

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
Greenbelt Division

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|----------------------------|-------------|---|----------------------------|
| <hr/> | |) | |
| FEDERAL TRADE COMMISSION, | |) | |
| | Petitioner, |) | |
| | |) | |
| v. | |) | Case No. 8:15-cv-02285-PWG |
| | |) | |
| THE MEDICI PORTFOLIO, LLC, | |) | |
| | Respondent. |) | |
| | |) | |
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**APPLICATION OF THE FEDERAL TRADE COMMISSION FOR CLERK’S
ENTRY OF DEFAULT AGAINST RESPONDENT THE MEDICI
PORTFOLIO, LLC**

The Federal Trade Commission requests that the Clerk of Court enter default against respondent, The Medici Portfolio, LLC (“Medici”), pursuant to Federal Rule of Civil Procedure 55(a). As shown in the accompanying affidavit of the undersigned counsel, Medici was properly served with this Court’s Order to Show Cause and 9 days have elapsed since Medici’s response to the Court’s Order to Show Cause was due. Medici has failed to plead or otherwise defend in this proceeding. Therefore the FTC requests that the Clerk enter default against respondent The Medici Portfolio, LLC.

Respectfully submitted,

SUZANNE MUNCK
Deputy Director
Office of Policy Planning

NEAL HANNAN
Office of Policy Planning

Dated: September 4, 2015

JONATHAN E. NUECHTERLEIN
General Counsel

DAVID C. SHONKA
Principal Deputy General Counsel

JOEL MARCUS
Director of Litigation

LESLIE RICE MELMAN
Assistant General Counsel for Litigation

s/ Burke W. Kappler
BURKE W. KAPPLER
Assigned bar number 801057

BRADLEY GROSSMAN
Attorneys for Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580
(202) 326-2043
(202) 326-2477 (fax)
bkappler@ftc.gov

CERTIFICATE OF SERVICE

I certify that on September 4, 2015, I sent a copy of the Application of the Federal Trade Commission for Clerk's Entry of Default Against Respondent The Medici Portfolio, LLC, and supporting affidavit and exhibits, to The Medici Portfolio, LLC by e-mail and FedEx overnight delivery to the following addresses:

Michael Connelly, Chief Executive Office
The Medici Portfolio, LLC
4601 Willard Avenue
Chevy Chase, MD 20815
E-mail: mike@mediciportfolio.com.

s/ Burke W. Kappler
BURKE W. KAPPLER
Assigned bar number 801057

Attorney for Federal Trade Commission
600 Pennsylvania Ave., N.W.
Washington, D.C. 20580
(202) 326-2043
(202) 326-2477 (fax)
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| |) | |
| Respondent. |) | |

**AFFIDAVIT OF PETITIONER’S COUNSEL IN SUPPORT OF
APPLICATION FOR CLERK’S ENTRY OF DEFAULT AGAINST
RESPONDENT THE MEDICI PORTFOLIO, LLC**

Pursuant to 28 U.S.C. § 1746, I declare as follows:

1. I am an attorney employed by the Federal Trade Commission in Washington, D.C., in the Office of General Counsel.
2. On August 5, 2015, the FTC filed a Petition for a Show Cause Hearing and Order Enforcing Compulsory Process against respondent The Medici Portfolio, LLC (“Medici”). This petition and its supporting papers sought enforcement of compulsory process issued by the FTC to Medici because Medici had failed to fully comply.
3. On August 11, 2015, the Court entered an Order to Show Cause. The Order set August 26, 2015 as the deadline for Medici to file any opposition to the FTC’s petition. Dkt. 1 at 2-3. In its Order, the Court directed the FTC to

serve a certified copy of the Order and a copy of the petition and supporting documents on Medici by “overnight express delivery service.” *Id.* at 3.

4. On the same day the Court issued the Order to Show Cause, I e-mailed Michael Connelly, Medici’s Chief Executive Officer, a courtesy copy of the Court’s Order, the FTC’s petition, and its supporting papers. Exh. 1. On August 12, I made arrangements with FedEx to hand deliver a certified copy of the Court’s Order to Show Cause and a copy of the FTC’s petition and its supporting papers. Exh. 2. The FedEx package was delivered to Medici at its Chevy Chase offices on August 14. Exh. 3.
5. On August 11, Mr. Connelly acknowledged my courtesy e-mail and stated that he had mailed the materials at issue. Exh. 4. To date, however, the FTC has not received the materials. Furthermore, Medici has not filed a response to the Court’s Order to Show Cause or sought an extension to the due date for its response.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed on September 4, 2015

s/ Burke W. Kappler
BURKE W. KAPPLER
Attorney, Office of General Counsel
Federal Trade Commission

EXHIBIT 1

From: [Kappler, Burke](#)
To: ["mike@mediciportfolio.com"](mailto:mike@mediciportfolio.com)
Cc: [Hannan, Neal C.](#); [Grossman, Bradley D.](#)
Subject: FTC v. The Medici Portfolio, LLC, 8:15-cv-02285-PWG
Date: Tuesday, August 11, 2015 4:13:00 PM
Attachments: [03_Order_to_Show_Cause.pdf](#)
[01_Petition_Exhs_Memo_of_Law.pdf](#)

Dear Mr. Connelly:

I'm writing to follow up on my message below. On Wednesday, August 5, the FTC filed a process enforcement action against The Medici Portfolio in the United States District Court for the District of Maryland (Greenbelt Division), and the case was assigned to Judge Paul Grimm. Today, Judge Grimm issued an order granting our request for a show cause hearing, establishing a hearing date, and setting a briefing schedule. In sum, any opposition from The Medici Portfolio is due on August 26, 2015, and the show cause hearing is set for October 19, 2015. For your convenience, I am attaching electronic copies of our filing and the signed show cause order. We will provide hard copies of these documents to you shortly, according to the terms of Judge Grimm's Order.

To be clear, we have commenced this litigation because we see no other option to obtain the information required by the Order to File Special Report issued to The Medici Portfolio, which you have represented has been collected and is ready for production. However, if you provide this information to us immediately, that may affect whether we need to proceed further. The information required should be produced according to the instructions in the Order to File Special Report and should be sent to Neal Hannan. Thank you very much.

Sincerely,

Burke W. Kappler

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | bkappler@ftc.gov

From: Kappler, Burke
Sent: Tuesday, August 04, 2015 11:50 AM
To: 'mike@mediciportfolio.com'
Cc: Hannan, Neal C.; Grossman, Bradley D.
Subject: RE: Medici Portfolio

Dear Mr. Connelly:

I'm writing to follow up on a voice mail I just for you at your office. We have not received any information from you since our conversation on June 24, 2015. Accordingly, unless we receive the required information from you in the meantime, we will proceed to file process enforcement papers in the District of Maryland tomorrow morning. Please feel free to contact me if you have any questions. Thank you very much.

Sincerely,

Burke W. Kappler

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | bkappler@ftc.gov

From: Kappler, Burke
Sent: Wednesday, June 24, 2015 5:14 PM
To: 'mike@mediciportfolio.com'
Cc: Hannan, Neal C.; Grossman, Bradley D.
Subject: Medici Portfolio

Dear Mr. Connelly:

This is to follow up on our call this afternoon regarding Medici Portfolio's failure to fully comply with the 6(b) Order and the resulting referral to the Office of General Counsel for enforcement. As we discussed, my contact information is below. If you do produce the required information in some form, please let me know so I can advise the Office of Policy Planning and my colleagues in OGC. Thank you very much.

Sincerely,

Burke W. Kappler

Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | bkappler@ftc.gov

EXHIBIT 2



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Burke W. Kappler
Attorney
Office of General Counsel

Direct Dial: 202-326-2043
Fax: 202-326-2477
E-mail: bkappler@ftc.gov

August 12, 2015

BY FEDEX

Michael Connelly
Medici Portfolio, LLC
4601 Willard Avenue
Chevy Chase, MD 20815
Tel: 1-800-961-5462

Re: Federal Trade Commission v. The Medici Portfolio, LLC, 8:15-cv-02285-PWG
(D. Md.)

Dear Mr. Connelly:

Per the Order issued by Judge Grimm on August 11, 2015, I am hereby serving upon you by overnight express delivery service a certified copy of the Order and copies of the petition and memorandum of law we filed in the above-captioned case.

Sincerely,

/s Burke W. Kappler
Attorney, Office of General Counsel

Enclosures

EXHIBIT 3

Kappler, Burke

From: trackingupdates@fedex.com
Sent: Friday, August 14, 2015 11:09 AM
To: Kappler, Burke
Subject: FedEx Shipment 774267965112 Delivered

Your package has been delivered

Tracking # 774267965112

| | | |
|--|--|---|
| Ship date: Wed, 8/12/15 | | Delivery date: Fri, 8/14/15 10:30 am |
| B. Kappler FTC WASHINGTON, DC 20580 US |  Delivered | Michael Connelly MEDICI PORTFOLIO LLC 4601 Willard Ave. CHEVY CHASE, MD 20815 US |

Personalized Message

MEDICI PORT.

Shipment Facts

Our records indicate that the following package has been delivered.

| | |
|-----------------------------------|--|
| Tracking number: | 774267965112 |
| Status: | Delivered: 08/14/2015 10:30 AM Signed for By: D.RAUU |
| Purchase order number: | 0721 |
| Reference: | P072104 |
| Signed for by: | D.RAUU |
| Delivery location: | CHEVY CHASE, MD |
| Delivered to: | Mailroom |
| Service type: | FedEx Priority Overnight |
| Packaging type: | FedEx Pak |
| Number of pieces: | 1 |
| Weight: | 0.00 lb. |
| Special handling/Services: | Deliver Weekday |

This tracking update has been requested by:



Company name: FTC
Name: B. Kappler
Email: tlewis@ftc.gov

 Please do not respond to this message. This email was sent from an unattended mailbox. This report was generated at approximately 10:08 AM CDT on 08/14/2015.

To learn more about FedEx Express, please go to fedex.com.

All weights are estimated.

To track the latest status of your shipment, click on the tracking number above, or go to fedex.com.

This tracking update has been sent to you by FedEx on the behalf of the Requestor noted above. FedEx does not validate the authenticity of the requestor and does not validate, guarantee or warrant the authenticity of the request, the requestor's message, or the accuracy of this tracking update. For tracking results and terms of use, go to fedex.com fedex.com.

Thank you for your business.

EXHIBIT 4

Kappler, Burke

From: Kappler, Burke
Sent: Monday, August 24, 2015 3:34 PM
To: 'Michael Connelly'
Cc: Grossman, Bradley D.; Hannan, Neal C.
Subject: RE: Copied again and dropped in mail

Dear Mr. Connelly:

I am writing to let you know that we have not received any mailing from you to date. We have been checking our mailroom periodically, including today, and have no record of a package from you. Can you confirm when and how you sent the materials?

At this point, without the documents, we see no reason not to continue with this proceeding.

Sincerely,

Burke W. Kappler
Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C.
20580
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | bkappler@ftc.gov

-----Original Message-----

From: Kappler, Burke
Sent: Wednesday, August 12, 2015 1:05 PM
To: 'Michael Connelly'
Cc: Grossman, Bradley D.; Hannan, Neal C.
Subject: RE: Copied again and dropped in mail

Thanks for letting me know. We'll review them when they arrive and be in touch afterwards. Is there an expected delivery date?

Burke W. Kappler
Attorney, Office of General Counsel | Federal Trade Commission | 600 Pennsylvania Avenue, N.W., Washington, D.C.
20580
T: 202-326-2043 | F: 202-326-2477 | C: 703-819-3079 | bkappler@ftc.gov

-----Original Message-----

From: Michael Connelly [<mailto:mike@mediciportfolio.com>]
Sent: Tuesday, August 11, 2015 4:49 PM
To: Kappler, Burke
Subject: Copied again and dropped in mail

Made two identical usb sticks. Keep them for national archives when this is all over.

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| |) | |
| Respondent. |) | |
| |) | |
| _____ |) | |

[PROPOSED] ENTRY OF DEFAULT

Now, upon request by attorneys for the Federal Trade Commission, the default of respondent The Medici Portfolio, LLC, is hereby entered pursuant to Federal Rule of Civil Procedure 55(a).

Date: _____

Clerk of Court