BENJAMIN J. THEISMAN
BENJAMIN R. DAVIDSON
IRIS MICKLAVZINA, *admission pending*
Federal Trade Commission
600 Pennsylvania Avenue NW
Mailstop CC-6316
Washington, DC 20580
(202) 326-2223 (Theisman); -3055 (Davidson); -2517 (Micklavzina)
btheisman@ftc.gov; bdavidson@ftc.gov; imicklavzina@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION, Plaintiff, vs. CARDFLEX, INC., *et al.* Defendants.	No. 3:14-cv-397-MMD-CLB PLAINTIFF FEDERAL TRADE COMMISSION'S COMBINED MOTION TO: (1) HOLD CARDFLEX, INC. (N/K/A CLIQ INC.), ANDREW PHILLIPS, AND JOHN BLAUGRUND IN CONTEMPT OF THE STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL ORDER AGAINST DEFENDANTS CARDFLEX, INC., ANDREW PHILLIPS, AND JOHN BLAUGRUND; AND (2) MODIFY THE STIPULATED ORDER FOR PERMANENT INJUNCTION AND FINAL ORDER AGAINST DEFENDANTS CARDFLEX, INC., ANDREW PHILLIPS, AND JOHN BLAUGRUND

TABLE OF CONTENTS

I. Legal Standard: The Cliq Defendants' Violations Justify This Necessary Relief..... 2

II. Statement of Facts: Undisputed Evidence Shows Repeated and Significant Order Violations. 4

A. Payment processing makes modern payments possible but only works reliably and lawfully with appropriate underwriting and risk monitoring..... 4

B. The Cliq Defendants processed for a consumer fraud resulting in a Final Order that, if followed, would make it difficult for them to do so again. 6

C. The Cliq Defendants have systematically failed to follow the Final Order..... 8

1. The Cliq Defendants process for prohibited MATCH-listed merchants. 8

2. In Violation of Section III of the Final Order, the Cliq Defendants do not reasonably screen High Risk Clients. 14

3. Cliq's inadequate monitoring of High Risk Clients violates Section IV of the Final Order. 17

4. The Cliq Defendants assisted and facilitated merchants' avoidance of fraud monitoring programs in violation of Section II of the Final Order and also failed to close accounts for merchants taking steps to avoid such programs. 22

D. Target Fulfillment and Limitless X are emblematic of the Cliq Defendants' failures to screen and monitor merchants, resulting in significant consumer harm..... 25

1. The Cliq Defendants violated the Final Order by processing for the Target Fulfillment criminal conspiracy. 25

2. The Cliq Defendants violated the Final Order by processing for Limitless X and the Wellington Group 35

E. The Cliq Defendants have also processed for other companies that have been or are currently being pursued by law enforcement. 42

III. The Cliq Defendants' Serious Violations Require Compensatory and Coercive Relief, in Addition to a modification of the Final Order. 43

A. The Cliq Defendants must compensate the consumers they injured by processing transactions in violation of the Final Order. 44

B. Coercive relief is necessary to force Cliq into full compliance. 47

C. Because Phillips and Blaugrund cannot be trusted to operate lawfully, they must be banned from payment processing and, if Cliq stays in business, it must be subject to stronger relief to prevent future misconduct. 48

IV. CONCLUSION 52

TABLE OF AUTHORITIES

Cases

Ahearn ex. rel NLRB v. Int'l Longshore & Warehouse Union,
721 F.3d 1122 (9th Cir. 2013) 44

FTC v. Accelerated Debt Settlement, Inc.,
2:25-cv-02443 (D. Ariz. July 14, 2025) 52

FTC v. Affordable Media,
179 F.3d 1228 (9th Cir. 1999) 2, 43

FTC v. BlueHippo Funding, LLC,
762 F.3d 238 (2nd Cir. 2014) 44

FTC v. Burke,
699 F. App'x 669 (9th Cir. 2017) 4

FTC v. Dayton Fam. Prods.,
97-cv-750-GMN-VCF, 2016 WL 1047353 (D. Nev. March 13, 2016) 4, 44

FTC v. EDebitPay, LLC,
695 F.3d 938 (9th Cir. 2012) 3, 44

FTC v. Ewing,
No. 2:07-CV-00479-PMP, 2014 WL 5489210 (D. Nev. Oct. 29, 2014) 45

FTC v. Figgie Int'l, Inc.,
994 F.2d 595 (9th Cir. 1993) 46

FTC v. Gill,
183 F. Supp. 2d 1171 (C.D. Cal. 2001) 3, 47, 52

FTC v. Gill,
265 F.3d 944 (9th Cir. 2001) 4, 50

FTC v. Grant Connect, LLC,
763 F.3d 1094 (9th Cir. 2014) 18, 45, 50

FTC v. Grant Connect, LLC,
827 F. Supp. 2d 1199 (D. Nev. 2011) 18, 45
FTC v. International Solutions, LLC,
8:23-cv-01493 (C.D. Cal. Aug. 16, 2023) 52
FTC v. Jeremy Johnson et al.,
No. 10-cv-2203-MMD-GWF (D. Nev.) 1, 6
FTC v. Kutzner,
No. 16-cv-999, 2017 WL 11632849 (C.D. Cal. Dec. 18, 2017) 47
FTC v. Kuykendall,
371 F.3d 745 (10th Cir. 2004) 3, 44
FTC v. Leshin,
618 F.3d 1221 (11th Cir. 2010) 44, 49
FTC v. Leshin,
Civ. No. 06-61851, 2009 WL 10667856 (S.D. Fla. Apr. 7, 2009) 49
FTC v. Panda Benefit Services, LLC,
8:24-cv-1386 (C.D. Cal. June 24, 2024) 52
FTC v. Success by Media Holdings Inc.,
2025 WL 3265803 (9th Cir. Nov. 24, 2025) 3, 4, 44, 50
FTC v. Trudeau,
708 F. Supp. 2d 711 (N.D. Ill. 2010) 49
FTC v. Voc. Guides, Inc.,
Civil No. 3:01-0170, 2009 WL 943486 (M.D. Tenn. April 6, 2009) 49, 50
Int'l Union, United Mine Workers of Am. v. Bagwell,
512 U.S. 821 (1994) 4, 48
Kelly v. Wengler,
822 F.3d 1085 (9th Cir. 2016) 3, 49

Labor/Community Strategy Ctr. v. Los Angeles County,
564 F.3d 1115 (9th Cir. 2009) 49
McComb v. Jacksonville Paper Co.,
336 U.S. 187 (1949) 3, 44, 48
McGregor v. Chierico,
206 F.3d 1378 (11th Cir. 2000) 4, 50
Peterson v. Highland Music., Inc.,
140 F.3d 1313 (9th Cir. 1998) 4
Rufo v. Inmates of Suffolk County Jail,
502 U.S. 367 (1992) 4, 49
SEC v. Bilzerian,
112 F. Supp. 2d 12 (D.D.C. 2000) 47
SEC v. Bilzerian,
127 F. Supp. 2d 232 (D.D.C. 2000) 47
SEC v. Bilzerian,
75 F. App'x 3 (D.C. Cir. 2003) 47
SEC v. Hickey,
322 F.3d 1123 (9th Cir. 2003) 47
Shell Offshore Inc. v. Greenpeace, Inc.,
815 F.3d 623 (9th Cir. 2016) 3, 47
Shillitani v. United States,
384 U.S. 364 (1966) 2, 3
Stone v. City and County of San Francisco,
968 F.2d 850 (9th Cir.1992) 2, 43
Thomas, Head and Greisen Employees Trust v. Buster,
95 F.3d 1449 (9th Cir. 1996) 4

U.S. v. Asarco, Inc.,
430 F.3d 927 (9th Cir. 2005) 3, 49
United States v. Asay,
614 F.2d 655 (9th Cir. 1980) 3
United States v. Ayres,
166 F.3d 991 (9th Cir. 1999) 4
United States v. Bawden, et al.,
22-cr-481 (D. Utah) 25
United States v. Jeremy Johnson et al.,
11-cr-501-DB (D. Utah)..... 6
United States v. Laerdal Mfg. Corp.,
73 F.3d 852 (9th Cir. 1995) 44
United States v. United Mine Workers Assoc. of Am.,
330 U.S. 258 (1947)..... 3, 44, 47
United States v. United Shoe Machinery Corp.,
391 U.S. 244 (1968)..... 49

Statutes

15 U.S.C. § 1643..... 19
15 U.S.C. § 1666..... 19
15 U.S.C. § 1693g..... 19

Regulations

12 CFR § 1026.12(b)(2)..... 18

The defendants simply did not learn their lesson. Ten years ago, the Court entered the Final Order[1] to resolve allegations the defendants worked with iWorks[2] to hide its deceptive scheme, causing $26 million in consumer injury by processing iWorks' payments through a web of shell corporations and straw signers while artificially diluting chargeback rates. Now, the Federal Trade Commission ("FTC") is back because the defendants have harmed yet more consumers using the exact same tactics they did the first time around: using shell companies and straw owners in an attempt to cover up deceptive conduct and problematic chargeback rates. Disregarding the Final Order, the defendants have harmed consumers and otherwise processed billions of dollars in contumacious charges in just the last five years.

To resolve the original dispute in this case, defendants CardFlex, Inc. (n/k/a Cliq, Inc.)[3] ("Cardflex" or "Cliq"), Andrew Phillips ("Phillips"), and John Blaugrund ("Blaugrund") (collectively, the "Cliq Defendants") stipulated to the Final Order, requiring them to take steps to run their payment processing business without processing for merchants preying on consumers. Since the Court entered the Final Order, the Cliq Defendants have systematically violated four of its key sections by: (1) processing payments for explicitly prohibited merchants; (2) failing to adequately underwrite their merchant customers; (3) failing to monitor and then stop processing for merchants that reach certain transaction thresholds; and (4) assisting or otherwise continuing to process for merchants taking steps to evade fraud monitoring programs. *See* Final Order, Sections I-IV.

[1] Stipulated Order for Permanent Injunction and Final Order Against Defendants CardFlex, Inc., Andrew Phillips, and John Blaugrund ("Final Order") (ECF No. 54).

[2] iWorks refers to the deceptive scheme in the related matter known as *FTC v. Jeremy Johnson et al.*, No. 10-cv-2203-MMD-GWF (D. Nev.).

[3] PX 8, Ex. Vol. 2, p. 39, Declaration of Lashanda Freeman ("Freeman Dec.") ¶ 5, PX 232, Ex. Vol. 22, p. 11 at 13.

Because of these serious violations of the Final Order, the FTC asks the Court to enter the following relief necessary to compensate the Cliq Defendants' victims, coerce Cliq into compliance, and achieve the original purpose of the Final Order moving forward:

- Compensatory relief in the amount of consumer harm, including the $52,927,030 the Cliq Defendants processed for the most recent criminal consumer fraud scheme.
- Coercive relief necessary to bring Cliq into compliance. Because of the Cliq Defendants' significant violations and because Phillips and Blaugrund cannot be trusted to run the company, this will require appointment of a receiver to bring Cliq itself into compliance, including purging all prohibited merchants from Cliq's merchant list, ensuring all required underwriting of current and future merchants is complete, and ensuring all monitoring tasks related to current merchant clients are complete or the subject merchants have been terminated.
- Modification of the Final Order to ensure compliance moving forward. Phillips and Blaugrund have shown they cannot be trusted to operate in this industry or abide by court orders. As a result, they must be banned from all payment processing related work moving forward. While Cliq may continue to operate (subject to the judgment against it), it will require a receiver to ensure future compliance.

I. LEGAL STANDARD: THE CLIQ DEFENDANTS' VIOLATIONS JUSTIFY THIS NECESSARY RELIEF

"There can be no question that" the Court has the "inherent power to enforce compliance with" its Final Order "through civil contempt." *Shillitani v. United States*, 384 U.S. 364, 370 (1966). To obtain a contempt finding, the FTC must "show[] by clear and convincing evidence that the contemnors violated a specific and definite order of the court." *FTC v. Affordable Media*, 179 F.3d 1228, 1239 (9th Cir. 1999) (quoting *Stone v. City and County of San Francisco*, 968 F.2d 850, 856 n. 9 (9th Cir.1992)). Once the FTC has met this burden, "[t]he burden then shifts

to the contemnors to demonstrate why they were unable to comply." *Id*. Although the Cliq Defendants acted willfully, willfulness is not an element of contempt. *McComb v. Jacksonville Paper Co.*, 336 U.S. 187, 191 (1949) ("The absence of wilfulness [sic] does not relieve from civil contempt."); *United States v. Asay*, 614 F.2d 655, 661 (9th Cir. 1980) (same).

Should this Court find the Cliq Defendants in contempt, the FTC is entitled to seek both (1) compensatory relief to redress consumers and (2) coercive relief to force the defendants into compliance. *FTC v. Success by Media Holdings Inc.*, --- F.4th ----, 2025 WL 3265803, *4 (9th Cir. Nov. 24, 2025); *FTC v. Kuykendall*, 371 F.3d 745, 764 (10th Cir. 2004) ("[T]he FTC [is] allowed to seek sanctions on behalf of injured consumers."); *see also Shell Offshore Inc. v. Greenpeace, Inc.*, 815 F.3d 623, 629 (9th Cir. 2016) (courts utilize "civil contempt powers for two separate and independent purposes: (1) 'to coerce the defendant into compliance with the court's order'; and (2) 'to compensate the complainant for losses sustained.'") (quoting *United States v. United Mine Workers Assoc. of Am.*, 330 U.S. 258, 303-04 (1947)). When calculating compensatory relief, courts have consistently measured it by consumer harm rather than a contemnor's claimed profits or receipts. *Success by Media Holdings Inc.*, 2025 WL 3265803, *4-5; *FTC v. EDebitPay, LLC*, 695 F.3d 938, 945 (9th Cir. 2012) (discussing and collecting cases); *see also McComb*, 336 U.S. at 193 ("The measure of the court's power in civil contempt proceedings is determined by the requirements of full remedial relief."). Coercive relief is broad, including all "relief that is necessary to effect compliance with [the court's] decree," such as daily fines, incarceration, or the appointment of a receiver. *McComb*, 336 U.S. at 193; *Shillitani*, 384 U.S. at 368 (incarceration to coerce compliance is a civil contempt remedy); *FTC v. Gill*, 183 F. Supp. 2d 1171, 1186 (C.D. Cal. 2001) (entering both fines and appointing a receiver as contempt remedies).

The Ninth Circuit has also concluded that, separate from a Court's contempt power, "substantial violation of a court order constitutes a significant change in factual circumstances" justifying an order modification. *Kelly v. Wengler*, 822 F.3d 1085, 1098 (9th Cir. 2016); *see also United States v. Asarco, Inc.*, 430 F.3d 927, 979 (9th Cir. 2005) (*citing Rufo v. Inmates of Suffolk*

County Jail, 502 U.S. 367, 384 (1992)). Because of the Cliq Defendants' apparent refusal to follow the Final Order, discussed in Sections II and III below, the Court is empowered to modify and strengthen the injunctive relief governing their conduct moving forward. Phillips and Blaugrund have proven themselves incapable of lawfully operating as payment processors and, as a result, must be banned. *FTC v. Gill*, 265 F.3d 944, 957 (9th Cir. 2001) (ban appropriate following contempt); *McGregor v. Chierico*, 206 F.3d 1378, 1386 n.9 (11th Cir. 2000) (same); *cf. Success by Media Holdings Inc.*, 2025 WL 3265803, *7 (ban appropriate FTC Act remedy following contempt of prior order). For Cliq itself, a receiver will be necessary to ensure its compliance moving forward.[4]

II. STATEMENT OF FACTS: UNDISPUTED EVIDENCE SHOWS REPEATED AND SIGNIFICANT ORDER VIOLATIONS.

A. Payment processing makes modern payments possible but only works reliably and lawfully with appropriate underwriting and risk monitoring.

Cliq is a payment processor involved in "all elements of the payment processing ecosystem." Freeman Dec. ¶ 227, PX 233, Ex. Vol. 22, p. 18 at 19. Cliq is a type of payment processor known as an Independent Sales Organization ("ISO"), a company that sells and then manages a merchant's payment processing relationship with a bank. Phillips (CEO and 95% owner) and Blaugrund (Chief Technology Officer) are among Cliq's leadership, sitting on its

[4] This Court need not hold an evidentiary hearing to determine whether the Cliq Defendants are in contempt of the Final Order. Due process in civil contempt matters requires only "notice and an opportunity to be heard." *United States v. Ayres*, 166 F.3d 991, 995 (9th Cir. 1999). Where, as here, the presented facts are uncontroverted, "overwhelming," or otherwise there has been no challenge to "material" facts, the Ninth Circuit has held that an evidentiary hearing is not required. *Id.* (quoting *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 827 (1994)); *Peterson v. Highland Music., Inc.*, 140 F.3d 1313, 1324 (9th Cir. 1998); *Thomas, Head and Greisen Employees Trust v. Buster*, 95 F.3d 1449, 1458-59 (9th Cir. 1996). Similarly, another court in this district has followed this procedure and held an FTC defendant in contempt without holding an evidentiary hearing, analogizing the resolution to a summary judgment ruling. *FTC v. Dayton Fam. Prods.*, 97-cv-750-GMN-VCF, 2016 WL 1047353, at *10 (D. Nev. March 13, 2016), *aff'd sub nom. FTC v. Burke*, 699 F. App'x 669 (9th Cir. 2017). As discussed in Sections II and III below, the FTC's evidence and Cliq's violations of the Final Order are both overwhelming and materially undisputed.

Board of Directors in addition to holding senior management roles. *Id.* ¶¶ 10-11, 115, 227; PX 233, Ex. Vol. 22, p. 18 at 24-25; PX 232, Ex. Vol. 22, p. 11; PX 225, Ex. Vol. 28, p. 227 at 100:22-101:7.

As an ISO, Cliq plays a critical role in preventing deceptive merchants from accessing payment systems. The most common types of payments accepted by merchants are debit cards, credit cards, and, occasionally, ACH payments. PX 2, Ex. Vol. 1, p. 71, Declaration and Expert Report of Kevin Killingsworth ("Killingsworth Rep.") ¶ 10. The credit card networks, including Visa and Mastercard, operate the systems that enable a cardholder and the cardholder's bank (known as the issuing bank) to transmit payments to a merchant and the merchant's bank (known as the acquiring bank). *Id.* ¶¶ 11, 15-19.

The credit card networks create rules for the issuing and acquiring banks to ensure the integrity of the system. *Id.* ¶ 14. Acquiring banks are responsible for underwriting and monitoring their merchants to prevent bad actors from gaining access to the credit card networks. *Id.* ¶ 12. Acquirers typically outsource these functions to third-party ISOs, like Cliq, or payment facilitators. *Id.* ¶ 13.

Underwriting requires ISOs like Cliq (and its operators, Phillips and Blaugrund) to review prospective merchants and screen out potentially fraudulent merchants. *Id.* ¶¶ 12, 35. Among other things, ISOs must determine who runs the business, what it is selling, and how the products are being sold. *Id.* ¶¶ 35, 39-40, 47. After merchants are onboarded, ISOs have a continuing obligation to screen and monitor merchants to identify bad actors. *Id.* ¶¶ 12-13, 32, 60-62.

As discussed in more detail later, chargebacks and Mastercard's Member Alert To Control High risk merchants list ("MATCH list") are key aspects of underwriting and monitoring. In general, a chargeback occurs when a consumer challenges a credit card transaction, including for fraud or because the product or service received is not as described. A merchant's chargeback rate, meaning the number of chargebacks in relation to the total number of transactions, is a key metric, with rates near or exceeding 1% being cause for concern. *Id.*

¶¶ 22-23, 25, 33, 50, 55-56, 61. The MATCH list includes merchants terminated for violating card brand rules, including maintaining high chargeback rates. Killingsworth Rep. ¶¶ 41-42. Most ISOs and acquiring banks will not provide payment processing services for MATCH-listed merchants because of their risk profile. *Id.* ¶¶ 40, 43.

Because of the risk profile for merchants with high chargeback rates or otherwise on the MATCH list, processors can charge these merchants higher fees and earn higher profit margins in comparison to lower risk merchants. Freeman Dec. ¶ 99, PX 86, Ex. Vol. 7, p. 37 (Phillips characterizing a high risk client as "[h]i margin accounts" [sic]); *cf.* Killingsworth Rep. ¶ 43 (MATCH list merchants are "limited to pursuing acquirers that specialize in high risk merchants and charge very high fees that reflect the risk"). Cliq's own end-of-year reports show large portions of its profits come from high-risk merchants that have, at various times, had chargeback rates exceeding the Final Order's thresholds or been on the MATCH list. Freeman Dec. ¶¶ 117-35 (collecting and analyzing examples of Cliq's "Top Merchant by Revenue" charts and detailing revenue and profit concentrations).

B. The Cliq Defendants processed for a consumer fraud resulting in a Final Order that, if followed, would make it difficult for them to do so again.

In 2014, the FTC sued the Cliq Defendants, alleging they caused more than $26 million dollars in unauthorized charges to consumers' credit and debit card accounts. *See* ECF No. 1 ¶ 14. The FTC alleged Cardflex caused these unauthorized charges by allowing a group of interrelated merchants known as iWorks[5] to obtain and use merchant accounts to process unauthorized payments though credit card payment networks. *Id*. The FTC's complaint highlighted four primary ways Cardflex's alleged conduct enabled the iWorks scheme: (1)

[5] This Court entered permanent injunctions and monetary judgments against the perpetrators of the iWorks scheme in a parallel matter brought by the FTC, both as a result of settlements as to some and following a trial on the merits against the remaining defendants. *See FTC v. Jeremy Johnson et al.*, No. 10-cv-2203-MMD-GWF (D. Nev.). Two of the perpetrators of the scheme were separately convicted of making false statements to a bank on multiple iWorks merchant account applications and the lead defendant, Jeremy Johnson, was ultimately sentenced to more than seven years in prison. *See United States v. Jeremy Johnson et al.*, 11-cr-501-DB (D. Utah).

opening accounts with minimal underwriting; (2) opening dozens of merchant accounts under different corporate names to process iWorks transactions; (3) distributing chargebacks amongst these merchant accounts (known as "load balancing") to avoid detection by the credit card networks' fraud detection programs; and (4) disregarding high return rates and chargebacks by consumers. *Id*.

To resolve the FTC's charges, the Cliq Defendants agreed to the Final Order. Its provisions include several injunctions addressing the alleged violative conduct, such as prohibiting the Cliq Defendants from:

1. processing transactions for Clients[6] that have been placed on Mastercard's MATCH list for specified reasons;

2. assisting or facilitating any Client's tactics to avoid bank and credit card network fraud and risk monitoring programs;

3. processing transactions for High Risk Clients without first engaging in a reasonable screening of the prospective High Risk Client's business practices to determine if they are, or are likely to be, deceptive; and

4. failing to monitor High Risk Clients' sales and transactional activity to determine whether their businesses are engaged in practices that are deceptive, including ceasing all processing for Covered Clients that breach certain chargeback and return rates and only processing for other High Risk Clients that breach those chargeback and return rates if it can complete an investigation and written report detailing facts demonstrating, by clear and convincing evidence, that the High Risk Client is not engaged in deceptive or unfair practices.

See Final Order, Sections I-IV.

[6] These capitalized terms are defined in the Final Order.

C. The Cliq Defendants have systematically failed to follow the Final Order.

Despite agreeing to the Final Order's provisions, the Cliq Defendants have systematically violated each of these four sections of the Final Order. These violations range from processing for merchants on the MATCH list (including affirmatively choosing to do so notwithstanding knowledge of the Final Order's prohibition); failing to properly underwrite their clients; failing to appropriately monitor and close accounts for clients with high chargeback or return rates; and continuing to process for clients they know are attempting to evade fraud detection programs. The Cliq Defendants' processing for two groups of merchants—(1) Target Fulfillment and (2) Limitless X/the Wellington Group—are emblematic of nearly all these violations.

1. The Cliq Defendants have processed millions of transactions for prohibited MATCH-listed merchants since at least January 1, 2020.

The Final Order prohibits the Cliq Defendants from processing for merchants on the MATCH list for specified reasons, including excessive chargebacks or fraud. Final Order, Section I. Likewise, Cliq's own Acquiring, ACH & Issuing Credit/Underwriting Policy ("Credit Policy"), states Cliq "will not approve" any account for a merchant included on the MATCH list for largely the same reasons. *See* Freeman Dec. ¶ 110, PX 149, Ex. Vol. 12, p. 4 at 20. The MATCH list identifies credit card merchants and their principals who have been terminated for cause. Killingsworth Rep. ¶¶ 41-42; Freeman Dec. ¶ 235, PX 235, Ex. Vol. 22, p. 43 at 50-51 (Mastercard rules specifying searchable MATCH fields).[7] Although not officially prohibited, most ISOs and acquiring banks will refuse to process for a MATCH-listed merchant. Killingsworth Rep. ¶ 43; Freeman Dec. ¶ 89, PX 11, Ex. Vol. 3, p. 11 (sub-ISO for Cliq merchant writing that MATCH "would prevent most processors from approving" a merchant and "most processors would terminate [the merchant] once they found out").

[7] Most card brands, including Visa, require ISOs and acquiring banks to use the MATCH list to screen potential merchants. *Id.* ¶ 40.

Yet, since at least January 1, 2020, the Cliq Defendants have processed millions of transactions and hundreds of millions of dollars for at least three merchants on the MATCH list:

MATCH List Clients	
Total transaction and debit count after MATCH listing	3,568,004
Total transaction and debit volume after MATCH listing	$766,753,953
Total transaction and debit volume net of refunds, chargebacks, credits, and returns after MATCH listing	$704,895,239

PX 1, Ex. Vol. 1, p. 2, Declaration of Megan Baburek ("Baburek Dec.") ¶ 51.

The Cliq Defendants knew they were not permitted to process for merchants on the MATCH list. In a recent court filing, Cliq itself wrote that processing for merchants on MATCH "is not permitted." Freeman Dec. ¶ 236, PX 237, Ex. Vol. 23, p. 2 at 5; *see also id.* ¶ 236, PX 238, Ex. Vol. 23, p. 24 at 27 (Cliq writing that it "does not accept merchants or agent offices that are currently on the MATCH list and . . . inclusion on the MATCH list would serve as an absolute bar.").[8] Nonetheless, the Cliq Defendants had a clear profit motive to process for these merchants notwithstanding the prohibition: they are among the Cliq Defendants' most profitable merchants. Freeman Dec. ¶¶ 117-27 (analyzing Cliq's top merchants by revenue).

a. <u>The Cliq Defendants processed more than $500 million for Premier Health.</u>

Premier Health is a High Risk Client[9] claiming to be "an industry-leading administrator and general agency" providing "an alternative to costly, complicated health insurance by addressing the needs of individuals and families who can't afford traditional major medical

[8] *See, e.g.*, Freeman Dec. ¶ 111, PX 14, Ex. Vol. 3, p. 46 at 48 (Cliq underwriting agent stating Cliq's "credit policy and FTC Final Ruling" preclude processing for MATCH-listed merchants). Separately, an agent for one Cliq client wrote, inclusion on MATCH is "considered purgatory . . . and would prevent most processors from approving" a merchant. And, he continued that for merchants with approved accounts, "most processors would terminate [the merchant] once they found out" it is included on MATCH. Freeman Dec. ¶ 89, PX 11, Ex. Vol. 3, p. 11.

[9] High Risk Clients include merchants (a) processing more than 15% Card-Not-Present Transactions and more than $200,000 in total Card-Not-Present Transactions per year; (b) engaged in the sale of Negative Option Features when processing more than $200,000 in total sales transactions per year; (c) engaged in For-Profit Charitable Telemarketing; or (d) are Covered Clients. *See* Final Order, Definition 10. Although the Cliq Defendants have not so identified Premier Health, it is also a Covered Client because it is in the business of "medical discount membership plans." Final Order, Definition 7.

plans, or who carry high deductible plans." Freeman Dec. ¶ 228, PX 239, Ex. Vol. 24, p. 2 at 8. This, despite a history of high chargebacks and a pattern of complaints indicating these products have been sold through deception. Cliq began processing for Premier Health in late 2019. Freeman Dec. ¶ 84, PX 288, Ex. Vol. 28, p. 212. When attempting to open additional accounts for Premier Health, the Cliq Defendants learned that Premier Health was placed on the MATCH list in April 2020 for excessive chargebacks. Freeman Dec. ¶ 87, PX 9 Ex. Vol. 3, p. 3 at 3-6; *see also id.* ¶ 89, PX 11, Ex. Vol. 3, p. 11 (email from Premier Health sales agent informing both Blaugrund and Phillips of the MATCH listing); *id.* ¶ 91, PX 24, Ex. Vol. 4, p. 44 (Phillips explaining Premier Health is on MATCH and referring Premier Health to a lawyer to assist with the issue).

Rather than cease all processing, as the Final Order requires, the Cliq Defendants processed an additional $592,707,404 (net of refunds, chargebacks, and returns) across both existing and subsequently-opened merchant accounts from May 2020 to April 2024. Baburek Dec. ¶ 46.[10] Premier Health was one of Cliq's most profitable clients. Freeman Dec. ¶¶ 117-127.

At various times, the Cliq Defendants overruled objections from underwriters and affirmatively chose to process for Premier Health notwithstanding the MATCH listing. In May 2020, an underwriter explained that the account he was underwriting was related to Premier Health and questioned opening the account and continuing processing for Premier Health in light of the MATCH listing. In response, Blaugrund personally approved opening the additional account.[11] Then, when working on an additional account application in August 2020, an underwriter wrote: "Wait a minute, why are we boarding Premier Health? I declined them yesterday. They were placed on MATCH for excessive chargebacks. We are not able to board

[10] April 2024 is the most recent processing data the Cliq Defendants have produced to the FTC.

[11] Freeman Dec. ¶ 88, PX 10, Ex. Vol. 3, p. 8 at 10 (underwriter noting April 2020 MATCH listing and connection to new account); *id.* ¶ 90, PX 12, Ex. Vol. 3, p. 14 at 16 (updated notation: "[S]poke with John about this find. Premier Health is currently working to decrease their CBs and they are aware of the connection between the two businesses. Please move forward.").

any merchants on match due to excessive chargebacks due to our credit policy and FTC final ruling. Please explain why you are moving forward." Freeman Dec. ¶ 115, PX 16, Ex. Vol. 3, p. 64 at 66. On a message chain including Blaugrund, the response included, "[B]ecause management has reviewed thoroughly and feel comfortable with the business." *Id.* In a contemporaneous chat, Cliq's staff further stated: "Per John [Blaugrund] please move forward with Premier Health. They were aware it was placed in MATCH and have worked with the merchant to lower their CBs." *Id.* ¶ 112, PX 15, Ex. Vol. 3, p. 54 at 55. In March 2021, Blaugrund rescinded a MATCH-list-based denial for another Premier Health account and wrote the underwriters: "Yes, we know Premier Health is on MATCH. They are also involved in a VISA monitoring program. . . . Please move forward with the rest of the underwriting and let me know if there is anything else that you see other than MATCH and their current [chargeback] levels that is of concern." *Id.* ¶ 112, PX 15, Ex. Vol. 3, p. 54 at 55. As Blaugrund himself explained in a later email after their acquiring bank questioned the accounts, the choice to open accounts for Premier Health in 2020 in spite of the MATCH listing was a "management decision." *Id.* ¶ 143, PX 221, Ex. Vol. 21, p. 51 at 52 (further claiming "Premier Health is a strong and valuable merchant for Cliq").

Not only did Cliq make a "management decision" to ignore the Final Order and overrule its risk department's advice to not process for Premier Health, the Cliq Defendants continued processing for Premier despite notice of the FTC's investigation in this matter and specific inquiries about whether they were processing for entities on the MATCH list. Freeman Dec. ¶ 14; PX 286, Ex. Vol. 28, p. 205 at 207. The Cliq Defendants only ceased some processing for Premier Health when the credit card acquiring bank, Synovus, directed Cliq to close the accounts in August 2024. But even then, the Cliq Defendants continued processing ACH transactions for Premier Health through a different bank. *See id.* ¶ 144, PX 222, Ex. Vol. 21, p. 58 at 59 (Synovus directing Cliq to close Premier Health accounts because of MATCH and "Fraud Activity"); *id.* ¶ 14, PX 286, Ex. Vol. 28, p. 205 at 207.

In addition to the MATCH listing and elevated chargeback rates, Premier Health consumer complaints show a pattern of consumers buying health benefit plans based on misrepresentations, including that the plans would be major medical insurance or otherwise provide specific types of promised services. Freeman Dec. ¶¶ 171-88.[12] This is corroborated by a consumer declaration in which the consumer testifies he purchased a plan for which he was billed by Premier Health based on false claims that the plan would provide necessary services for his previously-diagnosed medical condition. PX 7, Ex. Vol. 2, p. 21, Declaration of Patrick Rebholtz ¶¶ 5-6, 13-25.

b. The Cliq Defendants processed approximately $70 million in transactions for Limitless X and related entities after it was added to the MATCH list.

As detailed in Section II.D.2., Emblaze One Inc. (d/b/a Limitless X) and the Wellington Group sold a variety of dietary supplements and related products. *See also* Freeman Dec. ¶¶ 32, 40 (collecting processing applications); *see also* PX 205, Ex. Vol. 19, p. 27. Limitless X was added to MATCH for illegal transactions in April 2021,[13] a reason code that barred the Cliq Defendants from providing further services. Final Order, Section I. Nonetheless, the Cliq Defendants processed an additional $71,694,998 over more than two years. Baburek Dec. ¶ 41; *see also* Freeman Dec. ¶ 30, PX 80, Ex. Vol. 6, p. 147 (Phillips and Blaugrund deciding how to maximize Limitless transactions through the end of May 2021, despite having notice of MATCH listing). Limitless X and the related Wellington Group were some of the Cliq Defendants' most

[12] Because Premier Health sells "medical discount membership programs," and is properly understood to be a Covered Client, the Cliq Defendants were separately required to close all accounts for Premier Health no later than February 2020 after Premier Health's second month with more than 40 chargebacks and a chargeback rate exceeding 1%. Final Order, Section IV.D (mandating closure of Covered Client accounts when chargeback thresholds are breached); Final Order, Definition 7 (definition of Covered Client); Baburek Dec. ¶¶ 43-45.

[13] Freeman Dec. ¶ 29, PX 79, Ex. Vol. 6, p. 132. LimitlessX was previously added to MATCH by Wells Fargo Bank in January 2018 for violation of standards, which is not a MATCH inclusion reason subject to the Order's prohibitions. *Id.* However, Cliq's own Credit Policy states Cliq will not approve accounts included on Match for this reason. *See* Freeman Dec. ¶ 110, PX 149, Ex. Vol. 12, p. 4 at 20.

profitable clients. Freeman Dec. ¶¶ 117-127; *see also* Freeman Dec. ¶¶ 189-205 (analyzing and attaching consumer complaints against Limitless X alleging deceptive sales practices).

c. The Cliq Defendants processed more than $40 million for iBuumerang while knowing it was on the MATCH list.

iBuumerang LLC ("iBuumerang") is a multi-level marketing, direct sales operation touting discount travel for members. Freeman Dec. ¶¶ 107, 109; PX 21, Ex. Vol. 4, p. 6; PX 74, Ex. Vol. 6, p. 97 at 100-103 (payment processing applications). Cliq began processing for iBuumerang in September 2020, Baburek Dec. ¶ 48, even though iBuumerang was added to MATCH in August 2020 for excessive chargebacks. Freeman Dec. ¶ 109, PX 85, Ex. Vol. 7, p. 34; *id.* ¶ 108, PX 29, Ex. Vol. 4, p. 72 (underwriting document discussing iBuumerang's MATCH listing prior to processing). Rather than refusing to process for iBuumerang, Cliq processed at least $40,492,837 over more than three years. *See* Baburek Dec. ¶¶ 48-50 (processing totals and history); Freeman Dec. ¶ 108, PX 29, Ex. Vol. 4, p. 72 at 77 (Cliq acknowledging "[t]he Organization has been placed on MATCH" before approving application); *see also id.* ¶ 109, PX 28, Ex. Vol. 4, p. 57 (working with sales agent to obtain statement from Mastercard that MATCH listing does not preclude processing).[14]

Cliq only stopped processing for iBuumerang when, in April 2024, Cliq's new acquiring bank, Synovus Bank, refused to take the account. Freeman Dec. ¶ 142, PX 219, Ex. Vol. 21, p. 44 at 45 ("Considering the current FTC order and the prevailing online reviews concerning their business model, which could be perceived as a 'Money Making Opportunity', we have made the decision to decline sponsorship for IBuumerang.");[15] *id.* ¶ 109, PX 217, Ex. Vol. 21,

[14] Such a statement is not surprising. Although very few acquirers would provide processing services for a MATCH-listed merchant, it is not Mastercard's position that this result is required. Killingsworth Rep. ¶ 43. Because of the Final Order, however, Cliq has no such discretion.

[15] Section I of the Final Order also prohibits the Cliq Defendants from processing for Money Making Opportunities. Relatedly, the Cliq Defendants have admitted that iBuumerang is a "Covered Client" under the Final Order. Baburek Dec. ¶ 23. As a result, Section IV.D. of the Final Order independently would have required the Cliq Defendants to terminate iBuumerang at

(continued…)

p. 23 at 24 (prior acquiring bank requiring the account be closed because it is for an "MLM, which is a prohibited business type"); *id.* ¶ 109, PX 220, Ex. Vol. 21, p. 47 at 49 (prior acquiring bank requiring account closure "after numerous extensions"). Cliq had continued processing for iBuumerang despite its status on the MATCH list and inquiries from the FTC regarding its compliance with the Final Order, including whether Cliq was processing for entities on the MATCH list. Freeman Dec. ¶ 14, PX 272, Ex. Vol. 28, p. 122 (November 16, 2023, demand letter); PX 279, Ex. Vol. 28, p. 162 at 164 (June 14, 2024, letter from Cliq); PX 281, Ex. Vol. 28, p. 177 (August 29, 2024, email from Cliq). Notably, iBuumerang was one of Cliq's most profitable clients. Freeman Dec. ¶¶ 117-27.

2. In Violation of Section III of the Final Order, the Cliq Defendants do not properly screen High Risk Clients.

Section III lays out bare minimum steps regarding the collection and analysis of information for potential clients. But the Cliq Defendants didn't update their merchant application or underwriting analysis to comply with the Final Order. Among other things, the merchant applications do not: (1) collect a list of all business names, trade names, or DBAs used in the past two years; (2) collect a list of all websites used in the past two years; or (3) collect bank and trade references. *Compare* Final Order Section III.A *with* Freeman Dec. ¶¶ 85-86, PX 13, Ex. Vol. 3, p. 19 & PX 72, Ex. Vol. 6, p. 75 (applications for Premier Health listing a single website without collecting additional names under which it or its affiliates sell products and services); *and* PX 3, Ex. Vol. 1, p. 98, Declaration of Makaio Lyman Crisler ("Crisler Dec.") ¶ 12, Att. 3 (collecting processing applications for five Target Fulfillment merchants). Not only did the Cliq Defendants not solicit or collect this information, they also relied on vague or incomplete "description[s] of the nature of the prospective High Risk Client's business" and information about the "nature of the goods and services sold." Final Order, Section III.A.1;

---

the beginning of December 2020, at which point iBuumerang had already had two months of processing with more than 40 chargebacks and a chargeback rate higher than 1%. Baburek Dec. ¶ 48.

Crisler Dec. ¶ 12, Att. 3 at 11 (product description for "Clarity Revitalizer" is "Skin Supplements").[16] Moreover, Cliq—through either Blaugrund or Phillips—at times "waive" various underwriting steps, some of which are explicitly required by the Final Order. *See, e.g.*, Freeman Dec. ¶ 20; PX 22, Ex. Vol. 4, p. 11 at 11-14 (Phillips waiving certain requirements for Limitless X).

The Final Order also requires the Cliq Defendants to verify the information they collect, by among other things, reviewing representative samples of marketing "for each good or service" being sold. But they didn't do that either. As with the Target Fulfillment merchants, they rely on a single, frequently facially-deficient website during underwriting.[17] *See also* Freeman Dec. ¶ 165; PX 223, Ex. Vol. 21, p. 66 at 68 (risk department noting the merchant's clothing website does not allow purchasers to choose sizes).

In the case of purported health benefit plan sellers like Premier Health, the Cliq Defendants fail to obtain a list of the actual products and services the company purports to offer, again accepting a single website that does not even list the different products sold to consumers. Freeman Dec. ¶ 86, PX 72, Ex. Vol. 6, p. 75 (application for Premier Health); *id.* ¶ 228, PX 239,

---

[16] Either during underwriting or soon after, the Cliq Defendants learned this account was being used to sell weight loss supplements rather than skin care products. Freeman Dec. ¶ 98, PX 76, Ex. Vol. 6, p. 112 at 113 (fraud notice showing the "Merchant Name" for Clarity Revitalizer was "KETO ENHANCED," a reference to a common diet frequently touted as supporting weight loss). The Cliq Defendants knew the "Skin Supplements" product description was inaccurate and took no action.

[17] For instance, the websites for the initial Target Fulfillment merchants provided minimal information and all used the same price points regardless of purported product. *See* Freeman Dec. ¶ 105; PX 41, Ex. Vol. 5, p. 3 & PX 42, Ex. Vol. 5, p. 11 (website for "Wellness Protector" merchant purporting to sell "immunity boosting products" listed only a bottle of supplements that says it provides "weight loss" without an ingredient list and then includes a logoed sweatshirt and t-shirt, water bottle, and sticker); *id.* ¶ 105; PX 43, Ex. Vol. 5, p. 21 & PX 44, Ex. Vol. 5, p. 27 (website for "Boost Energizer" including a product named "Boost Energizer," but with no sales copy or ingredient list); *id.* ¶ 105; PX 45, Ex. Vol. 5, p. 31 & PX 50, Ex. Vol. 5, p. 58 (website for "Solid Enhancement"); *id.* ¶ 105; PX 46, Ex. Vol. 5, p. 38 & PX 47, Ex. Vol. 5, p. 42 (website for "Clarity Revitalizer" claiming to sell "skin care solutions for every skin type" but offering just one skin care product with no description of its type or purpose); *id* ¶ 105; PX 48, Ex. Vol. 5, p. 50 & PX 49, Ex. Vol. 5, p. 53 (website for "Pure Health Burn" offering a supplement based on the bare description of "Burn Fat," "Increase Energy," and "Gluten Free" without identifying any ingredients or mechanism for the claims).

Ex. Vol. 24, p. 2 at 4-5 (Premier Health website explaining it markets and sells a variety of unlisted products). Likewise, they frequently do not collect representative samples of current marketing materials. For example, the Cliq Defendants provide payment processing for telemarketers such as Premier Health without obtaining any copies of the marketing that generate the telemarketing phone calls or the scripts used by the sellers. Freeman Dec. ¶ 86, PX 72, Ex. Vol. 6, p. 75 at 76 (application states sales are "MOTO" which stands for Mail Order/Telephone Order). These failures make it impossible for Cliq to perform its obligations under Section III.B, violating the Final Order.

The Cliq Defendants' screening failures came into sharp focus with its processing banks, Evolve and Synovus Bank. In December 2022, Evolve sent an unprompted notice to Cliq concerning its obligations under certain provisions of the Final Order, citing and quoting various screening and monitoring requirements. *See* Freeman Dec. ¶ 137, PX 177, Ex. Vol. 16, p. 34 at 36. This included Evolve believing it had identified problematic merchants that the Cliq Defendants failed to underwrite correctly, such as a "clothing" merchant "that was actually processing marijuana sales" or otherwise merchants "processing for something other than what their application states," and further noting that "35 of the 41 illegal transaction detections we have gotten from VISA in the last few months were Cliq's accounts." Freeman Dec. ¶ 138, PX 193, Ex. Vol. 18, p. 30 at 31. Over the course of 2023 and into early 2024, the relationship between Cliq and Evolve soured, ending with Cliq moving its portfolio to Synovus Bank. Freeman Dec. ¶¶ 115, 140; PX 175, Ex. Vol. 16, p. 15; PX 176, Ex. Vol. 16, p. 25; PX 180, Ex. Vol. 17, p. 6; PX 204, Ex. Vol. 19, p. 15; PX 192, Ex. Vol. 18, p. 25; PX 213, Ex. Vol. 20, p. 2 (documents showing discord between Cliq and Evolve); *id.* ¶ 139, PX 218, Ex. Vol. 21, p. 26 (Cliq moving business to Synovus).[18]

[18] Cliq attempted to appease Evolve's and Synovus' concerns with its apparent noncompliance with the Final Order by sending them a "'Rule 65 Memorandum' authored by [Cliq's lawyers at] Venable that delineates responsibility under the Order just in case there as a concern about what the banks responsibility to the FTC was." Freeman Dec. ¶ 137, PX 177, Ex. Vol. 16, p. 34 at 35;

(continued…)

After transitioning away from Evolve in 2023-2024 as a result of these disagreements, Synovus, its then-new acquiring bank, terminated its relationship with Cliq for cause less than a year later in no small part because of the Cliq Defendants' screening failures. As Synovus explained in its termination letter:

> The concern for Synovus is certain merchants that Cliq sought to onboard appeared to be prohibited under the Consent Order. As you acknowledged in your email, there have been instances in which Synovus has had to decline merchants proposed by Cliq. While you assert the number of declined merchants is a small percentage of merchants boarded by Cliq, the fact that Cliq is seeking to board any merchant which is even arguably prohibited by the Consent Order is of concern. It is not the responsibility of Synovus to govern whether Cliq is in compliance with the Consent Order, but Cliq has effectively put Synovus in that position.

Freeman Dec. ¶ 145, PX 225, Ex. Vol. 21, p. 75 at 76. Synovus concluded, "[w]hile it is up to Cliq to determine what it must do to comply with the Consent Order, Synovus will not accept the responsibilities or the resulting regulatory and reputational risk of sponsoring Cliq when Cliq continues to act in a manner that may be counter to, if not in violation of, the" Final Order. *Id.* at 77.

3. Cliq's inadequate monitoring of High Risk Clients violates Section IV of the Final Order.

Section IV of the Final Order requires the Cliq Defendants to perform basic monitoring tasks and terminate Covered and High Risk Clients when certain triggers are met unless, for High Risk Clients, they complete an investigation and generate a report establishing the merchant is not engaged in deceptive practices. The Cliq Defendants failed to do so, continuing to process for merchants with high chargeback and return rates in violation of the Final Order.

A key monitoring trigger under the Final Order, and in the industry generally, is the percentage and raw total of a Client's credit card "chargebacks." A chargeback is where a

---

see also id. ¶ 146, PX 214, Ex. Vol. 20, p. 13 at 14 (Phillips to Synovus: "I did contract with Veneble [sic] to write the Rule 65 memo following the settlement in order allay the concerns of our Sponsor Banks that they were somehow responsible for monitoring us in any different fashion than they are in the ordinary course of business."). Federal Rule of Civil Procedure 65(d) governs who is governed by an injunction, including certain third parties.

cardholder files a dispute against the merchant with the cardholder's bank about the validity of a transaction for various reasons, from fraud to the delivered product not being as described or promised. When the dispute meets the card brand standards, the merchant's bank (the acquiring bank), reimburses the cardholder's bank, who then credits the cardholder. Killingsworth Rep. ¶¶ 22-23.[19] Historically, chargeback rates for merchants not engaged in fraudulent payment schemes or deceptive sales tactics are significantly less than 1%. Meaning, of the total number of transactions in each month, the expected rate of transactions that consumers chargeback would be significantly less than 1%, and usually less than 0.5%. *Id.* ¶ 25. Under the Order and in common practice, rates near or exceeding 1% are cause to reinvestigate a merchant's underlying conduct and could result in card brand fines. *Id.* ¶¶ 33, 56, 64; Final Order, Section IV.[20] Higher rates, like those frequently experienced by some of Cliq's merchants, are strong indicators of malfeasance and, on their own, independent grounds to terminate processing for a merchant. *Id.* ¶ 33; *see also FTC v. Grant Connect, LLC*, 827 F. Supp. 2d 1199, 1221 (D. Nev. 2011), *aff'd in part, vacated in part*, 763 F.3d 1094 (9th Cir. 2014) (finding "[t]he high number of cancellations, refunds, and chargebacks suggest that in fact consumers were deceived about what they were ordering. . . ."). Indeed, Cliq admitted in a recent court filing that "[c]hargebacks are . . . typically tainted by suspected fraud" by the merchant. Freeman Dec. ¶ 236, PX 237, EX. Vol. 23, p. 2 at 5.

Section IV imposes a threshold of a 1% Chargeback Rate and 40 or more Chargebacks in two of the past six months. Section IV also imposes a trigger for "returns," which are similar to chargebacks, but are in the context of ACH transactions rather than credit card transactions. For

---

[19] Other laws mandate card brands operate and maintain chargeback programs. *See, e.g.*, 15 U.S.C. § 1693g (Electronic Funds Transfer Act provision limiting consumer's liability for unauthorized charges); 15 U.S.C. § 1666 (Fair Credit Billing Act's provision on correction of billing errors); 15 U.S.C. § 1643 (Truth-In-Lending Act's provision limiting consumer's liability for unauthorized charges); 12 CFR § 1026.12(b)(2) (Regulation Z's limitations on consumer liability for unauthorized charges).

[20] The Final Order specifies how to calculate a chargeback rate. Final Order, Definitions 3 & 4.

returns, the relevant percentage is 2.5%. If a Covered Client hits either the chargeback or return rate threshold, Cliq must terminate it. If a High Risk Client hits either threshold, Cliq must immediately investigate the High Risk Client and stop processing unless, within 60 days, it drafts a report "establishing facts that demonstrate, by clear and convincing evidence," the High Risk Client is not engaged in deceptive practices. Final Order, Section IV.E.4.[21]

Since at least January 1, 2020, the Cliq Defendants' violations of Section IV are profound, including systematic failures to conduct investigations and complete reports, resulting in more than 5 billion dollars in violative processing. The Cliq Defendants provided processing data and a spreadsheet identifying when Cliq asserts it investigated merchants, the claimed results of its investigations, and the identification of any possible reports. Freeman Dec. ¶¶ 14, 147-51; PX 280, Ex. Vol. 28, p. 166; PX 283-85, Ex. Vol. 28, p. 199-204 (August 26, 2024, production letter from the Cliq Defendants and production certifications). The Cliq Defendants themselves identified 168 merchants for which the Final Order required an investigation or, in the case of a Covered Client, immediate termination. Baburek Dec. ¶ 58; Final Order, Sections IV.D & IV.E.

First, the data show that the Cliq Defendants continued to process for merchants they admit are Covered Clients even though the Final Order explicitly requires the Cliq Defendants to "immediately stop processing sales transactions" for those accounts, with no discretion to continuing processing following an investigation. Baburek Dec. ¶¶ 14, 51 (describing how the Cliq Defendants denoted Covered Clients and then totaling processing for Covered Clients after they triggered chargeback or return rate thresholds); Final Order, Section IV.D. For these Covered Clients, the Cliq Defendants processed at least an additional 747,261 transactions after the merchants breached the chargeback or return thresholds, amounting to $172,254,632 in consumer charges, net of refunds, returns, and chargebacks. Baburek Dec. ¶¶ 31-34, 51. This

[21] The Final Order has the same termination, investigation, and reporting requirements for Cliq's ACH clients if the return rates exceed 2.5% and there have been more than 40 returns in two of the past six months.

disclosure is underinclusive because it does not include other merchants, such as Premier Health, which the Cliq Defendants did not themselves identify as a Covered Client, but which meet the Final Order's definition.

Second, the data show the Cliq Defendants frequently did not even claim to have conducted the required investigations into High Risk Clients after they triggered the Section IV thresholds. Their data show that of the 168 High Risk and Covered Clients they identified as triggering Section IV's thresholds, the Cliq Defendants both completed no investigation and yet continued processing for 25 merchants beyond the investigation or grace period. Baburek Dec. ¶ 58.[22] In total, the Cliq Defendants admit they continued processing for 109 of the 168 accounts they identified. *Id.*

Third, the investigations Cliq claims to have conducted are facially deficient. To justify continued processing, such investigations must conclude with a report, drafted by the Cliq Defendants, "*establishing facts* that demonstrate, by *clear and convincing evidence*, that the High Risk Client's business practices . . . are not deceptive or unfair in violation of Section 5 of the FTC Act or in violation of the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310." Final Order, Section IV.E.4 (emphasis added). The Final Order specifies that Cliq must conduct a reasonable investigation which "includes, but is not limited to" verifying the underwriting information, contacting financial institutions and the Better Business Bureau to request complaints, reviewing websites used to sell products, and conducting "test" shopping where possible. Final Order, Section IV.E.3.

[22] Of the 91 claimed investigations, the Cliq Defendants admit they did not commence 29 of these purported investigations until more than a month after the merchant triggered Section IV's thresholds, including 18 where the investigation did not begin until after the Final Order's mandated 60-day investigation period had concluded. Baburek ¶ 58. The Final Order requires the Cliq Defendants "to immediately conduct" these investigations and complete a report within 60 days to continue processing.

When the FTC demanded all such reports that might justify the continued processing for merchants who triggered the Section IV thresholds,[23] the Cliq Defendants identified 109 merchants with continued processing while admitting they "did not always prepare formal written reports documenting the results of [their] investigations." Freeman Dec. ¶ 14; PX 280, Ex. Vol. 28, p. 166 at 174. Unsurprisingly, this admission is an understatement. FTC staff reviewed the documents the Cliq Defendants identified as potential reports. On their face, none is a report that would justify continued processing and instead they frequently identify reasons to doubt the lawfulness of the merchants' behavior. Freeman Dec. ¶¶ 147-68 (detailing and categorizing the identified documents). As an example, for Elevate Health Supplements LLC (one of the Target Fulfillment merchants discussed later), the purported report is an email from one Cliq employee to another including a list of dozens of merchants and stating only: "The list below are [sic] merchants that we will like to add [sic] these merchant [sic] to Weekly Monitoring." Freeman Dec. ¶ 115, PX 84, Ex. Vol. 7, p. 30. For another Target Fulfillment merchant, Healthwatch LLC, the purported report is an email from Evolve informing the Cliq Defendants that Visa had placed the merchant in the Visa Dispute Monitoring Program because of a 2.18% chargeback rate. Freeman Dec. ¶ 105, PX 77, Ex. Vol. 6, p. 119 at 120. The only documents that even appear to be reports are a very small number of "Risk Internal Investigation Reports," but all these documents identify concerns related to the merchant rather than establishing that the merchants are acting lawfully. Freeman Dec. ¶¶ 162-67 (identifying and attaching such reports).

Stated differently, Cliq admits it continued processing for High Risk Clients that breached the Final Order's monitoring triggers without mandatory reports that would have allowed them to do so, thus violating the Final Order. These violations are significant. The FTC separately analyzed the Cliq Defendants' processing data and found that there were 105 High

[23] Freeman Dec. ¶ 14; PX 280, Ex. Vol. 28, p. 166 at 174 (August 26, 2024, letter from Cliq's counsel); Baburek Dec. ¶¶ 34, 54 (High Risk Clients with processing after investigation period).

Risk Clients[24] that triggered either the chargeback or return rate threshold for which the Cliq Defendants then processed more than $5 billion net of refunds, chargebacks, and returns, all without the mandatory reports:

High Risk Clients	
Total transaction and debit count after initial investigation period	12,382,099
Total transaction and debit volume after initial investigation period	$7,102,604,788
Total transaction and debit volume net of refunds, chargebacks, credits, and returns after initial investigation period	$5,048,239,750

Baburek Dec. ¶ 34, 51, & Appendix J.

4. The Cliq Defendants assisted and facilitated merchants' avoidance of fraud monitoring programs in violation of Section II of the Final Order and also failed to close accounts for merchants taking steps to avoid such programs.

The Final Order prohibits the Cliq Defendants from "directly or indirectly . . . assisting or facilitating any Client's tactics to avoid fraud and risk monitoring programs." Final Order, Section II. Similarly, Section IV.F requires the Cliq Defendants to "immediately stop processing sales transactions and close all processing accounts" for any merchant engaged in such conduct. But the Cliq Defendants both facilitated Clients' efforts to avoid fraud and risk monitoring programs and failed to close accounts when they discovered this conduct. This included soliciting and approving merchant processing applications with straw owners and shell companies, continuing to process for merchants found to be artificially manipulating their transaction counts to reduce their chargeback rates, and otherwise attempting to evade acquiring bank restrictions on opening accounts for MATCH-listed merchants.

As discussed in detail below in Section II.D.1, the Cliq Defendants processed for a group of merchants known as Target Fulfillment, permitting them to set up accounts through shell

[24] The FTC's number is different from Cliq's because the Cliq Defendants failed to follow the Final Order in tracking a Client's behavior across multiple processing accounts. Final Order, Sections IV.D & E, Definitions 5, 7, 10. Instead, the Cliq Defendants separately analyzed each processing account as if it were a separate Client even if a given Client had multiple such processing accounts. Baburek Dec. ¶ 22. If the triggering Covered Clients are included, there were 107 High Risk Clients with violative processing.

companies and straw owners. As discussed herein, the Cliq Defendants quickly determined that not only were these accounts operating under shell companies and straw owners to avoid bank scrutiny, these merchants were using prepaid debit cards to run "friendlies" to lower their chargeback rates. *See, e.g.*, Freeman Dec. ¶ 105, PX 73, Ex. Vol. 6, p. 80 (Blaugrund explaining to Phillips in March 2021 the Target Fulfillment data for certain periods was "skewed . . . because of the PP [prepaid] card usage."); *id.* ¶ 236, PX 226, Ex. Vol. 21, p. 81 at 23:2-19, 29:18-30:10, 63:6-65:10 (Phillips testifying that merchants from a prominent sales agent had submitted fraudulent applications, hiding true owners and practices, including merchants the Cliq Defendants continued to process for). As background, running "friendlies" means the merchant had obtained prepaid debit cards that it was funding with its own money and then including transactions against those cards in the batches of transactions to be processed as if they were consumer purchases. In doing so, the merchant is able to artificially increase the total number of transactions and, as a result, artificially lower chargeback rates. A reasonable ISO and acquiring bank "who detected and confirmed such practices would terminate the merchants involved." Killingsworth Rep. ¶ 65. Despite identifying Target Fulfillment using this strategy, the Cliq Defendants not only did not close those accounts but chose to open additional accounts for Target Fulfillment. Baburek Dec. ¶ 36 (showing continued processing); Freeman Dec. ¶ 114, PX 83, Ex. Vol. 7, p. 26 (choosing to keep accounts open); *id.* ¶¶ 100, 105; PX 105, Ex. Vol. 8, p. 56 & PX 106, Ex. Vol. 8, p. 62 (opening new accounts in July 2021).[25] They did so even though Phillips, at least, knew that processing for a merchant that had been using friendlies would "put me in a really bad light with the FTC." Freeman Dec. ¶ 236, PX 226, Ex. Vol. 21, p. 80 at 99:13-21.

[25] These are not the only merchants for which the Cliq Defendants processed that used friendlies to drive down chargeback rates. *See, e.g.*, Freeman Dec. ¶ 115, PX 54, Ex. Vol. 5, p. 97. Indeed, Wellington Group accounts also used "friendlies." *Id.* ¶¶ 166-67, PX 228, Ex. Vol. 21, p. 113 at 115; PX 229, Ex. Vol. 21, p. 120 at 122; PX 230, Ex. Vol. 22, p. 2; PX 231, Ex. Vol. 22, p. 8 (Risk Internal Investigation Reports for individual Wellington Group accounts detailing the suspicious use of prepaid cards). The Cliq Defendants, of course, continued processing for the Wellington Group. *See, infra*, Section II.D.2.

The Cliq Defendants also worked to obtain processing for Limitless and its principal Jas Mathur by hiding their MATCH listing. The Cliq Defendants knew a bank would not accept an application that included Jas Mathur because he was on the MATCH list at the time. They also knew that Mathur was the relevant control person. Freeman Dec. ¶ 32, PX 53, Ex. Vol. 5, p. 78 at 85 & 90. Nonetheless, they solicited merchant accounts for Limitless, working to remove Mathur's name from the application and associated materials. Freeman Dec. ¶ 31, PX 197, Ex. Vol. 18, p. 73.[26] Indeed, after failing to obtain a replacement supporting document that would not mention Mathur, Phillips directed Cliq to move forward with the application, reasoning: "I doubt they will look for Jas [Mathur] on match just because the letter is addressed to him. He could be anyone at the company." Freeman Dec. ¶ 31, PX 197, Ex. Vol. 18, p. 73 at 74. When an underwriter associated with the acquirer's ISO declined the account after finding Mathur was a signer for the relevant bank account, Phillips wrote Blaugrund: "OK, I'll either get another bank account that has just Danielle on it or have him remove himself from this one." Freeman Dec. ¶ 32, PX 200, Ex. Vol. 19, p. 3 at 4; *see also* Freeman Dec. ¶ 32, PX 202, Ex. Vol. 19, p. 8 at 9 (Phillips and Blaugrund confirming that Mathur was the relevant control person but they were working to remove him from the papers and asking if this was sufficient to get the account opened); *id.* ¶ 32, PX 203, Ex. Vol. 19, p. 10 (Phillips and Blaugrund emailing about corporate structure showing both Mathur and Haller as executives).[27] The Cliq Defendants were ultimately successful in opening the account. Freeman Dec. ¶ 75 (showing processing for "VisualV2").

[26] *See* Freeman Dec. ¶ 236, PX 226, Ex. Vol. 21, p. 80 at 182:1-3 (Phillips testimony: "Q. And if somebody is in substantial control of the entity should they be on the application? A. Yes.").

[27] The Cliq Defendants here were working with Paysafe, which operates as both an ISO and a so-called "payment facilitator," selling the acquiring services of other banks. As a result, the bank in this instance, PNC Bank, would not necessarily learn of Mathur's involvement even though Paysafe plainly knew.

D. Target Fulfillment and Limitless X are emblematic of the Cliq Defendants' failures to screen and monitor merchants, resulting in significant consumer harm.

Both the Target Fulfillment and Limitless X schemes used shell companies, straw owners, fake websites on their merchant applications, and inaccurate product descriptions to keep their accounts open in the face of high chargeback rates. Through these schemes, Cliq charged consumers more than $175 million in violation of the Final Order across dozens of accounts.

1. The Cliq Defendants violated the Final Order by processing for the Target Fulfillment criminal conspiracy.

The Cliq Defendants processed for the Target Fulfillment criminal conspiracy from December 2020 until the individuals involved were indicted by the United States Attorney's Office for the District of Utah in December 2022. *See United States v. Bawden, et al.*, 22-cr-481 (D. Utah). Over that period, the Cliq Defendants processed approximately $53 million for Target Fulfillment, net of chargebacks and refunds. Baburek Dec. ¶¶ 36-37. The various control people for Target Fulfillment have all pled guilty to resolve the charges in the superseding indictment. Crisler Dec. Att. 1 (March 29, 2023, Superseding Indictment); Freeman Dec. ¶ 237, PX 251-58, Ex. Vol. 26, p. 38-126.

As confirmed by Target Fulfillment executive and criminal defendant Lyman Crisler, the scheme centered on the deceptive sales of dietary supplements that were processed through merchant accounts in the names of shell companies. Crisler Dec. ¶¶ 4-6, 13-16. Crisler was a "senior employee" of Target Fulfillment and its related firm, Energia. *Id.* ¶ 2. Target Fulfillment's other principals included Scott Nemrow and Phillip Gannuscia, both of whom were defendants in a prior FTC enforcement action. Crisler Dec. ¶ 2; Freeman Dec. ¶ 238, PX 259, Ex. Vol. 26, p. 127 (attaching April 2018 FTC order against Nemrow and Gannuscia). As Crisler explains in his declaration, Target Fulfillment and Energia "obtained credit card payment processing services" and "customer service" for dietary supplement sales, including so-called

"keto" weight loss supplements. Crisler Dec. ¶¶ 3-4. A separate entity he refers to as the "traffic" provider would advertise these products and convert the sales for these products through sales portals. *Id.* ¶ 4.

The advertising and sales were deceptive. The advertising would include facially problematic claims such as "MELT FAT *FAST!* WITHOUT DIET OR EXERCISE." *Id.* ¶ 14. Once enticed, consumers would then be brought to a sales page with pricing information Crisler has testified was "deceptive." *Id.* ¶ 15. For instance, consumers would be presented with an option to "buy three get three free" followed by a single price, usually around $40. *Id.* ¶¶ 15-16. In small print next to the only price, the page would read "per bottle." *Id.* A consumer choosing this option would then submit their payment information and complete the purchase without ever seeing a subtotal or price other than the single price listed on the sales page. *Id.* Consumers reasonably believed they would be charged either just the one listed price for the entire package, often $40 (it was, after all, the only price they saw before submitting their payment), or that price times three, $120 (the offer indicates they are purchasing three bottles). *Id.*; *see also* Freeman Dec. ¶¶ 206-22 (analysis of consumer complaints detailing similar deception); PX 5, Ex. Vol. 1, p. 243, Declaration of Amy Green ("Green Dec.") ¶¶ 3-8; PX 6, Ex. Vol. 2, p. 2, Declaration of Hermina Davis ("Davis Dec.") ¶¶ 2-6. In fact, Target Fulfillment charged those consumers that price times *six*, or $240—instead of $40 or $120. Crisler Dec. ¶¶ 15-16; Green Dec. ¶¶ 7-8; Davis Dec. ¶¶ 2-6. As Crisler admits, "this pricing description is deceptive and in fact deceived many consumers." *Id.* ¶ 16. In addition, Target Fulfillment would enroll customers in recurring subscriptions for these supplements, and Crisler admits this was also "poorly disclosed." *Id.* ¶ 15. Just as bad, after purchasing purported "guaranteed" or risk-free products, consumers could not obtain full refunds even if they returned all the product unused or asked the product not be shipped in the first instance. Freeman Dec. ¶¶ 206-22 (consumer complaint analysis); Green Dec. ¶¶ 9-19; Davis Dec. ¶¶ 8-14.

The Cliq Defendants' processing for this scheme violated its underwriting and monitoring obligations. As already discussed, it also amounted to both assisting and facilitating

clients avoiding fraud monitoring programs (violating Section II of the Final Order) or otherwise processing for merchants the Cliq Defendants knew had taken steps to avoid such fraud monitoring programs (violating Section IV.F).

a. The Cliq Defendants did not reasonably screen the Target Fulfillment merchants.

The Cliq Defendants' screening of Target Fulfillment and its processing accounts violated Section III of the Final Order. The Cliq Defendants were required to determine whether Target Fulfillment's "business practices are, or are likely to be, deceptive or unfair." Final Order, Section III.A. To that end, the Cliq Defendants were required to obtain and evaluate information regarding Target Fulfillment's principals, business, prior payment processing and chargeback history, history of prior legal actions and fraud monitoring issues, and actual marketing materials for the products and services. *See* Final Order, Sections III.A. & B. Cliq, Phillips, and Blaugrund failed to take those steps.

These failures began with the application process itself. In late September 2020, Ken Haller, the sales agent for the scheme, contacted Cliq through Phillips to obtain merchant processing accounts for a company he called "Target Fulfillment + Energia." Freeman Dec. ¶ 93, PX 33, Ex. Vol. 4, p. 88 at 89. He explained they have "multiple sites / brands and LLCs," and were seeking approval to process $500,000 per month for each merchant account with the prospect of ramping up to "$50m a month w/ the right solution." *Id.* He described the merchant accounts as being for "sub corp[s]" of Target Fulfillment. *Id.*; *see also* ¶ 105, PX 289, Ex. Vol. 28, p. 217 at 218 ("the MIDs itself our just [sic] LLCs for each product – the parent corp is Target Fulfillment" and calling the MIDs "DBAs" of "Target Fulfillment"). Nonetheless, when the applications were submitted, the five applications were in the name of facially unrelated companies owned by yet more facially unrelated persons. Crisler Dec. ¶¶ 8-13 & Att. 3. As Crisler testifies, the companies and individuals "had no role in marketing, selling, fulfilling, or otherwise servicing the sales associated with these accounts." *Id.* ¶ 11. Each of these entities had been created just weeks prior, despite Haller's claim that the processing was for a large, existing

company with historic cash flow. Freeman Dec. ¶ 93, PX 33, Ex. Vol. 4, p. 88 at 89 & 90-91 (Haller claiming "in July they had $22M pass through their bank account" and attaching 2019 and 2020 financial statements); *id.* ¶ 105, PX 20, Ex. Vol. 4, p.3; PX 25, Ex. Vol. 4, p. 46; PX 26, Ex. Vol. 4, p. 49; PX 30, Ex. Vol. 4, p. 80; PX 31, Ex. Vol. 4, p. 83 (articles of incorporation for each of the entities that Cliq itself obtained showing all had been incorporated between August 31, 2020, and September 11, 2020).

Furthermore, the applications included "false storefronts," or what Phillips described in his deposition as "bank pages," which were obviously false or at best incomplete websites instead of the actual websites where consumer sales were made. These pages would simply identify a generic supplement "with little to no marketing or advertising," and a handful of other branded merchandise. Crisler Dec. ¶ 13; *see also, infra,* fn. 17 (collecting website information). These storefronts were also facially inconsistent with ultimate billing descriptors for the accounts, such as a storefront for a skin cream company that later used a "keto" weight loss pill billing descriptor. Freeman Dec. ¶ 98, PX 76, Ex. Vol. 6, p. 112 at 113 (fraud notice showing the "Merchant Name" for Clarity Revitalizer, the purported skin care brand, was "KETO ENHANCED"). Cliq looked no further than these obviously false or at best incomplete websites—meaning it neither collected nor reviewed any additional or actual marketing or sales websites—which resulted in Cliq approving the accounts without collecting the information to understand how the products were being sold. *See Id.* ¶ 14, PX 282, Ex. Vol. 28, p. 189 at 195-97.

Despite knowing these entities were owned or controlled by Target Fulfillment, the Cliq Defendants either did not ask for or at least did not collect information regarding the actual owners of Target Fulfillment, the products they in fact were selling, or the method through which they were selling those products. As a result, they did not collect or document Nemrow and Gannuscia's consumer fraud history. Final Order, Section III.A.7.ii (requiring collection of information regarding past FTC actions). While not part of the underwriting or disclosed to the acquiring bank, Phillips and Blaugrund quickly learned this history and did nothing afterward.

Freeman Dec. ¶ 105, PX 60, Ex. Vol. 6, p. 3 at 7 (January 2021 email from Haller to Blaugrund: "Hi John, I have added Scott [Nemrow] here who manages Target Fulfillment operations."); Crisler Dec. ¶ 17 ("I recall Andy Phillips and Scott Nemrow discussing their previous FTC cases in my presence. We assumed Cliq knew and understood how these processing accounts operated.").[28] Moreover, the Cliq Defendants did not receive or ask for prior processing history for Target Fulfillment. If they had, they would have learned Target Fulfillment had a history of struggling with consumer fraud complaints and related chargebacks, resulting in prior terminations by processing banks. Crisler Dec. ¶ 9. Indeed, Target Fulfillment chose to seek payment processing from Cliq in the hope that the Cliq Defendants would not be troubled by high chargebacks. *Id.* ¶¶ 9-10.

An example of their failure and what they would have learned through basic underwriting involves the publicly known information concerning Target Fulfillment's customer service company, Total Client Connect. *See, e.g.*, Freeman Dec. ¶ 105, PX 27, Ex. Vol. 4, p. 52 (example of Total Client Connect customer service agreement included in the underwriting file for one of the Target Fulfillment MIDs). A review of the Better Business Bureau page for this company in late 2020 or in June 2021 (when five additional Target Fulfillment MIDs were opened) would have revealed hundreds of consumer complaints and an "F" rating. PX 4, Ex. Vol. 1, p. 241, Declaration of Rhonda Mettler ("Mettler Dec.") ¶ 5 (Operations Director for the BBB serving Las Vegas, testifying "Total Client Connect has had an 'F' rating since August 6, 2018" and the BBB "has received in excess of 700 consumer complaints").

If this information had been provided to the acquiring bank, the acquiring bank would have rejected the account. Indeed, a bank declined a Cliq-sponsored application for Total Client Connect to process in its own name in the summer of 2022 for just this reason. Freeman Dec. ¶¶ 101-02; PX 144, Ex. Vol. 11, p. 53 at 55 & PX 156, Ex. Vol. 14, p. 7. Moreover, Phillips

[28] Nemrow's own FTC settlement order prohibits him from obtaining merchant accounts using shell companies. *See* Freeman Dec. ¶ 238, PX 259, Ex. Vol. 26, p. 127, Section III.C.

attempted to save that deal by vouching for Total Client Connect and in doing so showed he knew how it connected to the Target Fulfillment merchants, despite not collecting information on either when opening the original merchant accounts: "TCC [Total Client Connect], this has been an on and off merchant of ours for years. I know these guys; I have worked with them to help them get their business within thresholds several times." *Id.* ¶ 102, PX 158, Ex. Vol. 14, p. 7 at 17.[29]

b. Cliq Failed to Properly Monitor the Target Fulfillment Merchants.

Target Fulfillment triggered the Final Order's monitoring requirements almost immediately through high chargebacks. Baburek Dec. ¶¶ 36-37 (triggering chargeback thresholds in January and February 2021, the first two full months of processing). By February 2021, Cliq began receiving Visa Dispute Monitoring Program ("VDMP") early warnings over the chargeback rates for the Target Fulfillment merchant accounts.[30] With chargeback rates exceeding 2% for at least some of the individual accounts, even Blaugrund at this time wrote that this processing activity "is not sustainable." Freeman Dec. ¶ 94, PX 61, Ex. Vol. 6, p. 8 at 10;[31] *see also id.* ¶ 96, PX 78, Ex. Vol. 6, p. 125 at 126-127 (Cliq employee writing to Blaugrund, with charts showing increasing chargeback rates from December 2020 to April 2021 and stating the

[29] Phillips also directed his underwriting staff to compile a new package of materials for that bank to review. Notably, this revised package includes a printout of the BBB "Business Details" of Total Client Connect, printed on June 30, 2022, that did not include the company's BBB rating or complaint history. Freeman Dec. ¶¶ 105, PX 157, Ex. Vol. 14, p. 45 at 49 (parent email). But this page was not the BBB home page for Total Client Connect, and instead was a subpage on the BBB website. The actual homepage, as of June 15, 2022, would have shown an "F" rating and nearly 600 consumer complaints. Mettler Dec. ¶ 5.

[30] *See, e.g.*, Freeman Dec. ¶ 105, PX 64, Ex. Vol. 6, p. 24 at 25 (notice regarding "Wellness Protector" for a 3.15% Visa chargeback rate and more than 80 chargebacks); *id.* ¶ 105, PX 63, Ex. Vol. 6, p. 21 at 22 (notice regarding "Solid" for a 3.20% Visa chargeback rate and more than 80 chargebacks); *id.* ¶ 105, PX 67, Ex. Vol. 6, p. 37 at 38 (notice regarding "Pure Health Burn" for a 2.81% Visa chargeback rate and more than 80 chargebacks).

[31] In this February 2021 email, Blaugrund wrote to Nemrow that one of the accounts had a 2.41% chargeback rate "with over 143 CB's for February" as of February 11, 2021.

"CB [chargeback] ratios for the [Target Fulfillment accounts were] getting pretty high"); Baburek Dec. ¶ 36 (aggregate monthly rates).

Not only that, but Cliq's employees noticed Target Fulfillment was using prepaid cards in an apparent attempt to run so-called "friendlies" (as described earlier) to avoid fraud monitoring programs by lowering chargeback rates. Crisler Dec. ¶ 18; *see also* Freeman Dec. ¶ 113, PX 71, Ex. Vol. 6, p. 51 at 58 (Cliq employees discussing Target Fulfillment's February processing, noting use of prepaid cards, and stating "that's crazy . . . this account cant [sic] be legit. you [sic] cant [sic] explain that"); *id.* ¶ 105, PX 65, Ex. Vol. 6, p. 26 (noting use of prepaid cards in February 2021 across a number of merchants including Target Fulfillment); *id.* ¶ 105, PX 73, Ex. Vol. 6, p. 80 at 81 (Blaugrund explaining to Phillips in March 2021 the Target Fulfillment data for certain periods was "skewed . . . because of the PP [prepaid] card usage").

As a result, the Cliq Defendants required an in-person meeting with Target Fulfillment in early March 2021. Crisler Dec. ¶ 19. Notably, this meeting did not include the stated owners of the LLCs purportedly associated with the merchant accounts, but instead was attended by Phillips, Haller, Nemrow, Crisler, and Chad Bawden (Total Client Connect's principal). *Id.*; Freeman Dec. ¶¶ 95, 105; PX 68, Ex. Vol. 6, p. 40; PX 69, Ex. Vol. 6, p. 43 (emails among Phillips and attendees). The conversations focused on the high chargeback rates and attempts to artificially lower those rates. *Id.* As Crisler testifies, during this meeting Target Fulfillment admitted to using friendlies. Crisler Dec. ¶¶ 6, 19-20. To explain certain price points, Target Fulfillment also showed Phillips the actual, deceptive sales page consumers were using to make purchases. Crisler Dec. ¶ 19. Phillips did not thereafter order a re-underwriting of the accounts to obtain the actual marketing and sales sites. Nor did he decide to close the accounts following the admission that Target Fulfillment was using friendlies and was processing through shell companies in the name of straw signers. Instead, he merely admonished Target Fulfillment to stop using friendlies and attempt to obtain a "natural," within-limits chargeback rate by changing customer service and increasing refunds. *Id.*; Freeman Dec. ¶¶ 95, 105; PX 68, Ex. Vol. 6, p. 40 at 42; PX 69, Ex. Vol. 6, p. 43 at 44.

Unsurprisingly, weeks later, the Cliq Defendants discovered Target Fulfillment was still using friendlies to artificially lower its chargeback rates. *See* Freeman Dec. ¶ 97, PX 81, Ex. Vol. 6, p. 150 at 152 (Cliq risk management employee alerting Blaugrund, "[t]hese accounts have lowered their chargeback ratio, but they have each processed about 3,000 prepaid cards for $9.95 each . . . . You asked us to . . . let you know if they processed low dollar amounts on prepaid cards."). Yet again, the Cliq Defendants continued processing for Target Fulfillment rather than terminating the accounts, in violation of the Order. *See* Freeman Dec. ¶ 114, PX 83, Ex. Vol. 7, p. 26 (Blaugrund responding "not yet" to Microsoft Teams message from Cliq risk manager asking "I thought we were closing those accounts (Target Fulfillment) because of high CBs [chargebacks] and still processing low transaction amounts on prepaid cards?"); *see also id.* ¶ 105, PX 128, Ex. Vol. 10, p. 26 (March 2022 email from Cliq employee identifying merchants with "prepaid activity" and including all Target Fulfillment merchants). Were this not enough, the Cliq Defendants also received notice in March 2021 that the Target Fulfillment accounts were likely engaged in transaction laundering—meaning processing for products or services not disclosed on the application, either for yourself or for others. Freeman Dec. ¶ 105, PX 70, Ex. Vol. 6, p. 47; Killingsworth Rep. ¶¶ 29-30 (describing both transaction laundering and stating that such practices "violate card brand rules"). Again, they kept the accounts open.

Target Fulfillment's chargeback rates remained high throughout their relationship with Cliq, continually triggering the limits set in Section IV.E. of the Final Order. Baburek Dec. ¶ 36 (chart showing Target Fulfillment's monthly processing figures). Such elevated rates required the Cliq Defendants to either stop processing for Target Fulfillment or complete reports substantiating their activities were not deceptive by clear and convincing evidence. Final Order Section IV.E. The Cliq Defendants did neither, continuing to process charges in violation of the Final Order. Target Fulfillment's chargeback rate frequently eclipsed 4%, including 7.1% in April 2021, 5% in October 2021, 6.1% in May 2022, and 9% in June 2022. Baburek Dec. ¶ 36. An ISO acting properly should have considered cancelling the accounts on that basis alone. Killingsworth Rep. ¶ 33.

Nonetheless, the Cliq Defendants continued processing, with Phillips explicitly dismissing chargeback concerns because these are "hi [sic] margin accounts." Freeman Dec. ¶ 99, PX 86, Ex. Vol. 7, p. 37. After all, multiple Target Fulfillment accounts appeared on Cliq's end of year report documenting its most profitable merchants. *Id.* ¶¶ 117-227. The Cliq Defendants valued these accounts, notwithstanding the chargeback rates, with Phillips writing to Target Fulfillment on June 10, 2021: "And thank you for your business. I get there are plenty of options out there for you, particularly as you clean things up, so please know, we appreciate the relationship." Crisler Dec. ¶ 21, Att. 8; *see also id.*, Att. 9 (in September 2021, Phillips writing he was "grateful for the opportunity to serve [Target Fulfillment] and for what business we do get"). Rather than close any accounts, the Cliq Defendants opened five new, additional Target Fulfillment accounts in 2021. Crisler Dec. ¶ 9 (identifying Target Fulfillment accounts); Freeman Dec. ¶ 105; PX 87, Ex. Vol. 7, p. 41; PX 88, Ex. Vol. 7, p. 46; PX 89, Ex. Vol. 7, p. 51; PX 90, Ex. Vol. 7, p. 56; PX 91, Ex. Vol. 7, p. 61 (additional applications).

To preserve these "hi [sic] margin accounts" and their profits, the Cliq Defendants failed to complete investigations or close the accounts as required by Section IV.E of the Final Order. As just detailed, the Cliq Defendants knew these merchants had submitted facially defective applications, had high chargeback rates, were taking steps to avoid fraud monitoring programs, and were likely selling their products on undisclosed websites. Although the Cliq Defendants inaccurately treated these accounts as separate "Clients" for purposes of reporting their compliance with Section IV of the Final Order to the FTC, they have also admitted that 9 of the 10 Target Fulfillment accounts separately triggered the chargeback thresholds requiring a report. Freeman Dec. ¶ 152 (analyzing data and attaching summary chart). As already described, the Cliq Defendants admitted they did not necessarily create reports, in general, and FTC staff reviewed each document the Cliq Defendants identified as a potential report that would justify continued processing. The Cliq Defendants produced no reports justifying continued processing for any Client, let alone Target Fulfillment. *Id.* ¶¶ 147-68 (analysis of potential reports).

As to Target Fulfillment, the Cliq Defendants state, for example, that Elevate Health Supplements LLC, Healthwatch LLC, Mainstream Nutracuticals [sic] LLC, Natural Nutrition Supplements LLC, and Performance Wellness LLC all triggered the chargeback thresholds in either February or March 2021. *Id.* ¶ 152, PX 248, Ex. Vol. 25, p. 105 (summary chart identifying information for all merchant's Cliq admits triggered thresholds). Regardless, the Cliq Defendants state that no investigation for any of these merchants was begun until at least April 2021, and in some instances not until June 2021. *Id.*; *see also* Final Order, Section IV.E (requiring them to "immediately conduct a reasonable investigation"). Moreover, the untimely, purported reports for these accounts[32] are facially deficient, such as an email identifying dozens of merchants that should be monitored moving forward; an email from Evolve notifying the Cliq Defendants that the merchant's high chargebacks resulted in Visa including it in a chargeback remediation program; or remediation plans drafted by Target Fulfillment saying the companies are selling supplements to allow men to "build[] and maintain[] muscles" or an "energy enhancer" while disclosing the billing descriptor is "Keto Enhanced," a weight loss supplement. Freeman Dec. ¶¶ 105, 115; PX 84, Ex. Vol. 7, p. 30; PX 77, Ex. Vol. 6, p. 119 at 120; PX 109, Ex. Vol. 9, p. 9 at 10, 21, 26. Facially, none of these is a report and all raise concerns regarding Target Fulfillment's lawfulness.

Despite Target Fulfillment's misconduct and the Cliq Defendants' failure to complete a single report, the Cliq Defendants continued to process for Target Fulfillment's accounts until after the perpetrators of the scheme were indicted for wire fraud and money laundering. *See* Freeman Dec. ¶ 104; PX 184, Ex. Vol. 17, p. 126 at 129-30 (directing that the accounts be closed on December 17, 2022); *id.* ¶ 103; PX 183, Ex. Vol. 17, p. 60 (Phillips forwarding copy of

[32] To be clear, the Cliq Defendants failed to abide by the Final Order by treating each account as a separate Client. Under the Order, Target Fulfillment was the Client and its processing should have been considered holistically and then evaluated holistically. *See* Final Order, Definition 5 & Section III.E.

indictment from his phone to his Cliq email address on December 14, 2022).[33] Interestingly, upon closing the accounts, Cliq placed the individual straw companies on the MATCH list for excessive chargebacks. Freeman Dec. ¶ 104. PX 184, Ex. Vol. 17, p. 126. This, despite having had no issues processing for the merchants notwithstanding the high chargebacks until they learned of the indictment.

In the end, the Cliq Defendants processed approximately $53 million for Target Fulfillment, all in violation of the Final Order. And, in doing so, they injured consumers whom Target Fulfillment deceived and tricked into buying diet supplements.

2. The Cliq Defendants violated the Final Order by processing for Limitless X and the Wellington Group.

Target Fulfillment's sales agent, Ken Haller, also introduced the Cliq Defendants to another dietary supplement operation—Limitless X, or simply, Limitless—around the same time. Freeman Dec. ¶¶ 18-19, 21; PX 17, Ex. Vol. 3, p. 72; PX 18, Ex. Vol. 3, p. 76; PX 19, Ex. Vol. 3, p. 81.[34] As with Target Fulfillment, the Limitless X accounts experienced high chargeback rates and large numbers of consumers claiming deceptive sales tactics. Baburek Dec. ¶ 39 (Limitless and Wellington processing history); Freeman Dec. ¶¶ 187-205 (documenting and reviewing hundreds of Limitless complaints). As already discussed, Limitless X and its principal, Jaspreet Mathur, were caught running illegal transactions through their processing accounts and were placed on the MATCH list early in the relationship. But, as detailed below, even this did not stop the Cliq Defendants. Instead, they worked with Mathur to open a series of merchant processing accounts under a variety of shell companies that they dubbed, internally, the

[33] Cliq sent closing letters on December 20, 2022. *Id.*¶ 105; PX 185, Ex. Vol. 18, p. 3; PX 186, Ex. Vol. 18, p. 6; PX 187, Ex. Vol. 18, p. 9; PX 188, Ex. Vol. 18, p. 12; PX 189, Ex. Vol. 18, p. 15; PX 190, Ex. Vol. 18, p. 15.

[34] Moreover, Haller was a Limitless executive. Freeman ¶ 32, PX 203, Ex. Vol. 19, p. 10 at 11 (Phillips receiving email showing him Haller was "President" of Limitless as of 2023).

"Wellington Group," but which were at all times coordinated and controlled by Mathur and his subordinates.

Although Limitless X offered a larger variety of products than Target Fulfillment, it sold them using many of the same deceptive practices. First, as Crisler testifies, Target Fulfillment in fact worked with Limitless X's principal, Mathur, both to provide customer service for his products and to obtain additional processing for Target Fulfillment's own deceptive sales. Crisler Dec. ¶ 22. Through this working relationship, Crisler knew Limitless X was selling at least some products using the same deceptive "traffic" Target Fulfillment used. *Id.* Second, Limitless X has spawned hundreds of consumer complaints, including people submitting precisely the same complaints they had against Target Fulfillment: deceptive sales of keto weight loss supplements in which consumers were lied to about the price and recurring billing for the products, while simultaneously being unable to return those products or obtain refunds. Freeman Dec. ¶¶ 187-205 (analysis of consumer complaints).

Combining Limitless and the Wellington Group, the Cliq Defendants processed for dozens of related accounts with incomplete underwriting and poor monitoring. This resulted in $125,953,463 in violative processing, net of refunds and chargebacks. Even generously providing a grace period to complete investigations under Section IV.E of the Final Order leaves $71,694,998 in violative processing.

a. Cliq did not reasonably screen Limitless X and related merchants.

Haller approached the Cliq Defendants in August 2020, pitching significant processing for Limitless X, explaining that Emblaze One Inc. ("Emblaze") would be the ultimate umbrella company for all Limitless-related merchant accounts. Freeman Dec. ¶ 19, PX 18, Vol. 3, p. 76 at 79 ("EMBLAZE ONE = the Parent corp, it has one MID for DBA Limitless. . . . 3rd, 4th, 5th, MID (all of which also have separate LLCs) = other brands Jas wants to separate out that have their own LLC"); *id.* ¶ 18, PX 17, Ex. Vol. 3, p. 72 at 73 (Emblaze One is "where all [Jas Mathur's] money is / that owns all other corps"). The Cliq Defendants received the applications and began to consider them on a "rush" basis. *Id.* ¶ 21, PX 19, Ex. Vol. 3, p. 81 at 82.

To approve the Limitless X applications on an accelerated timeline, the Cliq Defendants cut corners and ignored the most basic requirements of the Final Order's screening provisions. For example, Cliq's underwriting files and application materials show that when approving the main account for Emblaze, the Cliq Defendants failed to seek materials related to: (1) a description of the nature of the business and goods and services sold beyond "Dietary Supplements and Skincare/Cosmetics;" (2) the business and trade names, fictitious names, DBAs, and websites used by Emblaze/Limitless during the preceding two years; (3) the name of every bank and Payment Processor used by Emblaze/Limitless during the preceding two years;[35] (4) Emblaze/Limitless X's Chargeback Rate for the preceding three months and an estimate of future Chargeback Rates and Total Return Rates; and (5) the names of trade and bank references. *See, e.g.*, Freeman Dec. ¶¶ 32, 40; PX 23, Ex. Vol. 4, p. 39; PX 51, Ex. Vol. 5, p. 62; PX 34, Ex. Vol. 4, p. 92; PX 35, Ex. Vol. 4, p. 97 (applications not seeking such information). Greasing the wheels, Phillips personally "waived" some underwriting requirements. Freeman Dec. ¶ 20, PX 22, Ex. Vol. 4, p. 11 at 11-14. In short order, Cliq approved and began processing for four Limitless X accounts: Limitless, DivaTrim, Bodycor, and Amarose. Baburek Dec. ¶ 39 (showing processing beginning in late 2020).

b. Cliq failed to properly monitor Limitless.

Limitless accounts' chargeback rates immediately drew scrutiny and warnings from Visa and Evolve. Freeman Dec. ¶ 22, PX 40, Ex. Vol. 4, p. 153 (Limitless was placed in the Visa Dispute Monitoring Program after just one full month of processing). Evolve demanded chargeback remediation plans for the Limitless accounts due to their "high dispute count & ratio." *Id.* ¶ 23, PX 38, Ex. Vol. 4, p. 131 at 133. By the end of 2020, a second round of chargeback warnings came from Visa, requiring additional remediation plans for the accounts.

[35] Mathur has an online reputation as someone who obtains payment processing from a variety of payment processors and then resells the use of those accounts to third parties. Freeman Dec. ¶¶ 232-34 (identifying online postings regarding Mathur). Whether or not this potentially illegal conduct is true, it highlights the need to seek past payment processing information, which the Cliq Defendants did not do.

Id. ¶ 140, PX 52, Ex. Vol. 5, p. 66; *see also id.* ¶ 32, PX 62, Ex. Vol. 6, p. 11 (additional fraud monitoring program notification from February 2021). As explained by Evolve, "within 90 days of boarding this merchant back in September, Limitless was under both chargeback and fraud monitoring programs at Visa." Freeman Dec. ¶ 25, PX 57, Ex. Vol. 5, p. 144 at 146.

Significantly, in early 2021, Visa alerted Evolve and the Cliq Defendants to Limitless' violations of Visa's Global Brand Protection Program ("GBPP") "due to the miscoding of online gambling transactions." Freeman Dec. ¶ 32, PX 55, Ex. Vol. 5, p. 100 at 106; *see also id.* ¶ 140, PX 111, Ex. Vol. 9, p. 36 at 40 (Evolve bank noting Visa "explicitly explained in detail why these merchants were found to be miscoded and doing illegal transactions"). According to Visa, at least some of the transactions through one of the Limitless accounts could be traced to online gambling, rather than for the supplements listed on the applications. *Id.* Processing a transaction for another company or unrelated product through an existing account is known as "transaction laundering" or "factoring" and violates card brand rules. Killingsworth Rep. ¶ 29. Evolve requested "**an *immediate termination*"** of Limitless due to those violations[36] because they implicated "the serious issue of money laundering and factoring."[37]

Undeterred, the Cliq Defendants went to bat for Limitless, fighting with the bank to keep the accounts open. *See, e.g.*, Freeman Dec. ¶ 24, PX 56, Ex. Vol. 5, p. 139 at 141-42 ("I implore you to go back to Visa and ask them for some sort of information that can help us track down where this came from. . . . Terminating these two merchants [Limitless and another merchant named Woopla] represents closing 20% of our business. I respectfully request that we perform some research. . . ."); *see also* Freeman Dec. ¶¶ 25, 32; PX 57, Ex. Vol. 5, p. 144 & PX 59, Ex. Vol. 5, p. 161. These discussions culminated in April and May of 2021, with Evolve demanding:

[36] Freeman Dec. ¶ 24, PX 56, Ex. Vol. 5, p. 139 at 142-43 (emphasis in original).

[37] Freeman Dec. ¶ 25, PX 57, Ex. Vol. 5, p. 144 at 147-48.

> Limitless and all related brands must be terminated immediately. Their chargebacks continue to be out of control resulting most recently in $114,000+ fine from Visa. Termination at Evolve must be complete within 15 days. Given the ongoing extreme levels of chargebacks, we have been more than accommodating.

Freeman Dec. ¶ 27, PX 75, Ex. Vol. 6, p. 104 at 110 (April 6, 2021, email from Evolve executive to Phillips, which Phillips then responds to, continuing to argue for keeping the Limitless account open). To emphasize the gravity of the situation, Evolve ultimately insisted it would "not allow [Cliq] to board any merchants until Limitless is off boarded." *See* Freeman Dec. ¶ 28, PX 82, Ex. Vol. 7, p. 3 at 4-5. Cliq ultimately terminated the Limitless merchant accounts at the end of May 2021. *Id*. Concurrently, and with the Cliq Defendants' knowledge, Limitless was added to the MATCH list around the same time, meaning Cliq was prohibited by Section I of the Final Order from future processing for Limitless or related Persons. Freeman Dec. ¶ 29, PX 79, Ex. Vol. 6, p. 132.

c. The Cliq Defendants then continued processing for Limitless X and Mathur under the guise of "the Wellington Group."

Stunningly, the Cliq Defendants' relationship with Limitless and its principal, Jas Mathur, did not end with Evolve demanding that accounts for "Limitless and all related brands" be "terminated immediately," or Limitless' addition to MATCH. The Cliq Defendants continued to process for Mathur and Limitless for at least two more years, all without alerting Evolve or any credit card network. To accomplish this, the Cliq Defendants allowed Mathur to obtain merchant processing accounts in the names of a variety of shell companies that Cliq dubbed, internally, the "Wellington Group." Freeman Dec. ¶ 32, PX 104, Ex. Vol. 8, p. 53 at 54 (Phillips: "Group these four with the six I sent yesterday. They all collectively are called the Wellington Group."); *see also id.* ¶¶ 35, 83; PX 101, Ex. Vol. 8, p. 40 & PX 143, Ex. Vol. 11, p. 50. Cliq submitted the first ten Wellington Group accounts to Evolve for approval in July 2021, just two months after being forced to close the Limitless accounts. *Id.* ¶ 83, PX 107, Ex. Vol. 9, p. 3; PX 101, Ex. Vol. 8, p. 40; PX 102, Ex. Vol. 8, p. 43. The merchant applications for the accounts did not include any reference to Mathur or Limitless; each purported to have unique owners and

control persons. *See, e.g.*, Freeman Dec. ¶ 83, PX 138, Ex. Vol. 11, p. 3 (email relating to Mastercard inquiry regarding Wellington merchant, attaching initial application); *id.* ¶ 83, PX 100, Ex. Vol. 8, p. 36. Likewise, the applications failed to mention the Wellington Group. *Id*.

The Cliq Defendants knew the Wellington Group was simply a new name for Mathur and Limitless X. First, the only contacts that Cliq had with these merchants came through Mathur or other Limitless X employees, such as Karman Munder.[38] Even Cliq employees identified the connection and questioned why they were continuing to do business with Limitless. For example, while underwriting a new "Wellington Group" account, an underwriter at Cliq entered a note in Cliq's underwriting files imploring his superiors to "[p]lease alert Management and make them aware that one of the products this [Wellington Group] Merchant is selling is the exact same one as Emblaze/Limitless ('Divatrim'). The websites are almost identical." The response was: "Management is aware of the connection. No further actions are required." Freeman Dec. ¶ 34, PX 103, Ex. Vol. 8, p. 48 at 50. Significantly, when Cliq sent money to or received it from the Wellington Group, it sent money to or received it from Limitless bank accounts. Freeman Dec. ¶¶ 39-42 (discussing financial accounts). As Munder wrote in one email: "We activated all 4 of these [Wellington] MIDs today & reactivated Gadget Made Easy [another Wellington MID]. Just want to ensure the funding schedule is the same as the other and going directly to our master Emblaze account." Freeman Dec. ¶ 44, PX 134, Ex. Vol. 10, p. 58; *see also id.* ¶ 43, PX 133, Ex. Vol. 10, p. 53 at 54 (Jas requesting a deposit from Wellington Group account sales: "Could you please confirm this is going out to Emblaze One Inc [sic] today?").

[38] Freeman Dec. ¶ 83, PX 108, Ex. Vol. 9, p. 6 at 7 (email identifying Karman Munder, karman@limitlessx.com, as the contact for the "Wellington Group"); *id.* ¶ 83, PX 110, Ex. Vol. 9, p. 31 at 33 ("Below is a listing of the accounts opened under the Wellington Group that Karman manages."); *id.* ¶ 32, PX 113, Ex. Vol. 9, p. 49 (12/26/21 email identifying top 5 merchants and top 5 agents to invite to the holiday party and including Mathur); *id.* ¶ 82, PX 215, Ex. Vol. 21, p. 3 at 5 (Phillips writing, "Jas has gone mainstream, apart from Wellington"); *id.* ¶ 83, PX 130, Ex. Vol. 10, p. 32 (Mathur directing Cliq regarding payments for Wellington Group accounts, including consolidated invoice for "Wellington Group Alerts").

Phillips and Mathur would also communicate about changing company names and making wholesale changes to claimed product lines included on merchant applications, showing not only that Phillips knew the connection to Mathur but that the purported product lines were, at least at times, false. Freeman Dec. ¶ 83, PX 162, Ex. Vol. 14, p. 72.

The Wellington Group accounts' chargeback rates immediately exceeded the Final Order's monitoring and investigation thresholds. Baburek Dec. ¶ 39 (all processing starting in July 2021 relates to Wellington Group accounts); *see also* Freeman Dec. ¶ 83, PX 168, Ex. Vol. 15, p. 78 (Mastercard notice of high chargebacks). The Cliq Defendants completed no reports for any merchants justifying continued processing, let alone one for a Wellington Group merchant. Freeman Dec. ¶¶ 147-68 (analysis of purported reports). Notably, in correspondence to the FTC, the Cliq Defendants' counsel touted that Cliq had shut down an account held in the name of Stack Stationer (a Wellington Group merchant) as purported proof of the Cliq Defendants' good behavior. Freeman Dec. ¶ 14, PX 277, Ex. Vol. 28, p. 140 at 148. Inexplicably, they did not shut down or stop opening other Wellington Group accounts despite knowing they, in fact, were one entity. Baburek Dec. ¶ 39 (showing continued processing after June 8, 2022). Even when the Cliq Defendants would close accounts (frequently at the direction of the acquiring bank or card brand as a result of transaction laundering),[39] they would allow Mathur to shift processing to other accounts and open yet more accounts as replacements.[40] Also, as described earlier, the Cliq

---

[39] *See, e.g.*, Freeman Dec. ¶ 83, PX 135, Ex. Vol. 10, p. 65 at 66 ("Discover ran a test transaction on http://smilz.com and an authorization was presented for $47.97 on 4/19 to ANNOLEAN.COM (Wellington account)."); *id.* ¶ 83, PX 136, Ex. Vol. 10, p. 70 at 71 (Mathur admitting: "This [Annolean] may we be [sic] our fuck up give me some time please . . . ."); *id.* ¶ 83, PX 139, Ex. Vol. 11, p. 29 at 30 (Phillips: "I could push back . . . I don't want to rock the boat to [sic] much . . . . Particularly since Annolean had two GBPP issues."); *see also id.* ¶ 83, PX 168, Ex. Vol. 15, p. 78 at 79 (Cliq employee writing to Blaugrund: "I reviewed this account, and they were approved to sell fitness apparel but have [chargebacks] for keto gummies/pills and face cream.").

[40] Freeman Dec. ¶ 83, PX 163, Ex. Vol. 15, p. 2 at 3 (9/26/22 email from Cliq employee circulating list of Wellington accounts after Annolean account closure and noting "[a] few new accounts added."); *id.* ¶ 83, PX 194, Ex. Vol. 18, p. 36 at 37 (1/10/23 email from Mathur, "Per my discussion with Andy . . . please make sure this MID is still active and running.

(continued…)

Defendants even attempted to open additional accounts for Limitless itself, while attempting to hide Mathur and his MATCH listing from the acquiring banks. *See infra,* Section II.C.4. The Cliq Defendants' motive for violating the Final Order is plain: Limitless and the Wellington Group were among their most profitable clients. *See, e.g.*, Freeman Dec. ¶¶ 117-27 (analysis showing Cliq's most profitable merchants).

All told, Cliq processed for at least 38 "Wellington Group" or Limitless accounts. Baburek Dec. ¶ 38; Freeman Dec. ¶ 48, PX 247, Ex. Vol. 25, p. 100 (summary chart of Wellington Group accounts, not including Limitless accounts). Combined, the Wellington Group triggered the Section IV.E chargeback thresholds in every month of processing across 1.5 years of additional processing. Baburek Dec. ¶ 39. Between Limitless and the Wellington Group, Cliq processed nearly 1.6 million violative transactions resulting in $125,953,463 in violative charges to consumers, net of refunds and chargebacks. *Id.* ¶¶ 39-40

E. The Cliq Defendants have also processed for other companies that have been or are currently being pursued by law enforcement.

This is not an exhaustive list of problematic merchants for whom the Cliq Defendants have provided processing services. For instance, the Cliq Defendants also processed for RagingBull.com LLC and Start Connecting LLC, both of which the FTC sued for having sold their products and services through deception. Freeman Dec. ¶¶ 239-40, PX 261-62, Ex. Vol. 27, p. 2-102. In addition, the Cliq Defendants provided processing services for certain health benefit merchants associated with Alan Redmond, who is currently facing criminal charges for deceptively marketing those purported health benefit plans. Freeman Dec. ¶¶ 83, 242; PX 108, Ex. Vol. 9, p. 6; PX 263, Ex. Vol. 28, p. 3.

He said he would have the closure [due to transaction laundering] extended a little as we're waiting on getting some new accounts up."); *id.* ¶ 81, PX 148, Ex. Vol. 12, p. 2 at 3 (8/1/22 email from Phillips to Mathur following closure of certain Wellington accounts, "For now, load up on the MID's we have up and running."); *id.* ¶ 83, PX 159, Ex. Vol. 14, p. 55 at 56 (9/15/22 email from Phillips to Mathur after a purportedly fitness-related Wellington MID was caught transaction laundering: "Got to shut this one down also. Let's open up the cosmetics for this one.").

III. THE CLIQ DEFENDANTS' SERIOUS VIOLATIONS REQUIRE COMPENSATORY AND COERCIVE RELIEF, IN ADDITION TO A MODIFICATION OF THE FINAL ORDER.

The Cliq Defendants violated specific and definite provisions of the Final Order. *Affordable Media*, 179 F.3d at 1239 (civil contempt standard) (quoting *Stone*, 968 F.2d at 856 n. 9).[41] For instance, the Cliq Defendants have:

- Affirmatively chosen to process for at least three merchants on the MATCH list in violation of Section I of the Final Order, including making the "management decision" to process for Premier Health with knowledge of its MATCH listing;
- Systematically failed to underwrite clients in violation of Section III of the Final Order, including failing to even solicit categories of information required by the Final Order, opening accounts for shell companies, failing to do due diligence on known fraudsters, and accepting obviously false "bank sites" on applications;
- Failed to monitor High Risk Clients as required by Section IV of the Final Order, including processing for Covered Clients and High Risk Clients even after they triggered the chargeback thresholds mandating account closures without, for High Risk Clients, completing investigations or reports justifying that processing; and
- Assisted and facilitated Clients avoiding fraud monitoring programs and processed for Clients while knowing they were attempting to avoid fraud monitoring programs, in violation of Sections II and IV.F of the Final Order, including processing for shell companies and Clients using "friendly" pre-paid debit card transactions to artificially drive down chargeback rates.

As a result, it is necessary to hold the Cliq Defendants in contempt, enter compensatory relief to redress injured consumers, and enter coercive relief to force Cliq into compliance. Separately, because of these substantial violations, the Court should modify the Final Order to prevent

[41] *See supra,* Section I, for a complete description of the legal standard.

Phillips and Blaugrund from hurting additional consumers and place additional controls on Cliq's activities. *Cf. United States v. Laerdal Mfg. Corp.*, 73 F.3d 852, 857 (9th Cir. 1995) (prior failures to follow the law indicate the need for injunctive relief notwithstanding protestations that the party will act lawfully in the future). Combined, this relief will prevent additional law violations, while providing direct victim relief. All three forms of relief justify placing a receiver in charge of Cliq to attempt to bring it into compliance moving forward and otherwise to ultimately sell the business to partially satisfy the monetary judgment.

A. The Cliq Defendants must compensate the consumers they injured by processing transactions in violation of the Final Order.

As contemnors, the Cliq Defendants are required to pay compensatory sanctions "for losses sustained." *Success by Media Holdings Inc.*, 2025 WL 3265803, *4 (quoting *United Mine Workers Assoc. of Am.*, 330 U.S. at 303-04). As the Supreme Court has stated, compensatory sanctions include "full remedial relief." *McComb*, 336 U.S at 193 (1949). In FTC cases, the Ninth Circuit has held that "district courts have broad discretion to use consumer loss to calculate sanctions for civil contempt of an FTC consent order." *EDebitPay, LLC*, 695 F.3d at 945. Unlike contempt, which requires proof by clear and convincing evidence, compensatory sanctions require proof by a preponderance of the evidence. *Dayton Fam. Prods.*, 2016 WL 1047353, at *9 (collecting cases); *Ahearn ex. rel NLRB*, 721 F.3d at 1129 n.3 (although not ruling on the standard, recognizing that other circuits have adopted the "preponderance" standard); *Success by Media Holdings Inc.*, 2025 WL 3265803, *5 (applying preponderance standard). Applied here, the Cliq Defendants must compensate consumers for the charges that the Cliq Defendants never should have processed, "restor[ing] the status quo before" the Cliq Defendants "violat[ed] . . . the injunction." *FTC v. Leshin*, 618 F.3d 1221, 1239 (11th Cir. 2010). In calculating these figures, the FTC need only show the amount consumers paid less refunds and chargebacks, with the defendants responsible for proving any additional offsets. *Success by Media Holdings Inc.*, 2025 WL 3265803, at *4-5 (citing *FTC v. BlueHippo Funding, LLC*, 762 F.3d 238, 245 (2nd Cir. 2014)); *see also Kuykendall*, 371 F.3d at 766-67.

That means refunding, at the very least, the money they helped Target Fulfillment steal from consumers. As Target Fulfillment's principals have admitted, they deceived consumers about the price of their weight loss supplements in order to obtain their banking information and charge them. Crisler Dec. ¶¶ 15-16 ("I understand that these pricing descriptions and practices were deceptive. . . . I understand that this pricing description is deceptive and in fact deceived many consumers."); Freeman Dec. ¶ 237, PX 251-58, Ex. Vol. 26, p. 38-126 (attaching plea statements of other defendants admitting the scheme used "misleading advertising"). This is corroborated by consumer complaints and declarations. Freeman Dec. ¶¶ 206-22 (Target Fulfillment complaint analysis); Davis Dec.; Green Dec; *see also FTC v. Ewing*, No. 2:07-CV-00479-PMP, 2014 WL 5489210, at *3 (D. Nev. Oct. 29, 2014) (holding consumer complaints material to determining consumer harm and necessity of compensatory contempt relief). This level of deception and consumer injury is also reflected in the excessive chargeback rates that plagued the Target Fulfillment accounts, including rates at levels that would have caused a good faith ISO to terminate the accounts, notwithstanding Target Fulfillment's efforts to artificially suppress them. *See Grant Connect, LLC*, 827 F. Supp. 2d at 1221 (D. Nev. 2011), *aff'd in part, vacated in part*, 763 F.3d 1094 (9th Cir. 2014) (finding "[t]he high number of cancellations, refunds, and chargebacks suggest that in fact consumers were deceived about what they were ordering, and FTC offers the affidavits of several customers who aver they actually were deceived"); Killingsworth Rep. ¶ 33 (2-3% chargeback rates are "a strong indicator of merchant malfeasance" and "[a] higher rate would be sufficiently concerning that an ISO or acquirer should consider closing the account").

There is also no reason to give the Cliq Defendants "credit" for products delivered to consumers or for the prices consumers thought they would have paid. As Amy Green has testified, she never would have entered into the transactions if she had known the true price. Green Dec. ¶ 8 ("If I had known it would cost $239.82, I would not have made the purchase."). As here, where "[t]he seller's misrepresentations tainted the customer's purchase decisions," the Ninth Circuit has held there is no credit because "[t]he fraud in the selling, not the value of the

thing sold, is what entitles consumers in this case to full refunds." *FTC v. Figgie Int'l, Inc.*, 994 F.2d 595, 606 (9th Cir. 1993).

Limiting compensatory relief to Target Fulfillment processing results in a conservative sanction understating the amount of consumer harm to consumers. For instance, consumer complaints and chargeback rates provide evidence that other merchants, such as Premier Health, Limitless X, and iBuumerang, also harmed consumers. Combined, processing for those three alone would account for hundreds of millions of dollars in violative processing, at least some of which harmed consumers. Baburek Dec.¶¶ 39, 43, 48 (processing totals for Premier Health, Limitless X, and iBuumerang). Moreover, if the Cliq Defendants believed these merchants and the others that breached the chargeback thresholds in Section IV were selling products and services without violating the law, they were required to complete reports proving as much. Final Order, Section IV.E.4. They failed to do so. Any attempt to do so now would simply be *post hoc* rationalization.

The Court can and should enter a judgment for at least the $52,927,030 the Cliq Defendants processed for the Target Fulfillment criminal scheme, net of refunds and chargebacks, in violation of Section III of the Final Order's underwriting requirements. Baburek Dec. ¶ 37. This includes $30,868,415 that they processed in violation of Section IV of the Final Order, after they failed to complete the requisite report justifying continued processing. *Id.*[42]

This relief will also require provisions forcing the Defendants to turn over assets to the FTC and place a receiver in charge of Cliq to report on Cliq's assets, including the ability to pay the sanction or whether it will be necessary to liquidate portions of Cliq's business. The Court's power in effectuating compensatory contempt remedies is broad and includes the ability to order a contemnor to pay all assets they can, including non-liquid assets and assets that a contemnor may argue are protected in some way or are formally held by third parties, if the contemnor

[42] Included in the $53 million figure are the amounts for violations of Sections II and IV.F of the Final Order. The FTC can provide details on these figures if the Court desires.

ultimately controls them. *See, e.g.*, *SEC v. Hickey*, 322 F.3d 1123, 1131 (9th Cir. 2003) (broad authority to reach assets controlled by contemnor "so long as doing so was necessary to protect and give life to the disgorgement and contempt orders."); *SEC v. Bilzerian*, 112 F. Supp. 2d 12, 26-27 (D.D.C. 2000) (failure to comply with disgorgement order enforceable through contempt, including authority broad enough to reach all assets controlled by contemnor), *aff'd*, 75 F. App'x 3 (D.C. Cir. 2003); *FTC v. Kutzner*, No. 16-cv-999, 2017 WL 11632849, at *11-12 (C.D. Cal. Dec. 18, 2017) (seizing property held by third party controlled by debtor). In addition, courts also create receiverships to control and ultimately liquidate assets necessary to satisfy compensatory contempt sanctions. *See, e.g.*, *FTC v. Gill*, 183 F. Supp. 2d 1171, 1186, 1190 (C.D. Cal. 2001) (appointing receiver to "wind down and terminate the corporation" that contemnor used to violate the order and ordering contemnor to turnover assets to the FTC); *SEC v. Bilzerian*, 127 F. Supp. 2d 232, 232-34 (D.D.C. 2000) (same in SEC contempt action).

As a result, the proposed order: (1) requires the Defendants to pay all they can, including by turning over assets they may hold indirectly; and (2) places Cliq into a receivership.

B. Coercive relief is necessary to force Cliq into full compliance.

To the extent Cliq continues to operate, coercive relief is necessary to bring it into compliance. Cliq has, for years, flouted its court-ordered obligations, failing to underwrite, monitor, and terminate merchants pursuant to this Court's Final Order. These violations are systematic. Although the FTC has focused the Court's attention on certain violations, the FTC has, for instance, presented evidence of more than 100 violations of Section IV.E's client monitoring obligations. *See* Baburek Dec. ¶¶ 31-34 (identifying High Risk Clients with processing beyond the investigation time period); Freeman Dec. ¶¶ 147-68 (reviewing purported "reports" and finding none).

To resolve systematic and ongoing contumacious conduct, "[a] court may wield its civil contempt powers . . . 'to coerce the defendant into compliance with the court's order.'" *Shell Offshore Inc.*, 815 F.3d at 629 (quoting *United Mine Workers Assoc. of Am.*, 33. U.S. at 303-04). While certain remedies, such as daily fines or imprisonment are "paradigmatic" coercive

sanctions,[43] the Court's discretion is broad, including the ability to issue "the relief that is necessary to effect compliance with its decree." *McComb*, 336 U.S. at 193. In seeking a receiver to take control of the business and operate the business until it can be determined that the business is operating lawfully, the Court would be entering a coercive sanction that is arguably less severe and more meaningful than either a daily fine or incarceration. First, a daily fine will not be meaningful because Cliq (as well as Phillips and Blaugrund) will be laboring under a judgment that will likely exceed its ability to pay, rendering further fines or sanctions meaningless. Second, it will be significantly less severe than incarcerating any particular person—nobody's liberty will be infringed. It will also be narrowly tailored to achieve the desired outcome: compliance with this Court's orders. It is also necessary. Because Phillips and Blaugrund cannot be trusted to operate the company lawfully, the only way to ensure compliance is to empower a neutral third party to take control of Cliq, evaluate the business, and impose necessary policies. Moreover, the remedy will be coercive because, to the extent supported by this Court's coercive sanction authority, it will end as soon as Cliq is in compliance and there are assurances it is and will continue to operate lawfully.[44]

C. Because Phillips and Blaugrund cannot be trusted to operate lawfully, they must be banned from payment processing and, if Cliq stays in business, it must be subject to stronger relief to prevent future misconduct.

The Commission has attached a Proposed Order that would modify the Final Order to ban Phillips and Blaugrund from payment processing while imposing a receiver over Cliq. Federal Rule of Civil Procedure 60(b) codifies the Court's "inherent power to modify court orders in

[43] *Int'l Union, United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 828, 830 (1994) (coercive incarceration is "[t]he paradigmatic coercive, civil contempt sanction" and later stating "[a] close analogy to coercive imprisonment is a per diem fine imposed for each day a contemnor fails to comply with an affirmative court order").

[44] As explained elsewhere, the receivership is also supported by this Court's compensatory contempt sanction powers as well as the Court's equitable authority when modifying its injunction.

changed circumstances." *Kelly v. Wengler*, 822 F.3d 1085, 1098 (9th Cir. 2016) (*citing United States v. Swift and Co.*, 106 U.S. 114-15 (1932)). Courts apply a two-part test to determine when modification of final orders is appropriate under Rule 60(b)(5). First, the moving party must show a "significant change either in factual conditions or in the law warranting modification," and second, the court must "determine whether the proposed modification is suitably tailored to resolve the problems created by the changed factual or legal conditions." *Asarco, Inc.*, 430 F.3d at 979 (*citing Rufo*, 502 U.S. at 384.

The Cliq Defendants' failure to follow the Final Order "qualif[ies] as a significant change in circumstances that would justify" modification of the Final Order. *Labor/Community Strategy Ctr. v. Los Angeles County*, 564 F.3d 1115, 1120-21 (9th Cir. 2009) (citing, *inter alia*, *Thompson v. HUD*, 404 F.3d 821, 828 (4th Cir. 2005) (affirming modification of decree based on changed circumstances of defendants' noncompliance)); *Kelly*, 822 F.3d at 1098; *FTC v. Trudeau*, 708 F. Supp. 2d 711, 720 (N.D. Ill. 2010) ("[W]illful violations of this court's orders . . . constitute sufficiently changed circumstances to merit modification of the 2004 Order to prevent further consumer harm and deter Trudeau from further violations."); *FTC v. Leshin*, Civ. No. 06-61851, 2009 WL 10667856, at *20 (S.D. Fla. Apr. 7, 2009) ("Contempt Defendants' demonstrated failure to comply with the Final Order constitutes appropriate changed circumstances warranting a modification of that order."), *aff'd*, 618 F.3d 1221 (11th Cir. 2010). The Court has the power to modify the Final Order to give effect to its purpose, protecting consumers from the defendants' failure to operate as a responsible payment processor that carefully screens and monitors its merchants. *United States v. United Shoe Machinery Corp.*, 391 U.S. 244, 250-52 (1968) (power to enter decree includes power to modify decree if it is not achieving its purpose); *Rufo*, 502 U.S. at 383 (courts may modify consent decrees); *FTC v. Voc. Guides, Inc.*, Civil No. 3:01-0170, 2009 WL 943486, *20 (M.D. Tenn. April 6, 2009) (approving modification of stipulated order because it had "failed to achieve its purpose" as shown by defendants' contempt). Defendants' fundamental failure to follow the Final Order is a change of circumstances that was not anticipated when the Court issued the Final Order.

Second, the Commission has submitted a "suitably tailored" modification. The Commission proposes banning Phillips and Blaugrund from payment processing while appointing a receiver over Cliq until it can be transferred to a third party, while extending reporting obligations. Banning Phillips and Blaugrund from payment processing is warranted. Courts often impose industry bans in response to contempt. In *Gill*, for example, the Ninth Circuit affirmed an industry ban against a contempt defendant, reasoning the defendant "had his chance" to operate lawfully, and his failure to do so "undermines the credibility" of any argument in favor of a less restrictive order. *Gill*, 265 F.3d at 957; *FTC v. Grant Connect, LLC*, 763 F.3d 1094, 1105 (9th Cir. 2014) (repeated law violations justify industry bans); *McGregor*, 206 F.3d at 1386 n.9 (affirming modification of final order to impose ban on telemarketing in light of "continued fraudulent practices" after order's entry); *Voc. Guides, Inc.*, 2009 WL 943486, *20 ("[B]ecause the Final Order has failed to achieve its purpose, the Court will enter separately the FTC's proposed Supplemental Order banning Jackson from telemarketing, prohibiting him from participating in any business connected with grant procurement, and permitting additional compliance monitoring by the FTC."); *cf. Success by Media Holdings Inc.*, 2025 WL 3265803, at *7 (violation of court order grounds for imposing ban pursuant to section 13(b) of the FTC Act).

The Final Order already contains complimentary provisions which, taken together, make it very difficult for the Cliq Defendants to process payments for fraudulent merchants. With respect to Target Fulfillment, for example, if they had followed the Final Order's screening provisions (Section III), they never would have opened Target Fulfillment's accounts. If they had followed the monitoring provisions (Section IV), they would have quickly terminated the accounts. If they had followed the assisting and facilitating provisions (Sections II and IV.F of the Final Order), they would have refused to do business with Target Fulfillment after learning that it had been using friendlies. In addition to the specific examples provided, Defendants simply did not change their business practices to account for the fact that they were bound by a Final Order. Freeman Dec. ¶ 146, PX 212, Ex. Vol. 19, p. 54 at 56 (Phillips writing about the

Final Order: "Cardflex was not obligated to shut down its business nor make any other material modifications to the way in which it conducted its business."). They did not change their merchant applications to request the information required by the Final Order's underwriting provisions, they did not stop processing for merchants on the MATCH list, and, when their merchants experienced excessive chargebacks, they did not investigate the causes and document their findings. The injury to consumers in this case was made possible by Defendants' disregard of the Final Order. Because Phillips and Blaugrund already had the opportunity to follow the law, and then the Final Order, they should not be allowed to continue payment processing.

The Commission's proposal to appoint a receiver over Cliq and include updated reporting requirements are also suitably tailored. Although Cliq's violations of the Final Order are the same as those of Phillips and Blaugrund, and could warrant a similar processing ban, the Commission does not seek to permanently ban Cliq from payment processing in order to limit potential harmful effects to other third parties. Importantly, if Phillips and Blaugrund are banned from payment processing, they will have difficulty steering Cliq into noncompliance. But the bans mean Cliq will require new management, immediately. If that management follows the terms of the Final Order—prohibiting processing for certain merchants while requiring reasonable underwriting and monitoring—it will be difficult for them to cause the same consumer harm the Cliq Defendants have in recent years. Cliq also has merchants that are not engaged in deceptive conduct, and banning Cliq from operating as a payment processor could disrupt those merchants' ability to accept credit cards. At the same time, Cliq's years of disregard for the Final Order means it has weak operational controls, a culture of noncompliance, and is almost certainly processing for other currently unidentified deceptive merchants that are injuring consumers. Cliq's clients will need to be appropriately underwritten and, if necessary, investigated under the Final Order's provisions to assess whether they are injuring consumers, and this task will be complicated by the fact that Cliq has not been adequately screening or monitoring its merchants, as the Final Order requires. Moreover, it is unclear whether Cliq can

operate profitably without its CEO and CTO, without processing for what it called its "hi margin" merchants, and while having to pay a significant final judgment.

To address these concerns, and in conjunction with the related coercive sanction, the Court should appoint a receiver to take control of Cliq's business operations and make a recommendation as to how Cliq can be brought into compliance with the Order, whether it can continue to do business profitably and lawfully, and how to minimize disruption to its legitimate clients, while extending and enhancing Cliq's reporting obligations. Courts have appointed receivers in contempt proceedings as a result of defendants' failure to follow final orders. *See Gill*, 183 F. Supp. 2d at 1190 (converting temporary receiver into final receiver in response to defendant's contempt). The Proposed Order contains standard provisions regarding receivers that have been used recently by other Courts in this circuit in the context of preliminary relief. *See FTC v. Accelerated Debt Settlement, Inc.*, 2:25-cv-02443 (D. Ariz. July 14, 2025); *FTC v. Panda Benefit Services, LLC*, 8:24-cv-1386 (C.D. Cal. June 24, 2024); *FTC v. International Solutions, LLC*, 8:23-cv-01493 (C.D. Cal. Aug. 16, 2023). Additionally, the proposed order extends the Defendants' reporting obligations.

IV. CONCLUSION

The Court should hold the Cliq Defendants in contempt of the Final Order, enter compensatory relief of at least $53 million to redress consumers, enter coercive relief to bring Cliq into compliance, and modify the Final Order to ban Phillips and Blaugrund from payment processing moving forward and adding new provisions, including appointment of a receiver, to ensure Cliq does not, again, stray from its legal obligations.

Dated: December 15, 2025

Respectfully submitted,

/s/ Benjamin J. Theisman

BENJAMIN J. THEISMAN
BENJAMIN R. DAVIDSON
IRIS MICKLAVZINA
Federal Trade Commission
600 Pennsylvania Avenue NW
Mailstop CC-6316
Washington, DC 20580

(202) 326-2223 (Theisman), -3055 (Davidson)
-2517 (Micklavzina)
btheisman@ftc.gov, bdavidson@ftc.gov,
imicklavzina@ftc.gov

Attorneys for Plaintiff Federal Trade Commission

CERTIFICATE OF SERVICE

I, Benjamin J. Theisman, certify that on December 15, 2025, all counsel of record were served with the foregoing and all related exhibits and attachments by ECF and the following counsel were served by email:

Leonard L. Gordon, llgordon@venable.com
Ellen T. Berge, etberge@venable.com
Mary M. Gardner, mmgardner@venable.com
William C. Lawrence, wclawrence@venable.com

Counsel for Defendants

/s/ Benjamin J. Theisman