

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

**Case No. 8:15-cv-01329-JLS-JCGx**

Consumer Financial Protection Bureau,  
et al.,

Plaintiffs,

v.

Pension Funding, LLC, et al.,

Defendants.

**STIPULATED FINAL JUDGMENT  
AND ORDER AS TO  
DEFENDANTS EDWIN LICHTIG,  
REX HOFELTER, PENSION  
FUNDING, LLC, AND PENSION  
INCOME, LLC**

The Consumer Financial Protection Bureau (Bureau) and Shirin Emami, Acting Superintendent of Financial Services of the State of New York (Superintendent)<sup>1</sup>, commenced this civil action on August 20, 2015, to obtain injunctive, equitable, and monetary relief from Pension Funding, LLC (Pension Funding), Pension Income, LLC (Pension Income), Steven Covey, Edwin Lichtig,

---

<sup>1</sup> Acting Superintendent Emami succeeded Acting Superintendent Anthony J. Albanese on December 1, 2015

1 and Rex Hofelter. The Complaint alleges violations of the Consumer Financial  
2 Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5552(a)(1), 5531, 5536(a), 5564,  
3 5565, and the laws of New York State.

4 Defendants Edwin Lichtig, Rex Hofelter, Pension Funding, and Pension  
5 Income, by and through counsel, agree to the entry of this Proposed Stipulated  
6 Final Judgment and Order (Order).

7 **THEREFORE, it is ORDERED:**

8 **FINDINGS AND CONCLUSIONS**

9 1. This Court has jurisdiction over the parties and the subject matter of  
10 this action.

11 2. The Bureau, the Superintendent, and Defendants Lichtig, Hofelter,  
12 Pension Funding, and Pension Income agree to entry of this Order, without  
13 adjudication of any issue of fact or law, to settle and resolve all matters in dispute  
14 arising from the conduct alleged in the Complaint, with respect to them, to the date  
15 this Order is entered.

16 3. For the purposes of this Order, Defendants Lichtig, Hofelter, Pension  
17 Funding, and Pension Income admit the facts necessary to establish the Court's  
18 jurisdiction over them and the subject matter of this action.

19 4. Defendants Lichtig, Hofelter, Pension Funding, and Pension Income  
20 waive all rights to seek judicial review or otherwise challenge or contest the  
21 validity of this Order. Defendants Lichtig, Hofelter, Pension Funding, and Pension  
22 Income also waive any claim they may have under the Equal Access to Justice Act,  
23 28 U.S.C. § 2412, concerning the prosecution of this action to the date of this  
24 Order. Each Party will bear its own costs and expenses, including without  
25 limitation attorneys' fees.



1 providing services to, or working in any capacity for any person engaged in or  
2 assisting in the offering, marketing, selling, servicing, or providing of any Pension-  
3 Advance Products or Services.

4 **II.**

5 **CONDUCT PROVISIONS AS TO NEW YORK**

6 12. **IT IS FURTHER ORDERED** that Defendants Lichtig, Hofelter,  
7 Pension Funding, and Pension Income are permanently restrained and enjoined  
8 from (1) directly or indirectly offering, marketing, selling, servicing, or providing  
9 any financial products or services in the State of New York or to consumers in the  
10 State of New York that are not compliant with New York State law, or providing  
11 any financial service or product without the requisite New York State license, (2)  
12 assisting any person offering, marketing, selling, servicing, or providing any  
13 financial products or services in the State of New York or to consumers in the State  
14 of New York that are not compliant with New York State law by consulting,  
15 brokering, planning, investing, advising or otherwise, or providing any financial  
16 service or product without the requisite New York State license, and (3) receiving  
17 any monies or consideration from, holding any ownership interest in, providing  
18 services to, or working in any capacity for any person engaged in or assisting in the  
19 offering, marketing, selling, servicing, or providing of any financial products or  
20 services in the State of New York or to consumers in the State of New York that  
21 are not compliant with New York State law, or providing any financial service or  
22 product without the requisite New York State license.

23 13. Defendants Lichtig and Hofelter shall not purchase, distribute,  
24 promote or otherwise cause to exist any New York State-specific advertisements,  
25 endorsements, or other promotional materials for financial products or services that  
26 are not compliant with New York State law. To the extent Defendant Lichtig or  
27 Hofelter engages in any business activities that involve financial products or

1 services with national or regional advertising, including Internet advertising, if  
2 such products and services are not compliant with New York State law, they must  
3 clearly and conspicuously disclose in such advertising that the financial products  
4 and services are not available in New York.

5 14. Defendants Lichtig, Hofelter, Pension Funding, and Pension Income  
6 consent to the enforcement by the Superintendent of the provisions of ¶ 12 in a  
7 New York federal court.

8  
9 **III.**

10 **MONETARY RELIEF**

11 15. **IT IS FURTHER ORDERED** that Defendants Lichtig and Hofelter  
12 must return to Pension Income, LLC, through the receivership estate established by  
13 the appointment of the receiver in this matter, the following amounts:

- 14 a. Defendant Lichtig must pay to the receivership estate \$282,000 by  
15 April 1, 2016; and  
16 b. Defendant Hofelter must pay to the receivership estate \$40,000 by  
17 April 1, 2016.

18 **IV.**

19 **ADDITIONAL MONETARY PROVISIONS**

20 **IT IS FURTHER ORDERED** that,

21 16. In the event of any default on Defendant Lichtig's or Defendant  
22 Hofelter's obligations to make payment under Section III of the Order, interest,  
23 computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding  
24 amounts not paid from the date of default to the date of payment, and will  
25 immediately become due and payable.

26 17. Defendants Lichtig and Hofelter must relinquish all dominion,  
27 control, and title to the funds paid pursuant to ¶ 15 to the fullest extent permitted

1 by law and no part of the funds may be returned to either Defendant Lichtig or  
2 Hofelter. Defendants Lichtig and Hofelter cannot use funds that properly belong to  
3 Pension Income, LLC, or Pension Funding, LLC, to satisfy the requirements of ¶  
4 15.

5 18. Under 31 U.S.C. § 7701, Defendants Lichtig and Hofelter, unless they  
6 already have done so, must furnish to the Bureau taxpayer-identifying numbers,  
7 which may be used for purposes of collecting and reporting on any delinquent  
8 amount arising out of this Order.

9 19. Under § 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681  
10 b(a)(1), any consumer reporting agency may furnish a consumer report concerning  
11 either Defendant Lichtig or Defendant Hofelter to the Bureau, which may be used  
12 for purposes of collecting and reporting on any delinquent amount arising out of  
13 this Order.

14 20. Full compliance with Section III of this Order will satisfy Defendant  
15 Lichtig's and Defendant Hofelter's obligations to pay the costs, fees, and expenses  
16 of the receiver as set forth in Section VIII of the Stipulated Preliminary Injunction,  
17 Appointment of Receiver, and Related Orders, entered by the Court on January 8,  
18 2016.

19 **V.**

20 **APPOINTMENT OF PERMANENT RECEIVER**

21 **IT IS FURTHER ORDERED** that,

22 21. Krista Freitag of E3 Advisors is appointed as the permanent receiver  
23 of Pension Funding, LLC, and Pension Income, LLC, and their subsidiaries,  
24 affiliates, and successors in interest. The permanent receiver shall have full powers  
25 of an equity receiver consistent with the provisions of the Stipulated Preliminary  
26 Injunction, Appointment of Receiver, and Related Orders, entered by the Court on  
27 January 8, 2016, including but not limited to, full power over all funds, assets,







1 pension account, or other financial account, and including any bank accounts used  
2 by any Defendant to receive a consumer's pension payments), that Defendants  
3 obtained or created in connection with Pension-Advance Products or Services.  
4 Notwithstanding this prohibition, the Defendants must provide information about  
5 consumers to the receiver and may disclose such information: a) to the Bureau; b)  
6 to the Superintendent; c) to another government agency; or d) as required by law,  
7 regulation, or court order, to the extent such information is in possession, custody,  
8 or control of either Defendant Lichtig or Hofelter.

### 9 **VIII.**

#### 10 **REPORTING REQUIREMENTS**

11 **IT IS FURTHER ORDERED** that,

12 28. For 10 years from the Effective Date, Defendants must notify the  
13 Bureau and the Superintendent of any development that may affect compliance  
14 obligations arising under this Order, including but not limited to, a dissolution,  
15 assignment, sale, merger, or other action that would result in the emergence of a  
16 successor company; the creation or dissolution of a subsidiary, parent, or affiliate  
17 that engages in any acts or practices subject to this Order; the filing of any  
18 bankruptcy or insolvency proceeding by or against any Defendant; or a change in  
19 any Defendant's name or address. Each Defendant must provide this notice, if  
20 practicable, at least 30 days before the development, but in any case no later than  
21 14 days after the development.

22 29. Within 7 days of the Effective Date, Defendants Lichtig and Hofelter  
23 must:

- 24 a. designate at least one telephone number and email, physical, and  
25 postal address as points of contact, which the Bureau or the  
26 Superintendent may use to communicate with each Defendant;

- 1           b. identify all businesses for which either Defendant is the majority  
2           owner, or that any Defendant directly or indirectly controls, by  
3           providing all of those businesses' names, telephone numbers, and  
4           physical, postal, email, and Internet addresses;
- 5           c. describe the activities of each business identified in (b), including the  
6           products and services offered, and the means of advertising,  
7           marketing, and sales; and
- 8           d. describe in detail the relevant Defendant's involvement in any  
9           business for which he performs services in any capacity or which he  
10          either wholly or partially owns, including the relevant Defendant's  
11          title, role, responsibilities, participation, authority, control, and  
12          ownership.

13           30. For 10 years from the Effective Date, each Defendant must report any  
14 change in the information required to be submitted under ¶ 29 at least 30 days  
15 before the change or as soon as practicable after learning about the change,  
16 whichever is sooner.

17           31. Within 90 days of the Effective Date, and again one year after the  
18 Effective Date, Defendants must submit to the Enforcement Director and the  
19 Superintendent an accurate written compliance progress report (Compliance  
20 Report), which, at a minimum:

- 21           a. describes in detail the manner and form in which the Defendant has  
22           complied with this Order; and
- 23           b. attaches a copy of each Order Acknowledgment obtained under  
24           Section IX, unless previously submitted to the Bureau and the  
25           Superintendent.

26           32. After the one-year period, and continuing for 9 years, Defendants  
27 must submit to the Enforcement Director and the Superintendent additional  
28

1 Compliance Reports within 14 days of receiving a written request from the Bureau  
2 or the Superintendent.

3 **IX.**

4 **ORDER DISTRIBUTION AND ACKNOWLEDGMENT**

5 **IT IS FURTHER ORDERED** that,

6 33. Within 7 days of the Effective Date, each Defendant must submit to  
7 the Enforcement Director and the Superintendent an acknowledgment of receipt of  
8 this Order, sworn under penalty of perjury.

9 34. Within 30 days of the Effective Date, each Defendant, for any  
10 business for which the Defendant is the majority owner or directly or indirectly  
11 controls, must deliver a copy of this Order to each of its board members and  
12 executive officers, as well as to any managers, employees, service providers, or  
13 other agents and representatives who have responsibilities related to the subject  
14 matter of this Order.

15 35. For 5 years from the Effective Date, each Defendant, for any business  
16 for which the Defendant is a majority owner or directly or indirectly controls, must  
17 deliver a copy of this Order to any business entity resulting from any change in  
18 structure referred to in Section VIII, any future board members and executive  
19 officers, as well as to any managers, employees, service providers, or other agents  
20 and representatives who will have responsibilities related to the subject matter of  
21 the Order before they assume their responsibilities.

22 36. Defendants must secure a signed and dated statement acknowledging  
23 receipt of a copy of this Order, ensuring that any electronic signatures comply with  
24 the requirements of the E-Sign Act, 15 U.S.C. § 7001 et seq., within 30 days of  
25 delivery, from all persons receiving a copy of this Order under this Section.

26 **X.**

27 **RECORDKEEPING**



1 Executive Deputy Superintendent  
2 Financial Frauds & Consumer Protection  
3 New York State Department of Financial Services  
4 ATTENTION: Anna MacCormack, Assistant Counsel  
5 1 State Street  
6 New York, NY 10004

7 FFCPD\_Enforcement@dfs.ny.gov; or

- 8 b. By first class mail to the below addresses and contemporaneously by  
9 email to:

10 Assistant Director for Enforcement  
11 Consumer Financial Protection Bureau  
12 ATTN: Office of Enforcement  
13 1700 G Street, NW  
14 Washington, DC 20552

15 Enforcement\_Compliance@cfpb.gov

16 and

17 Executive Deputy Superintendent  
18 Financial Frauds & Consumer Protection  
19 New York State Department of Financial Services  
20 ATTENTION: Anna MacCormack, Assistant Counsel  
21 1 State Street  
22 New York, NY 10004

23 FFCPD\_Enforcement@dfs.ny.gov.

## 24 XII.

### 25 COOPERATION WITH THE BUREAU AND THE SUPERINTENDENT

26 IT IS FURTHER ORDERED that,

27 41. If necessary, Defendants Lichtig and Hofelter must cooperate fully to  
28 help the Bureau or the Superintendent determine the identity and location of, and  
the amount of injury sustained by, any person affected by Defendants' Pension-

1 Advance Product or Services. Defendants must make available or turn over to the  
2 Bureau or the Superintendent such information in their or their agents' possession  
3 or control within 14 days of receiving a written request from the Bureau.

4 42. Defendants Lichtig and Hofelter must cooperate fully with the Bureau  
5 or the Superintendent in this matter and in any investigation related to or associated  
6 with the conduct described in the Complaint. Defendants must provide truthful and  
7 complete information, evidence, and testimony. These Defendants must appear for  
8 interviews, discovery, hearings, trials, and any other proceedings that the Bureau or  
9 the Superintendent may reasonably request upon 5 days written notice, or other  
10 reasonable notice, at such places and times as the Bureau or the Superintendent  
11 may designate, without the service of compulsory process.

### 12 XIII.

#### 13 COMPLIANCE MONITORING

14 **IT IS FURTHER ORDERED** that, to monitor Defendant Lichtig's and  
15 Defendant Hofelter's compliance with this Order,

16 43. Within 14 days of receipt of a written request from the Bureau or the  
17 Superintendent, the given Defendant must submit additional compliance reports or  
18 other requested information, which must be made under penalty of perjury; provide  
19 sworn testimony; or produce documents.

20 44. For purposes of this Section, the Bureau or the Superintendent may  
21 communicate directly with either Defendant Lichtig or Hofelter, unless that  
22 Defendant retains counsel related to these communications.

23 45. The given Defendant must permit Bureau or Superintendent  
24 representatives to interview any employee or other person affiliated with the  
25 Defendant who has agreed to such an interview. The person interviewed may have  
26 counsel present.

