           2.       The Commission is an administrative agency of the United States gov-  
8 ernment, organized and existing pursuant to the FTC Act, 15 U.S.C. § 41 *et seq.*  
9 The Commission is authorized and directed by Section 5(a) of the FTC Act, 15  
10 U.S.C. § 45(a), to prohibit unfair methods of competition and unfair or deceptive  
11 acts or practices in or affecting commerce.

12           3.       Dinamica is a limited liability company organized pursuant to the  
13 laws of the State of California, that maintains or maintained its principal place of  
14 business at 7857 E. Florence Avenue, Suite 201, Downey, California, 90240.  
15 Dinamica appears to have either moved its principal place of business or opened up  
16 a second office at 9550 Firestone Boulevard, Suite 201, Downey, CA 90241.  
17 Dinamica is engaged in, and its business affects, "commerce" as that term is  
18 defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

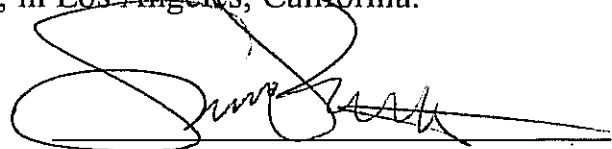
19           4.       Dinamica has two members, Valentin Benitez and Jose Maria Esquer.  
20 (DE 1, FTC Exh. 3 at p. 54).

21           5.       Dinamica never filed a response to the Court's July 17, 2008, Show  
22 Cause Order.

23           6.       The Commission has received no responses or documents from  
24 Dinamica as required by the Court's July 31 Order.

25           I declare under penalty of perjury that the foregoing is true and correct.

26 Executed this 20<sup>th</sup> day of August 2008, in Los Angeles, California.

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Stacy Procter



IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

FEDERAL TRADE COMMISSION,

Petitioner,

v.

DINAMICA FINANCIERA, LLC,

Respondent.

No. 2:08-CV-4649-MMM-PJW

**(PROPOSED) ORDER TO SHOW CAUSE WHY RESPONDENT  
SHOULD NOT BE HELD IN CIVIL CONTEMPT FOR ITS  
FAILURE TO COMPLY WITH THIS COURT’S JULY 31, 2008, ORDER  
AND NOTICE THAT DINAMICA FINANCIERA, LLC AND ITS  
MEMBERS, JOSE MARIO ESQUER AND VALENTIN BENETIZ,  
MAY BE SANCTIONED, INCLUDING THROUGH  
COERCIVE INCARCERATION, FOR DINAMICA’S  
FAILURE TO COMPLY WITH THIS COURT’S ORDER**

Petitioner, the Federal Trade Commission, has requested that this Court enter an Order holding respondent, Dinamica Financiera, LLC (“Dinamica”), in civil contempt for its failure to comply with this Court’s July 31, 2008, Order (the “July 31 Order”) (DE 13) compelling Dinamica to produce complete responses to written interrogatories, all responsive documents, and a sworn verification in compliance with a Civil Investigative Demand (“CID”) issued by the Commission on April 22, 2008, and then served on Dinamica

1 The Court has considered the Commission's Petition for an Order Finding Civil  
2 Contempt and the papers filed in support thereof and it appears to the Court that  
3 petitioner has shown good cause for the entry of this Order.  
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5 It is by this Court hereby ORDERED that respondent Dinamica and its two  
6 members, Jose Mario Esquer and Valentin Benitez, appear at \_\_\_ m. on the \_\_\_ day of \_\_\_  
7 \_\_\_\_, 2008, in Courtroom No. \_\_\_\_, United States Courthouse, Los Angeles, California,  
8 and show cause, if any there be, why this Court should not find Dinamica in civil  
9 contempt for failure to comply with this Court's July 31 Order. Unless the Court  
10 determines otherwise, notwithstanding the filing or pendency of any procedural or other  
11 motions, all issues raised by the Petition and supporting papers, and any opposition to  
12 the Petition will be considered at the hearing on the Petition, and the allegations of said  
13 Petition shall be deemed admitted unless controverted by a specific factual showing.  
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18 IT IS FURTHER ORDERED that, if respondent Dinamica or either or both of its  
19 members, Jose Mario Esquer and Valentin Benitez, intend to file pleadings, affidavits,  
20 exhibits, motions or other papers in opposition to said Petition or to the entry of the  
21 Order requested herein, such papers must be filed and delivered to petitioner's counsel  
22 by \_\_\_ a.m./p.m. on \_\_\_\_\_, 2008. Such submission shall include, in  
23 the case of any affidavits or exhibits not previously submitted, or objections not  
24 previously made to the Federal Trade Commission in support of the petition to quash  
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1 filed by respondent, an explanation as to why such objections were not made or such  
2 papers or information not submitted to the Commission. Any reply by the Commission  
3 shall be filed with the Court and received by Dinamica and its members by \_\_a.m./p.m.  
4 on \_\_\_\_\_, 2008.  
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7 IT IS FURTHER ORDERED, that this is a summary proceeding and that neither  
8 the Commission, Dinamica, nor Dinamica's members, Jose Mario Esquer and Valentin  
9 Benitez, shall be entitled to discovery without further order of the Court upon a specific  
10 showing of need; and the dates for a hearing and the filing of papers established by this  
11 Order shall not be altered without prior order of the Court upon good cause shown; and  
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14 IT IS FURTHER ORDERED, that a copy of this Order and copies of said Petition  
15 and the Memorandum of Points and Authorities in support thereof filed herein, be served  
16 forthwith by petitioner Federal Trade Commission upon respondent Dinamica, upon  
17 counsel for Dinamica, and upon the two members of Dinamica, Jose Mario Esquer and  
18 Valentin Benitez. Such service upon Dinamica and its counsel shall be made by  
19 personal service, or by certified or registered mail return receipt requested, or by  
20 overnight express delivery service. Such service upon Jose Mario Esquer and Valentin  
21 Benitez shall be made by personal service, or by certified or registered mail return  
22 receipt requested.  
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1                   **NOTICE of POTENTIAL SANCTIONS for**

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3                   **DINAMICA, JOSE MARIO ESQUER, and VALENTIN**

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5                   **BENETIZ : Pursuant to this Order, Dinamica and its two members,**

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7                   **Jose Mario Esquer and Valentin Benetiz, are hereby placed on notice**

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9                   **that they may be sanctioned in the event that Dinamica is found to be in**

10                   **contempt of the court’s July 31, 2008, Order that was personally served**

11                   **on July 31 on Valentin Benetiz, one of Dinamica’s members. Such**

12                   **sanctions may, include, but are not limited to, the coercive incarceration**

13                   **of Jose Mario Esquer and Valentin Benetiz. Such incarceration may**

14                   **continue until such time as Dinamica substantially complies with the**

15                   **terms of the Court’s July 31, 2008, Order.**

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23                   Margaret M. Morrow  
24                   United States District Judge

25                   Dated: \_\_\_\_\_, Los Angeles, California

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PRESENTED BY:

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IN THE UNITED STATES DISTRICT COURT  
FOR THE CENTRAL DISTRICT OF CALIFORNIA  
WESTERN DIVISION

\_\_\_\_\_)  
FEDERAL TRADE COMMISSION, )  
 )  
Petitioner, )  
 )  
v. ) No. 2:08-CV-4649-MMM (PJW)  
 )  
DINAMICA FINANCIERA LLC, )  
 )  
Respondent. )  
\_\_\_\_\_)

**CERTIFICATE OF SERVICE**

I hereby certify that on August 20, 2008, via pre-paid Federal Express, I served a copy of the foregoing on the following:

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