

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**ASSET & CAPITAL
MANAGEMENT GROUP, et al.,**

Defendants.

Case No. 8:13-cv-01107-DSF-JC

**{proposed} STIPULATED
PRELIMINARY INJUNCTION AS
TO DEFENDANTS JAMES
NOVELLA AND GREEN FIDELITY
ALLEGIANCE, INC.**

Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on July 23, 2013, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and Section 814(a) of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692l(a). On motion by the FTC, on July 24, 2013, this Court entered an *ex parte* temporary restraining order (“TRO”) with asset freeze, appointment of receiver, and other equitable relief against Defendants Asset and Capital Management Group, Crown Funding Company, LLC, One FC, LLC, Credit MP, LLC, Western Capital Group, Inc., SJ Capitol, LLC, Green Fidelity Allegiance, Inc., Thai Han, Jim Tran Phelps, Keith Hua, and James Novella. The FTC, Defendants Green Fidelity Allegiance, Inc. and James Novella (“Stipulating Defendants”), and the Receiver have stipulated and agreed to entry of a preliminary injunction order (“Order”).

FINDINGS OF FACT

By stipulation of the parties, the Court finds as follows:

1. The FTC and the Stipulating Defendants have stipulated and agreed to the entry of this preliminary injunction order without any admission of

1 wrongdoing or violation of law, and without a finding by the Court of law or
2 fact other than stated below.

3 2. The Stipulating Defendants waive all rights to seek judicial review or
4 otherwise challenge or contest the validity of this Order.

5 3. This Court has jurisdiction over the subject matter of this case, there is good
6 cause to believe it will have jurisdiction over all the parties hereto, and
7 venue in this district is proper.

8 4. The FTC asserts that there is good cause to believe that the Stipulating
9 Defendants have engaged and are likely to continue to engage in acts or
10 practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the
11 FDCPA, 15 U.S.C. §§ 1692-1692p, and that the FTC is therefore likely to
12 prevail on the merits of this action.

13 5. The FTC asserts that there is good cause to believe that consumers will
14 suffer immediate and continuing harm unless the Stipulating Defendants are
15 restrained and enjoined by Order of this Court.

16 6. Pursuant to Sections IX.L and IX.M of the TRO, the Receiver deems it
17 necessary and advisable to enter into this Preliminary Injunction on behalf of
18 Green Fidelity Allegiance, Inc. in order to preserve assets of the receivership
19 estate.

20 7. No security is required of any agency of the United States for issuance of a
21 preliminary injunction, Fed. R. Civ. P. 65(c).

22 8. The entry of this Preliminary Injunction is in the public interest.

23 **DEFINITIONS**

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25 A. “**Assets**” means any legal or equitable interest in, right to, or claim to, any
26 real or personal property, including, without limitation, chattels, goods,
27 instruments, equipment, fixtures, general intangibles, leaseholds, mail or
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1 other deliveries, inventory, checks, notes, accounts, credits, contracts,
2 receivables, shares of stock, and all cash, wherever located.

3 B. **“Consumer”** means any person.

4 C. **“Corporate Defendants”** means Asset and Capital Management Group,
5 Crown Funding Company, LLC, One FC, LLC, Credit MP, LLC, Western
6 Capital Group, Inc., SJ Capitol, LLC, Green Fidelity Allegiance, Inc., and
7 their successors, assigns, affiliates, or subsidiaries, and each of them by
8 whatever names each might be known.

9 D. **“Debt”** means any obligation or alleged obligation to pay money arising out
10 of a transaction, whether or not such obligation has been reduced to
11 judgment.

12 E. **“Defendants”** means the Individual Defendants and the Corporate
13 Defendants, individually, collectively, or in any combination, and each of
14 them by whatever names each might be known.

15 F. **“Document”** is synonymous in meaning and equal in scope to the usage of
16 the term in Federal Rule of Civil Procedure 34(a), and includes writings,
17 drawings, graphs, charts, photographs, audio and video recordings, computer
18 records, and other data compilations from which the information can be
19 obtained and translated, if necessary, through detection devices into
20 reasonably usable form. A draft or non-identical copy is a separate
21 document within the meaning of the term.

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

26 H. **“Individual Defendants”** means Thai Han, Jim Tran Phelps, Keith Hua, and
27 James Novella.
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- 1 I. **“Person”** means a natural person, an organization or other legal entity,
2 including a corporation, partnership, sole proprietorship, limited liability
3 company, association, cooperative, or any other group or combination acting
4 as an entity.
- 5 J. **“Related Entities”** means 88 SAT Capital, LLC, Alhambra Enterprises,
6 LLC, American FP, LLC, Asset Portfolio Partners, LLC, Bureau of Asset
7 Management, LLC, Capital FC, LLC, Capital IG, LLC, First Planners
8 United, LLC, Global AG, LLC, Global Holding Services, LLC, Han
9 Dynasty, Inc., National Service Partners, LLC, New Capital Holdings, Inc.,
10 Revere Recovery Group, LLC, United CC Holdings, LLC, United Services
11 Partnership, LLC, Hush Lah, Inc., 77 DKS Capital, LLC, BIT, Inc., First
12 Franklin Holdings, Inc., Individual Security & Holdings, Inc., JTIG, Inc.,
13 and Web Audict, LLC.
- 14 K. The terms **“and”** and **“or”** shall be construed conjunctively or disjunctively
15 as necessary to make the applicable phrase or sentence inclusive rather than
16 exclusive.

17 **ORDER**

18 **PROHIBITED REPRESENTATIONS**

- 19
- 20 I. **IT IS THEREFORE ORDERED** that in connection with the collection or
21 the attempted collection of any debt, the Stipulating Defendants and their
22 successors, assigns, officers, agents, servants, employees, and attorneys, and
23 those persons or entities in active concert or participation with any of them
24 who receive actual notice of this Order by personal service or otherwise,
25 whether acting directly or through any corporation, subsidiary, division, or
26 other device, are hereby restrained and enjoined from:
- 27 A. Misrepresenting, or assisting others who are misrepresenting,
28 expressly or by implication, orally or in writing, any of the following:

- 1 1. that any Defendant or any other person is a process server, or
- 2 working with a process server, and seeking to serve a consumer
- 3 with legal papers pertaining to a lawsuit against such consumer;
- 4 2. that any Defendant or any other person is employed by, or
- 5 working with, a lawyer who has reviewed a consumer's case
- 6 and is preparing a lawsuit against the consumer;
- 7 3. that non-payment of a purported debt will result in a
- 8 consumer's arrest, or in seizure, garnishment, or attachment of a
- 9 consumer's property or wages;
- 10 4. that Defendants or any other person has filed, or intends to file
- 11 imminently, a lawsuit against a consumer; or
- 12 5. the character, amount, or legal status of a debt;
- 13 B. Communicating with third parties for purposes other than acquiring
- 14 location information about a consumer, without having obtained
- 15 directly the prior consent of the consumer or the express permission of
- 16 a court of competent jurisdiction, and when not reasonably necessary
- 17 to effectuate a postjudgment judicial remedy;
- 18 C. Placing telephone calls without meaningfully disclosing the caller's
- 19 identity;
- 20 D. Failing to disclose or disclose adequately in the initial communication
- 21 with a consumer that any Defendant or any other person is a debt
- 22 collector attempting to collect a debt and that any information
- 23 obtained will be used for that purpose;
- 24 E. Threatening to take action that is not lawful or that any Defendant or
- 25 any other person does not intend to take;
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- 1 F. Using any false representation or deceptive means to collect or
2 attempt to collect a debt, or to obtain information concerning a
3 consumer;
- 4 G. Failing to provide consumers, within five days after the initial
5 communication with a consumer, a written notice containing: (1) the
6 amount of the debt; (2) the name of the creditor to whom the debt is
7 owed; (3) a statement that unless the consumer, within thirty days
8 after receipt of the notice, disputes the validity of the debt, or any
9 portion thereof, the debt will be assumed to be valid by the Stipulating
10 Defendants; (4) a statement that if the consumer notifies the
11 Stipulating Defendants in writing within the thirty-day period that the
12 debt, or any portion thereof, is disputed, the Stipulating Defendants
13 will obtain verification of the debt or a copy of a judgment against the
14 consumer and a copy of such verification or judgment will be mailed
15 to the consumer by the Stipulating Defendants; and (5) a statement
16 that, upon the consumer's written request within the thirty-day period,
17 the Stipulating Defendants will provide the consumer with the name
18 and address of the original creditor, if different from the current
19 creditor; and
- 20
21 H. Engaging in conduct the natural consequence of which is to harass,
22 oppress, or abuse a person, including but not limited to: (1) using or
23 threatening to use violence or other criminal means to harm the
24 physical person, reputation, or property of any person; (2) using
25 obscene or profane language or language the natural consequence of
26 which is to abuse the hearer; or (3) causing a telephone to ring or
27 engaging a person in telephone conversation repeatedly or
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1 continuously with the intent to annoy, abuse, or harass any person at
2 the called number.

3 **ASSET FREEZE**

4 **II. IT IS FURTHER ORDERED** that:

5 **A.** Except as set forth in Section II.B of this Order, the Stipulating
6 Defendants are hereby restrained and enjoined from directly or indirectly:

7 1. Transferring, liquidating, converting, encumbering, pledging, loaning,
8 selling, concealing, dissipating, disbursing, assigning, spending,
9 withdrawing, granting a lien or security interest or other interest in, or
10 otherwise disposing of any funds, real or personal property, accounts,
11 contracts, consumer lists, or any other assets, or any interest therein,
12 wherever located, including outside the United States, that are:

13 (1) owned or controlled, directly or indirectly, by any Defendant(s), in
14 whole or in part, or held, in whole or in part, for the benefit of any
15 Defendant(s); (2) in the actual or constructive possession of any
16 Defendant(s); or (3) owned, controlled by, or in the actual or
17 constructive possession of any corporation, partnership, or other entity
18 directly or indirectly owned, managed, or controlled by, or under
19 common control with any Defendant(s), including but not limited to,
20 any assets of the Related Entities, and any assets held by, for, or under
21 the name of any Defendant(s) at any bank, savings and loan
22 institution, or bank of any Defendant(s), or with any broker-dealer,
23 escrow agent, title company, commodity trading company, precious
24 metal dealer, or other financial institution or depository of any kind;

25 2. Opening or causing to be opened any safe deposit boxes titled in the
26 name of any Defendant(s), or subject to access by any Defendant(s);
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- 1 3. Incurring charges or cash advances on any credit card, debit card, or
2 checking card issued in the name, singly or jointly, of any
3 Defendant(s);
- 4 4. Incurring liens or encumbrances on real property, personal property or
5 other assets in the name, singly or jointly, of any Defendant(s); and
- 6 5. Cashing any checks from consumers, clients, or customers of any
7 Defendant(s).
- 8 6. The funds, property, and assets affected by this Order shall include:
9 (a) all assets of each Stipulating Defendant as of the time this Order is
10 entered, and (b) those assets obtained after entry of this Order that are
11 obtained from any debt collection activities that predate the entry of
12 this Order.

13 B. The Receiver shall turn over to Defendant James Novella the amount
14 of \$1,200 in cash that was located in the premises of Defendant Green
15 Fidelity Allegiance, Inc. and currently in the possession of the Receiver.
16 Bank of America shall transfer the amount of \$5,999.20 from account
17 number xxxx7853 in the name of Green Fidelity Allegiance, Inc. to account
18 number xxxx7600 in the name of Hush Lah, Inc. Thereafter, the asset freeze
19 provisions of this Order shall not apply to Bank of America account number
20 xxxx7600 in the name of Hush Lah, Inc. or to Wescom Credit Union
21 account number xxxx7017 in the name of James Novella. Defendant James
22 Novella may retain and spend income received from employment performed
23 after the date of entry of this Order. Further, Defendant Novella may retain
24 and spend assets acquired by loan or gift after the date of entry of this Order
25 only after identifying such assets to FTC counsel. This section does not
26 apply to loans or gifts valued at less than \$500.
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1 **RETENTION OF ASSETS AND RECORDS BY FINANCIAL**
2 **INSTITUTIONS AND OTHER THIRD PARTIES**

3 **III. IT IS FURTHER ORDERED** that any financial or brokerage institution or
4 depository, escrow agent, title company, commodity trading company, trust, entity,
5 or person that holds, controls, or maintains custody of any account or asset owned
6 or controlled, directly or indirectly, by any Stipulating Defendant, or has held,
7 controlled, or maintained any account or asset of, or on behalf of, any Stipulating
8 Defendant, upon service with a copy of this Order, shall:

9 A. Hold and retain within its control and prohibit any Stipulating
10 Defendant from withdrawing, removing, assigning, transferring,
11 pledging, encumbering, disbursing, dissipating, converting, selling,
12 gifting, or otherwise disposing of any of the assets, funds, or other
13 property held by or on behalf of any Stipulating Defendant in any
14 account maintained in the name of or for the benefit of any Stipulating
15 Defendant, in whole or in part, except for those identified in
16 Section II.B of this Order or as directed by further order of the Court
17 or as directed in writing by the Receiver regarding accounts,
18 documents, or assets held in the name of or benefit of Defendant
19 Green Fidelity Allegiance, Inc.;

20 B. Deny the Stipulating Defendants access to any safe deposit box titled
21 in the name of any Stipulating Defendant, individually or jointly, or
22 subject to access by any Stipulating Defendant, whether directly or
23 indirectly.

24 C. Provide counsel for Plaintiff and the Receiver, within three (3)
25 business days after being served with a copy of this Order, a certified
26 statement setting forth:

27 1. the identification number of each such account or asset
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1 (1) titled in the name, individually or jointly, of any Stipulating
2 Defendant; (2) held on behalf of, or for the benefit of, any
3 Stipulating Defendant; (3) owned or controlled by any
4 Stipulating Defendant; or (4) otherwise subject to access by any
5 Stipulating Defendant, directly or indirectly;

6 2. the balance of each such account, or a description of the nature
7 and value of such asset as of the close of business on the day on
8 which this Order is served, and, if the account or other asset has
9 been closed or removed, the date closed or removed, the total
10 funds removed in order to close the account, and the name of
11 the person or entity to whom such account or other asset was
12 remitted;

13 3. the identification of any safe deposit box that is either titled in
14 the name of any Stipulating Defendant, or is otherwise subject
15 to access by any Stipulating Defendant; and

16 4. if an account, safe deposit box, or other asset has been closed or
17 removed, the date closed or removed, the balance on such date,
18 and the manner in which such account or asset was closed or
19 removed.

20 5. Provide counsel for Plaintiff and the Receiver, within three (3)
21 business days after being served with a request, copies of all
22 documents pertaining to such account or asset, including but
23 not limited to originals or copies of account applications,
24 account statements, signature cards, checks, drafts, deposit
25 tickets, transfers to and from the accounts, all other debit and
26 credit instruments or slips, currency transaction reports, 1099
27 forms, and safe deposit box logs; provided that such institution
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1 or custodian may charge a reasonable fee.

- 2 6. *Provided*, that a financial institution does not have to provide
3 the information required in this sub-section if (1) the financial
4 institution has complied with the similar provision set forth in
5 the TRO; and (2) the information provided has not changed.

6 **FINANCIAL REPORTS AND ACCOUNTING**

7 **IV. IT IS FURTHER ORDERED** that each Stipulating Defendants, within
8 three (3) business days of service of this Order, shall prepare and deliver to
9 counsel for the FTC:

- 10 A. For Defendant James Novella, a completed financial statement
11 accurate as of the date of service of this Order upon such Defendant
12 (unless otherwise agreed upon with FTC counsel) on the form of
13 **Attachment A** to this Order captioned, “Form Re: Financial
14 Statement for Individual Defendant.”
- 15 B. For Defendant Green Fidelity Allegiance, Inc., a completed financial
16 statement accurate as of the date of service of this Order upon such
17 Defendant (unless otherwise agreed upon with FTC counsel) in the
18 form of **Attachment B** to this Order captioned, “Form Re: Financial
19 Statement for Business Entity Defendant.”
- 20 C. For each Stipulating Defendant, a completed statement, verified under
21 oath, of all payments, transfers or assignments of funds, assets, or
22 property worth \$1,000 or more since January 1, 2009. Such statement
23 shall include: (a) the amount transferred or assigned; (b) the name of
24 each transferee or assignee; (c) the date of the transfer or assignment;
25 and (d) the type and amount of consideration paid the Stipulating
26 Defendant. Each statement shall specify the name and address of each
27 financial institution and brokerage firm at which the Stipulating
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1 Defendant has accounts or safe deposit boxes. Said statements shall
2 include assets held in foreign as well as domestic accounts.

3 D. *Provided*, that the Stipulating Defendants do not have to provide such
4 financial reports if (1) they have complied with the similar provision
5 set forth in the TRO; and (2) the information provided has not
6 changed.

7 **CONSUMER CREDIT REPORTS**

8 **V. IT IS FURTHER ORDERED** that Plaintiff may obtain credit reports
9 concerning any Stipulating Defendant pursuant to Section 604(a)(1) of the
10 Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), and that, upon written
11 request, any credit reporting agency from which such reports are requested
12 shall provide them to Plaintiff.

13 **REPATRIATION OF FOREIGN ASSETS**

14 **VI. IT IS FURTHER ORDERED** that, within five (5) business days following
15 the service of this Order, each Stipulating Defendant shall:

- 16 A. Provide counsel for the FTC with a full accounting of all assets,
17 accounts, funds, and documents outside of the territory of the United
18 States that are held either: (1) by them; (2) for their benefit; (3) in
19 trust by or for them, individually or jointly; or (4) under their direct or
20 indirect control, individually or jointly;
- 21 B. Transfer to the territory of the United States all assets, accounts,
22 funds, and documents in foreign countries held either: (1) by them;
23 (2) for their benefit; (3) in trust by or for them, individually or jointly;
24 or (4) under their direct or indirect control, individually or jointly;
- 25 C. Hold and retain all repatriated assets, accounts, funds, and documents,
26 and prevent any transfer, disposition, or dissipation whatsoever of any
27 such assets, accounts, funds, or documents; and
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1 **NON-INTERFERENCE WITH REPATRIATION**

2 **VII. IT IS FURTHER ORDERED** that the Stipulating Defendants, and each of
3 their successors, assigns, members, officers, agents, servants, employees,
4 and attorneys, and those persons in active concert or participation with them
5 who receive actual notice of this Order by personal service or otherwise,
6 whether acting directly or through any entity, corporation, subsidiary,
7 division, affiliate or other device, are hereby restrained and enjoined from
8 taking any action, directly or indirectly, which may result in the
9 encumbrance or dissipation of foreign assets, or in the hindrance of the
10 repatriation required by Section VI of this Order, including but not limited
11 to:

- 12 A. Sending any statement, letter, fax, e-mail or wire transmission,
13 telephoning or engaging in any other act, directly or indirectly, that
14 results in a determination by a foreign trustee or other entity that a
15 “duress” event has occurred under the terms of a foreign trust
16 agreement, until such time that all assets have been fully repatriated
17 pursuant to Section VI of this Order; and
18 B. Notifying any trustee, protector or other agent of any foreign trust or
19 other related entities of either the existence of this Order, or of the fact
20 that repatriation is required pursuant to a Court Order, until such time
21 that all assets have been fully repatriated pursuant to Section VI.
22

23 **CONTINUATION OF RECEIVERSHIP**

24 **VIII. IT IS FURTHER ORDERED** that Thomas W. McNamara shall continue
25 to serve as Receiver for the business activities of Defendant Green Fidelity
26 Allegiance, Inc. with the full power of an equity receiver. The Receiver
27 shall be the agent of this Court and solely the agent of this Court in acting as
28 Receiver under this Order. The Receiver shall be accountable directly to this

1 Court. The Receiver shall comply with any laws and Local Rules of this
2 Court governing receivers, including but not limited to Local Rules 66-1
3 through 66-5.1 and Local Rule 66-8.

4 **DUTIES OF RECEIVER**

5 **IX. IT IS FURTHER ORDERED** that the Receiver is directed and authorized
6 to accomplish the following:

- 7 A. Assume full control of Defendant Green Fidelity Allegiance, Inc. by
8 removing, as the Receiver deems necessary or advisable, any director,
9 officer, independent contractor, employee, or agent of any of
10 Defendant Green Fidelity Allegiance, Inc., including any named
11 Defendant, from control of, management of, or participation in, the
12 affairs of Defendant Green Fidelity Allegiance, Inc.;
- 13 B. Take exclusive custody, control, and possession of all assets,
14 documents, and electronically stored information of, or in the
15 possession, custody, or under the control of, Defendant Green Fidelity
16 Allegiance, Inc., wherever situated. The Receiver shall have full
17 power to divert mail and to sue for, collect, receive, take in
18 possession, hold, and manage all assets and documents of Defendant
19 Green Fidelity Allegiance, Inc. and other persons or entities whose
20 interests are now held by or under the direction, possession, custody,
21 or control of Defendant Green Fidelity Allegiance, Inc. *Provided,*
22 *however,* that the Receiver shall not attempt to collect or receive any
23 amount from a consumer if the Receiver believes the consumer was a
24 victim of the unlawful conduct alleged in the complaint in this matter;
- 25 C. Take all steps necessary to secure the business premises of Defendant
26 Green Fidelity Allegiance, Inc. Such steps may include, but are not
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1 limited to, the following, as the Receiver deems necessary or
2 advisable:

- 3 1. serving and filing this Order;
- 4 2. completing a written inventory of all Receivership assets;
- 5 3. obtaining pertinent information from all employees and other
6 agents of Defendant Green Fidelity Allegiance, Inc., including,
7 but not limited to, the name, home address, social security
8 number, job description, method of compensation, and all
9 accrued and unpaid commissions and compensation of each
10 such employee or agent, and all computer hardware and
11 software passwords;
- 12 4. videotaping all portions of the location;
- 13 5. securing the location by changing the locks and disconnecting
14 any computer modems or other means of access to the
15 computer or other records maintained at that location;
- 16 6. requiring any persons present on the premises at the time this
17 Order is served to leave the premises, to provide the Receiver
18 with proof of identification, or to demonstrate to the satisfaction
19 of the Receiver that such persons are not removing from the
20 premises documents or assets of Defendant Green Fidelity
21 Allegiance, Inc.; and
- 22 7. requiring all employees, independent contractors, and
23 consultants of Defendant Green Fidelity Allegiance, Inc. to
24 complete a questionnaire submitted by the Receiver;

25
26 D. Conserve, hold, and manage all Receivership assets, and perform all
27 acts necessary or advisable to preserve the value of those assets, in
28 order to prevent any irreparable loss, damage, or injury to consumers

1 or to creditors of Defendant Green Fidelity Allegiance, Inc.,
2 including, but not limited to, obtaining an accounting of the assets and
3 preventing transfer, withdrawal, or misapplication of assets;

4 E. Liquidate any and all securities or commodities owned by or for the
5 benefit of Defendant Green Fidelity Allegiance, Inc. that the Receiver
6 deems to be advisable or necessary;

7 F. Enter into contracts and purchase insurance as the Receiver deems to
8 be advisable or necessary;

9 G. Prevent the inequitable distribution of assets and determine, adjust,
10 and protect the interests of consumers and creditors who have
11 transacted business with Defendant Green Fidelity Allegiance, Inc.;

12 H. Manage and administer the business of Defendant Green Fidelity
13 Allegiance, Inc. until further order of this Court by performing all
14 incidental acts that the Receiver deems to be advisable or necessary,
15 which includes retaining, hiring, or dismissing any employees,
16 independent contractors, or agents;

17 I. Choose, engage, and employ attorneys, accountants, appraisers, and
18 other independent contractors and technical specialists as the Receiver
19 deems advisable or necessary in the performance of duties and
20 responsibilities under the authority granted by this Order;

21 J. Make payments and disbursements from the Receivership estate that
22 are necessary or advisable for carrying out the directions of, or
23 exercising the authority granted by, this Order. The Receiver shall
24 apply to the Court for prior approval of any payment of any debt or
25 obligation incurred by Defendant Green Fidelity Allegiance, Inc. prior
26 to the date of entry of this Order, except payments that the Receiver
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1 deems necessary or advisable to secure assets of Defendant Green
2 Fidelity Allegiance, Inc., such as rental payments;

3 K. Determine and implement the manner in which Defendant Green
4 Fidelity Allegiance, Inc. will comply with, and prevent violations of,
5 this Order and all other applicable laws, including, but not limited to,
6 revising sales materials and implementing monitoring procedures;

7 L. Institute, compromise, adjust, appear in, intervene in, or become party
8 to such actions or proceedings in state, federal, or foreign courts that
9 the Receiver deems necessary and advisable to preserve or recover the
10 assets of Defendant Green Fidelity Allegiance, Inc., or that the
11 Receiver deems necessary and advisable to carry out the Receiver's
12 mandate under this Order;

13 M. Defend, compromise, adjust, or otherwise dispose of any or all actions
14 or proceedings instituted in the past or in the future against the
15 Receiver in his role as Receiver, or against Defendant Green Fidelity
16 Allegiance, Inc., that the Receiver deems necessary and advisable to
17 preserve the assets of Defendant Green Fidelity Allegiance, Inc. or
18 that the Receiver deems necessary and advisable to carry out the
19 Receiver's mandate under this Order;

20
21 N. Continue and conduct the business of Defendant Green Fidelity
22 Allegiance, Inc. in such manner, to such extent, and for such duration
23 as the Receiver may in good faith deem to be necessary or appropriate
24 to operate the business profitably and lawfully, if at all; *provided,*
25 *however,* that the continuation and conduct of the business shall be
26 conditioned upon the Receiver's good faith determination that the
27 businesses can be lawfully operated at a profit using the assets of the
28 receivership estate; *provided, further,* that if the Receiver makes the

1 good faith determination that the business of Defendant Green
2 Fidelity Allegiance, Inc. cannot be lawfully operated at a profit, the
3 Receiver is directed and authorized to wind up the business affairs of
4 Defendant Green Fidelity Allegiance, Inc., including, where
5 appropriate, liquidating all assets. The Receiver may take any
6 necessary measures to preserve the assets of the receivership estate,
7 including the sale of property and the termination of contracts,
8 including but not limited to leases of business premises.

- 9 O. Take depositions and issue subpoenas to obtain documents and
10 records pertaining to the receivership estate and compliance with this
11 Order. Subpoenas may be served by agents or attorneys of the
12 Receiver and by agents of any process server retained by the
13 Receiver;
- 14 P. Open one or more bank accounts in the Central or Southern District of
15 California as designated depositories for funds of Defendant Green
16 Fidelity Allegiance, Inc. The Receiver shall deposit all funds of
17 Defendant Green Fidelity Allegiance, Inc. in such a designated
18 account and shall make all payments and disbursements from the
19 receivership estate from such account(s);
- 20 Q. Maintain accurate records of all receipts and expenditures that the
21 Receiver makes as Receiver;
- 22 R. Cooperate with reasonable requests for information or assistance from
23 any state or federal law enforcement agency; and
- 24 S. Be responsible for maintaining the chain of custody of all of
25 Defendant Green Fidelity Allegiance, Inc.'s records in his possession,
26 pursuant to procedures to be established in writing with the approval
27 of the FTC.
28

1 **COOPERATION WITH RECEIVER**

2 **X. IT IS FURTHER ORDERED** that:

3 A. The Stipulating Defendants, and their officers, agents, directors,
4 servants, employees, salespersons, independent contractors, attorneys,
5 corporations, subsidiaries, affiliates, successors, and assigns, all other
6 persons or entities in active concert or participation with them, who
7 receive actual notice of this Order by personal service or otherwise,
8 whether acting directly or through any trust, corporation, subsidiary,
9 division, or other device, or any of them, shall fully cooperate with
10 and assist the Receiver. The Stipulating Defendants' cooperation and
11 assistance shall include, but not be limited to:

- 12 1. Providing any information to the Receiver that the Receiver
13 deems necessary to exercising the authority and discharging the
14 responsibilities of the Receiver under this Order, including but
15 not limited to allowing the Receiver to inspect documents and
16 assets and to partition office space;
- 17 2. Providing any password and executing any documents required
18 to access any computer or electronic files in any medium,
19 including but not limited to electronically stored information
20 stored, hosted or otherwise maintained by an electronic data
21 host; and
- 22 3. Advising all persons who owe money to Defendant Green
23 Fidelity Allegiance, Inc. that all debts should be paid directly to
24 the Receiver.
25

26 B. The Stipulating Defendants and their officers, directors, agents,
27 servants, employees, attorneys, successors, assigns, and all other
28 persons or entities directly or indirectly, in whole or in part, under

1 their control, and all other persons in active concert or participation
2 with them who receive actual notice of this Order by personal service
3 or otherwise, are hereby restrained and enjoined from directly or
4 indirectly:

- 5 1. Transacting any of the business of Defendant Green Fidelity
6 Allegiance, Inc.;
- 7 2. Destroying, secreting, erasing, mutilating, defacing, concealing,
8 altering, transferring or otherwise disposing of, in any manner,
9 directly or indirectly, any documents, electronically stored
10 information, or equipment of Defendant Green Fidelity
11 Allegiance, Inc., including but not limited to contracts,
12 agreements, consumer files, consumer lists, consumer addresses
13 and telephone numbers, correspondence, advertisements,
14 brochures, sales material, sales presentations, documents
15 evidencing or referring to Defendants' services, debt collection
16 training materials, debt collection scripts, data, computer tapes,
17 disks, or other computerized records, books, written or printed
18 records, handwritten notes, telephone logs, "verification" or
19 "compliance" tapes or other audio or video tape recordings,
20 receipt books, invoices, postal receipts, ledgers, personal and
21 business canceled checks and check registers, bank statements,
22 appointment books, copies of federal, state or local business or
23 personal income or property tax returns, photographs, mobile
24 devices, electronic storage media, accessories, and any other
25 documents, records or equipment of any kind that relate to the
26 business practices or business or personal finances of
27 Defendant Green Fidelity Allegiance, Inc. or any other entity
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1 directly or indirectly under the control of Defendant Green
2 Fidelity Allegiance, Inc.;

3 3. Transferring, receiving, altering, selling, encumbering,
4 pledging, assigning, liquidating, or otherwise disposing of any
5 assets owned, controlled, or in the possession or custody of, or
6 in which an interest is held or claimed by, Defendant Green
7 Fidelity Allegiance, Inc., or the Receiver;

8 4. Excusing debts owed to Defendant Green Fidelity Allegiance,
9 Inc.;

10 5. Failing to notify the Receiver of any asset, including accounts,
11 of Defendant Green Fidelity Allegiance, Inc. held in any name
12 other than the name of Defendant Green Fidelity Allegiance,
13 Inc., or by any person or entity other than Defendant Green
14 Fidelity Allegiance, Inc., or failing to provide any assistance or
15 information requested by the Receiver in connection with
16 obtaining possession, custody, or control of such assets;

17 6. Failing to create and maintain books, records, and accounts
18 which, in reasonable detail, accurately, fairly, and completely
19 reflect the incomes, assets, disbursements, transactions and use
20 of monies by Defendants or any other entity directly or
21 indirectly under the control of the Defendants;

22 7. Doing any act or refraining from any act whatsoever to interfere
23 with the Receiver's taking custody, control, possession, or
24 managing of the assets or documents subject to this
25 Receivership; or to harass or to interfere with the Receiver in
26 any way; or to interfere in any manner with the exclusive
27 jurisdiction of this Court over the assets or documents of
28

1 Defendant Green Fidelity Allegiance, Inc.; or to refuse to
2 cooperate with the Receiver or the Receiver's duly authorized
3 agents in the exercise of their duties or authority under any
4 Order of this Court;

- 5 8. Filing, or causing to be filed, any petition on behalf of
6 Defendant Green Fidelity Allegiance, Inc. for relief under the
7 United States Bankruptcy Code, 11 U.S.C. § 101 et seq.,
8 without prior permission from this Court; and
- 9 9. Creating, operating, exercising any control over, becoming
10 employed by or affiliated with, or performing any work for any
11 business entity, including but not limited to any partnership,
12 limited partnership, joint venture, sole proprietorship, or
13 corporation without first providing the FTC with a sworn
14 written statement at least seven (7) calendar days prior to such
15 creation, operation, exercise, employment, affiliation, or
16 performance of work disclosing:
- 17 a. The name, address and telephone number of the business
18 entity;
 - 19 b. The names of the business entity's officers, directors,
20 principals, managers, and employees; and
 - 21 c. A detailed description of the business entity's intended
22 activities and the nature of the duties or responsibilities
23 of Defendant Green Fidelity Allegiance, Inc.
24

25 **DELIVERY OF RECEIVERSHIP PROPERTY**

26 **XI. IT IS FURTHER ORDERED** that:

- 27 A. Immediately upon service of this Order upon them or upon their
28 otherwise obtaining actual knowledge of this Order, or within a period

1 permitted by the Receiver, the Stipulating Defendants or any other
2 person or entity, including but not limited to financial institutions and
3 electronic data hosts, shall transfer or deliver access to, possession,
4 custody, and control of the following to the Receiver:

- 5 1. All assets of Defendant Green Fidelity Allegiance, Inc.;
- 6 2. All documents and electronically stored information of
7 Defendant Green Fidelity Allegiance, Inc., including, but not
8 limited to, books and records of accounts, all financial and
9 accounting records, balance sheets, income statements, bank
10 records (including monthly statements, canceled checks,
11 records of wire transfers, records of ACH transactions, and
12 check registers), client or customer lists, title documents and
13 other papers;
- 14 3. All assets belonging to members of the public now held by
15 Defendant Green Fidelity Allegiance, Inc.;
- 16 4. All keys, computer and other passwords, entry codes,
17 combinations to locks required to open or gain or secure access
18 to any assets or documents of Defendant Green Fidelity
19 Allegiance, Inc., wherever located, including, but not limited to,
20 access to their business premises, means of communication,
21 accounts, computer systems, or other property; and
- 22 5. Information identifying the accounts, employees, properties, or
23 other assets or obligations of Defendant Green Fidelity
24 Allegiance, Inc.

25
26 B. In the event any person or entity fails to deliver or transfer
27 immediately any asset or otherwise fails to comply with any provision
28 of this Section XI, the Receiver may file *ex parte* with the Court an

1 Affidavit of Non-Compliance regarding the failure. Upon filing of the
2 affidavit, the Court may authorize, without additional process or
3 demand, Writs of Possession or Sequestration or other equitable writs
4 requested by the Receiver. The writs shall authorize and direct the
5 United States Marshal or any sheriff or deputy sheriff of any county
6 (pursuant to Fed. R. Civ. P. 4(c)(1)) to seize the asset, document, or
7 other thing and to deliver it to the Receiver.

8 **COMPENSATION FOR RECEIVER**

9 **XII. IT IS FURTHER ORDERED** that the Receiver and all personnel hired by
10 the Receiver as herein authorized, including counsel to the Receiver and
11 accountants, are entitled to reasonable compensation for the performance of
12 duties pursuant to this Order, and for the cost of actual out-of-pocket
13 expenses incurred by them, from the assets now held by or in the possession
14 or control of, or which may be received by, Defendant Green Fidelity
15 Allegiance, Inc. The Receiver shall file with the Court and serve on the
16 parties periodic requests for the payment of such reasonable compensation,
17 with the first such request filed no more than sixty (60) days after the date of
18 this Order. The Receiver shall not increase the hourly rates used as the bases
19 for such fee applications without prior approval of the Court.
20

21 **RECEIVER'S REPORTS**

22 **XIII. IT IS FURTHER ORDERED** that the Receiver shall periodically report to
23 this Court regarding: (1) the steps taken by the Receiver to implement the
24 terms of this Order; (2) the value of all liquidated and unliquidated assets of
25 Defendant Green Fidelity Allegiance, Inc.; (3) the sum of all liabilities of
26 Defendant Green Fidelity Allegiance, Inc.; (4) the steps the Receiver intends
27 to take in the future to: (a) prevent any diminution in the value of assets of
28 Defendant Green Fidelity Allegiance, Inc., (b) pursue receivership assets

1 from third parties, and (c) adjust the liabilities of Defendant Green Fidelity
2 Allegiance, Inc., if appropriate; (5) whether the business of Defendant Green
3 Fidelity Allegiance, Inc. can be operated lawfully and profitably; and (6) any
4 other matters which the Receiver believes should be brought to the Court's
5 attention. *Provided, however,* if any of the required information would
6 hinder the Receiver's ability to pursue receivership assets, the portions of the
7 Receiver's report containing such information may be filed under seal and
8 not served on the parties.

9 **RECEIVER'S BOND**

10 **XIV. IT IS FURTHER ORDERED** that the bond in the sum of \$5,000
11 previously filed by the Receiver with the Clerk of this Court shall remain in
12 effect, conditioned that the Receiver will well and truly perform the duties of
13 the office and abide by and perform all acts the Court directs.

14 **PROHIBITION ON RELEASE OF CONSUMER INFORMATION**

15 **XV. IT IS FURTHER ORDERED** that, except as required by a law
16 enforcement agency, law, regulation or court order, the Stipulating
17 Defendants, and their officers, agents, servants, employees, and attorneys,
18 and all other persons in active concert or participation with any of them who
19 receive actual notice of this Order by personal service or otherwise, are
20 restrained and enjoined from disclosing, using, or benefitting from consumer
21 information, including the name, address, telephone number, email address,
22 social security number, other identifying information, or any data that
23 enables access to a consumer's account (including a credit card, bank
24 account, or other financial account), of any person which any Defendant
25 obtained prior to entry of this Order in connection with any debt collection
26 service.
27
28

1 **STAY OF ACTIONS**

2 **XVI. IT IS FURTHER ORDERED** that:

3 A. Except by leave of this Court, during pendency of the Receivership
4 ordered herein, the Stipulating Defendants and all other persons and
5 entities be and hereby are stayed from taking any action to establish or
6 enforce any claim, right, or interest for, against, on behalf of, in, or in
7 the name of, Defendant Green Fidelity Allegiance, Inc., any of its
8 subsidiaries, affiliates, partnerships, assets, documents, or the
9 Receiver or the Receiver’s duly authorized agents acting in their
10 capacities as such, including, but not limited to, the following actions:

- 11 1. Commencing, prosecuting, continuing, entering, or enforcing
12 any suit or proceeding, except that such actions may be filed to
13 toll any applicable statute of limitations;
- 14 2. Accelerating the due date of any obligation or claimed
15 obligation; filing or enforcing any lien; taking or attempting to
16 take possession, custody, or control of any asset; attempting to
17 foreclose, forfeit, alter, or terminate any interest in any asset,
18 whether such acts are part of a judicial proceeding, are acts of
19 self-help, or otherwise;
- 20 3. Executing, issuing, serving, or causing the execution, issuance
21 or service of, any legal process, including, but not limited to,
22 attachments, garnishments, subpoenas, writs of replevin, writs
23 of execution, or any other form of process whether specified in
24 this Order or not; or
- 25 4. Doing any act or thing whatsoever to interfere with the
26 Receiver taking custody, control, possession, or management of
27 the assets or documents subject to this Receivership, or to
28

1 harass or interfere with the Receiver in any way, or to interfere
2 in any manner with the exclusive jurisdiction of this Court over
3 the assets or documents of Defendant Green Fidelity
4 Allegiance, Inc.;

5 B. This Section XVI does not stay:

- 6 1. The commencement or continuation of a criminal action or
7 proceeding;
- 8 2. The commencement or continuation of an action or proceeding
9 by a governmental unit to enforce such governmental unit's
10 police or regulatory power;
- 11 3. The enforcement of a judgment, other than a money judgment,
12 obtained in an action or proceeding by a governmental unit to
13 enforce such governmental unit's police or regulatory power; or
- 14 4. The issuance to Defendant Green Fidelity Allegiance, Inc. of a
15 notice of tax deficiency; and

16 C. Except as otherwise provided in this Order, all persons and entities in
17 need of documentation from the Receiver shall in all instances first
18 attempt to secure such information by submitting a formal written
19 request to the Receiver, and, if such request has not been responded to
20 within thirty (30) days of receipt by the Receiver, any such person or
21 entity may thereafter seek an Order of this Court with regard to the
22 relief requested.
23

24 **SERVICE OF THIS ORDER**

25 **XVII. IT IS FURTHER ORDERED** that copies of this Order may be served by
26 facsimile transmission, personal or overnight delivery, or U.S. Express Mail,
27 by agents and employees of the FTC or any state or federal law enforcement
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1 agency or by private process server, on the Stipulating Defendants or any
2 other persons or entities that may be subject to any provision of this Order.

3 **DISTRIBUTION OF ORDER BY DEFENDANTS**

4 **XVIII. IT IS FURTHER ORDERED** that within three (3) calendar days
5 after service of this Order, the Stipulating Defendants shall provide a copy of
6 this Order to each of their agents, employees, directors, officers,
7 subsidiaries, affiliates, attorneys, independent contractors, representatives,
8 franchisees, and all persons in active concert or participation with the
9 Stipulating Defendants. Within five (5) calendar days following this Order,
10 the Stipulating Defendants shall provide the FTC with an affidavit
11 identifying the names, titles, addresses, and telephone numbers of the
12 persons that the Stipulating Defendants have served with a copy of this
13 Order in compliance with this provision.

14 **CORRESPONDENCE WITH PLAINTIFF**

15 **XIX. IT IS FURTHER ORDERED** that, for the purposes of this Order, because
16 mail addressed to the FTC is subject to delay due to heightened security
17 screening, all correspondence and service of pleadings on Plaintiff shall be
18 sent either via electronic transmission or via Federal Express to: Gregory A.
19 Ashe, Federal Trade Commission, 600 Pennsylvania Avenue, NW, Room
20 NJ-3158, Washington, DC 20580. Email: gashe@ftc.gov; Telephone: (202)
21 326-3719; Facsimile: (202) 326-3768.
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JURISDICTION

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

IT IS SO ORDERED, this 19th day of August 2013.



DALE S. FISCHER
UNITED STATES DISTRICT JUDGE

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