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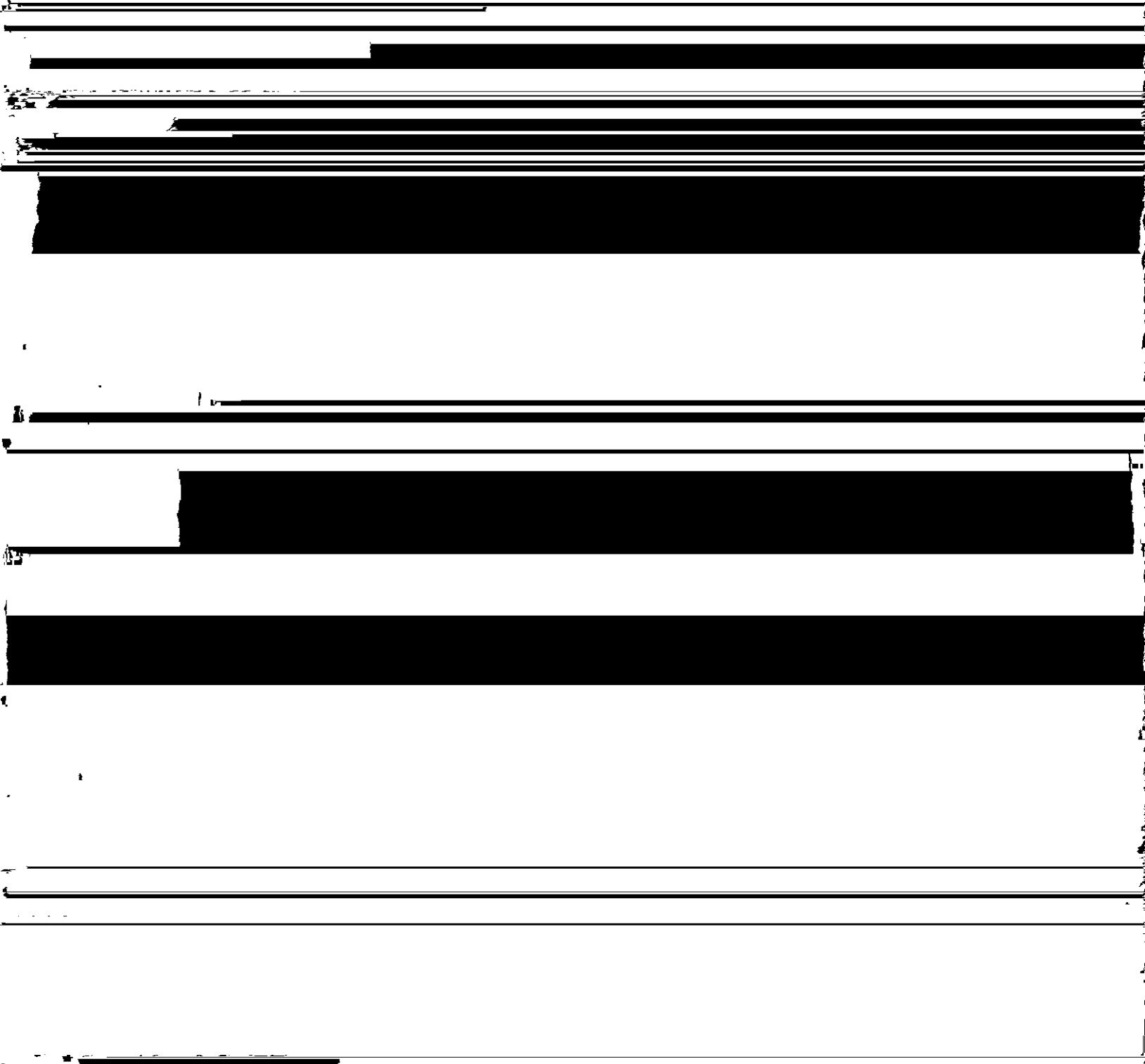
FILED  
MAY - 5 2003  
CLERK, U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SANTA ANA  
BY

**FINDINGS**

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1. This Court has jurisdiction over the subject matter and the parties pursuant to 15 U.S.C. §§ 45(a), 53(b), 6821(a), and 6822(a), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

2. Venue is proper as to all parties in the Central District of California pursuant to 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).





1 D. "Plaintiff" means Federal Trade Commission.

2 E. "Spoofing" means the practice of disguising a commercial email to  
3 make the email appear to come from an address from which it actually did not  
4 originate. Spoofing involves placing in the "From" or "Reply-to" lines, or in other  
5 portions of email messages, an email address other than the actual sender's address,  
6 without the consent or authorization of the user of the email address whose address is  
7 spoofed.

8 F. "Customer information of a financial institution" is synonymous in  
9 meaning and equal in scope to the usage of the term in Section 527(2) of the GLB  
10 Act, 15 U.S.C. § 6827(2).

11 G. "Unsolicited commercial email" means an electronic mail message that  
12 consists of or contains a communication advertising, promoting, soliciting, offering,  
13 or offering to sell any product or service, and that is not requested by the addressee or  
14 recipient or sent pursuant to a pre-existing business or personal relationship between  
15 the sender and the addressee or recipient of the email.

16 **Conduct Prohibitions**

17 **I. BAN REQUIREMENTS**

18 **IT IS THEREFORE ORDERED** that Defendants are hereby restrained and  
19 enjoined from engaging, participating in, or assisting in any manner or in any  
20 capacity whatsoever, whether directly or indirectly, in concert with others, or through  
21 any intermediary, third party, business entity, or device, in the marketing, advertising,  
22 promotion, or sending of unsolicited commercial email.

23 **II. INJUNCTION AGAINST MISREPRESENTATIONS**

24 **IT IS FURTHER ORDERED** that in connection with the advertising,  
25 promotion, offering or sale of goods or services in commerce not covered by Section  
26 I, above, Defendants are hereby restrained and enjoined from making any express or  
27 implied misrepresentation or omission of material fact that is false or misleading, in  
28 any manner, directly or indirectly, to any consumer or entity, including, but not

1 limited to, the following:

2       A. Misrepresenting that Defendants are affiliated with, or are calling from or  
3 on behalf of, a financial institution, including, but not limited to, Radian, Prudential,  
4 or Fannie Mae, or a company affiliated with these businesses;

5       B. Misrepresenting that the email addresses of email recipients will, upon

1 (\$60,500.00) is hereby entered against Defendants GM Funding, Inc., Robert D.  
2 Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner, jointly and  
3 severally. This judgment is satisfied by the total, aggregate payment of Sixty  
4 Thousand Five Hundred Dollars (\$60,500.00) by Defendants GM Funding, Inc.,  
5 Robert D. Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner made to  
6 the Commission concurrently with their execution of this Order.

7 B. Defendants GM Funding, Inc., Robert D. Kutzner, Global Mortgage  
8 Funding, Inc., and Damian R. Kutzner relinquish all dominion, control, and title to  
9 the monies transferred to the FTC pursuant to this Section, and agree that all legal and  
10 equitable title to those monies is vested in the Commission.

11 C. In accordance with 31 U.S.C. § 7701, Defendants GM Funding, Inc.,  
12 Robert D. Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner are  
13 hereby required, unless they have done so already, to furnish to the Commission their  
14 respective taxpayer identifying numbers (social security numbers or employer  
15 identification numbers) which shall be used for purposes of collecting and reporting

16 \_\_\_\_\_ Defendant's consent to judgment of Defendants' relationship with the

1                                   **VI. COMMISSION'S USE OF MONETARY JUDGMENT**

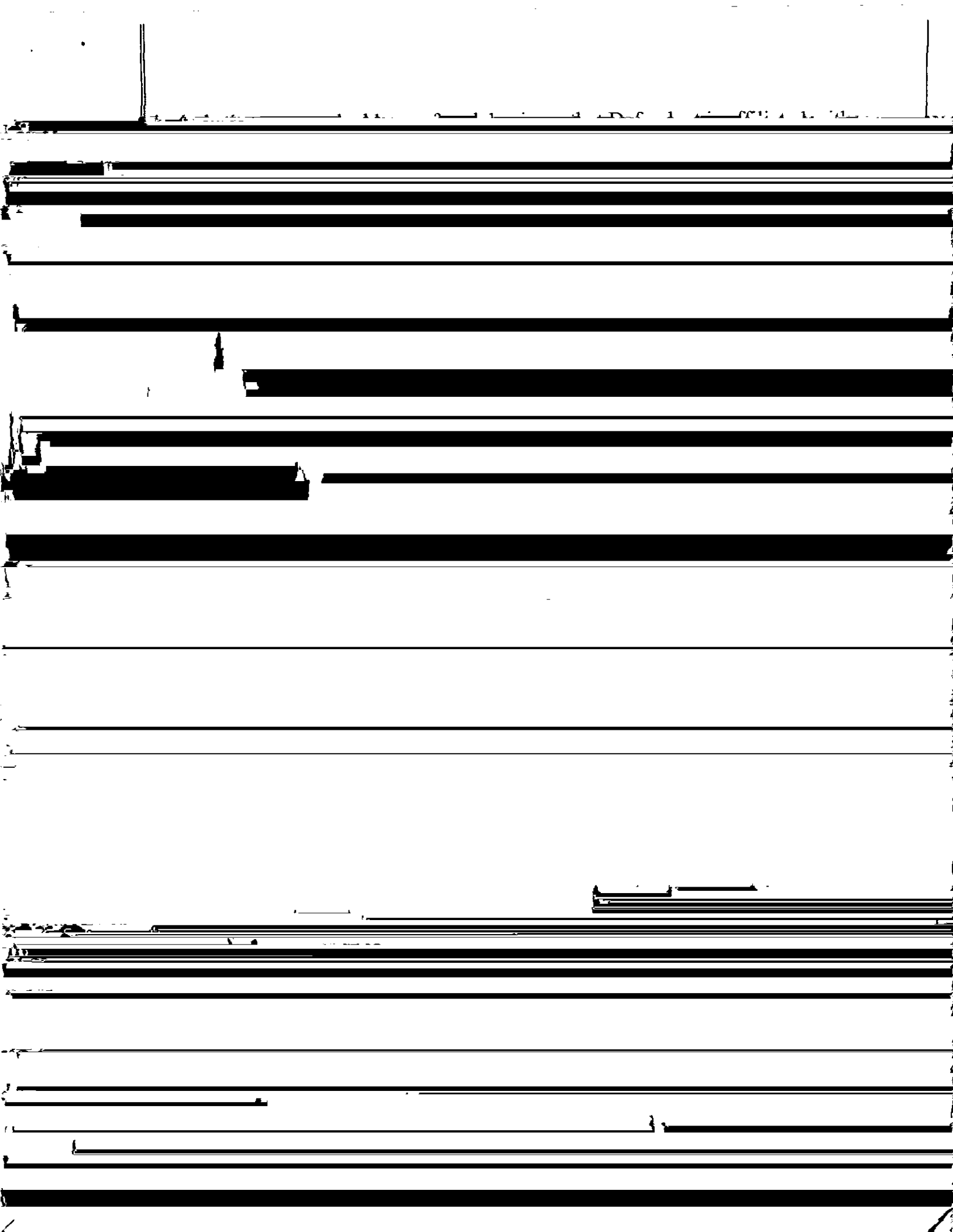
2                   **IT IS FURTHER ORDERED** that all funds paid pursuant to Section V of this

3 Order shall be deposited into a fund administered by the Commission or its agent to

4 be used for equitable relief, including, but not limited to, consumer redress and any

1 court, using the procedures proscribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;  
2 2. posing as consumers and suppliers to: Defendants GM Funding,  
3 Inc., Robert D. Kutzner, Global Mortgage Funding, Inc., and Damian R. Kutzner,  
4 Defendants GM Funding, Inc.'s, Robert D. Kutzner's, Global Mortgage Funding,  
5 Inc.'s, and Damian R. Kutzner's employees, or any other entity managed or  
6 controlled in whole or in part by Defendants GM Funding, Inc., Robert D. Kutzner,  
7 Global Mortgage Funding, Inc., and Damian R. Kutzner, without the necessity of



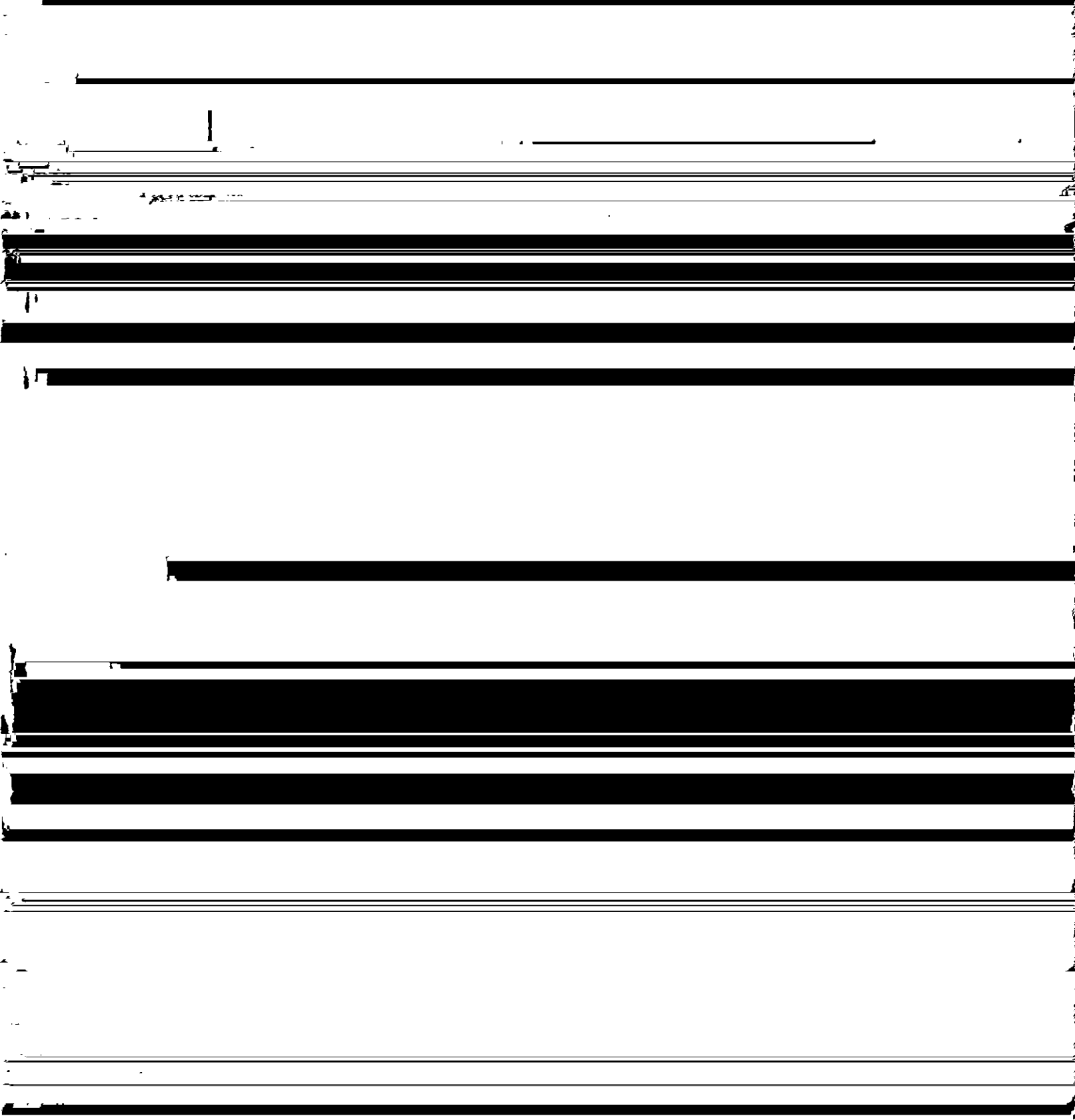


1 directed by the Commission's authorized representatives, mail all written  
2 notifications to the Commission to:

3 Associate Director, Division of Marketing Practices  
4 Federal Trade Commission  
600 Pennsylvania Ave. NW  
Washington, DC 20580

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D. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and



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**XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANT**

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**IT IS FURTHER ORDERED** that each Defendant, within five (5) business

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1                                    **XV. PROHIBITIONS INVOLVING CONSUMER LISTS**

2                    **IT IS FURTHER ORDERED** that Defendants are hereby restrained and  
3 enjoined from:

4                    A.     Selling, renting, leasing, transferring, or otherwise disclosing the name,  
5 address, telephone number, credit card number, bank account number, email address,  
6 or other identifying information of any person who submitted such information to  
7 Defendants at any time prior to entry of this Order, in connection with the advertising,  
8 promotion, telemarketing, offering for sale, or sale of any product or service in

9 ~~any other manner~~ in connection with communications to actual and prospective

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 agree that the entry of the foregoing order shall constitute a full, complete, and final  
2 settlement of this action.

3 **STIPULATED AND AGREED AS FOLLOWS:**

4 **FOR THE PLAINTIFF:**

5 DATED: April 24, 2003

6 Brian Husman

7 Brian Husman, Esq.  
8 Federal Trade Commission  
9 600 Pennsylvania Ave. NW, H-238  
10 Washington, D.C. 20580  
11 (202) 328-3320  
12 (202) 328-3395 facsimile

13 *Attorney for Plaintiff*

4 **FOR THE DEFENDANTS:**

5 DATED: 2/10/03

6 Steven A. D'Braunstein

7 Steven A. D'Braunstein, Esq.  
8 One Park Plaza, Suite 600  
9 Irvine, CA 92614  
10 (949) 833-0800  
11 (949) 833-0200 facsimile  
12 Attorney for Defendants GM  
13 Funding, Inc. and Robert D. Kutzner

14 DATED: Feb 10, 2003

15 Robert Damian Kutzner, individually  
16 and on behalf of GM Funding, Inc.

17 DATED: Feb 10, 2003

18 George C. Rudolph

19 George C. Rudolph, Esq.  
20 Eschalter, Nemer, Fields & Young  
21 895 Dove Street, Suite 400  
22 Newport Beach, CA 92660  
23 (949) 760-1121  
24 (949) 720-0182 facsimile  
25 Attorney for Global Mortgage  
26 Funding, Inc., and Damian R. Kutzner

27 DATED: 2/9/03

28 Damian Robert Kutzner, individually  
29 and on behalf of Global Mortgage  
30 Funding, Inc.

31 **IT IS SO ORDERED, this** 5 **day of** May, **2003.**

32 David O. Carter  
33 **David O. Carter**  
34 **United States District Judge**