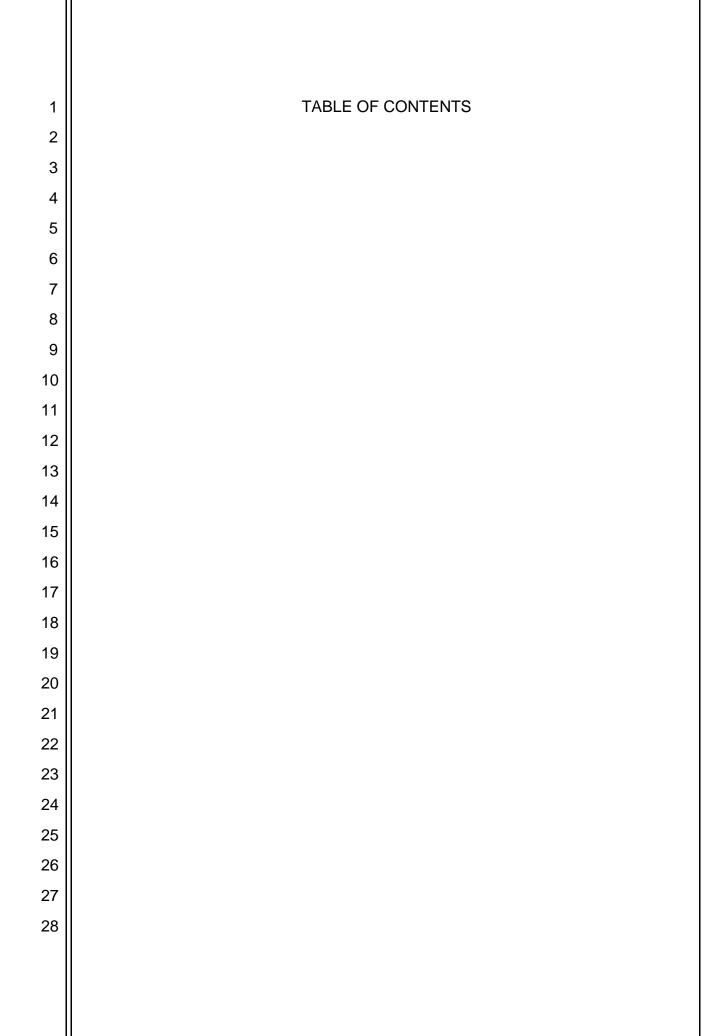
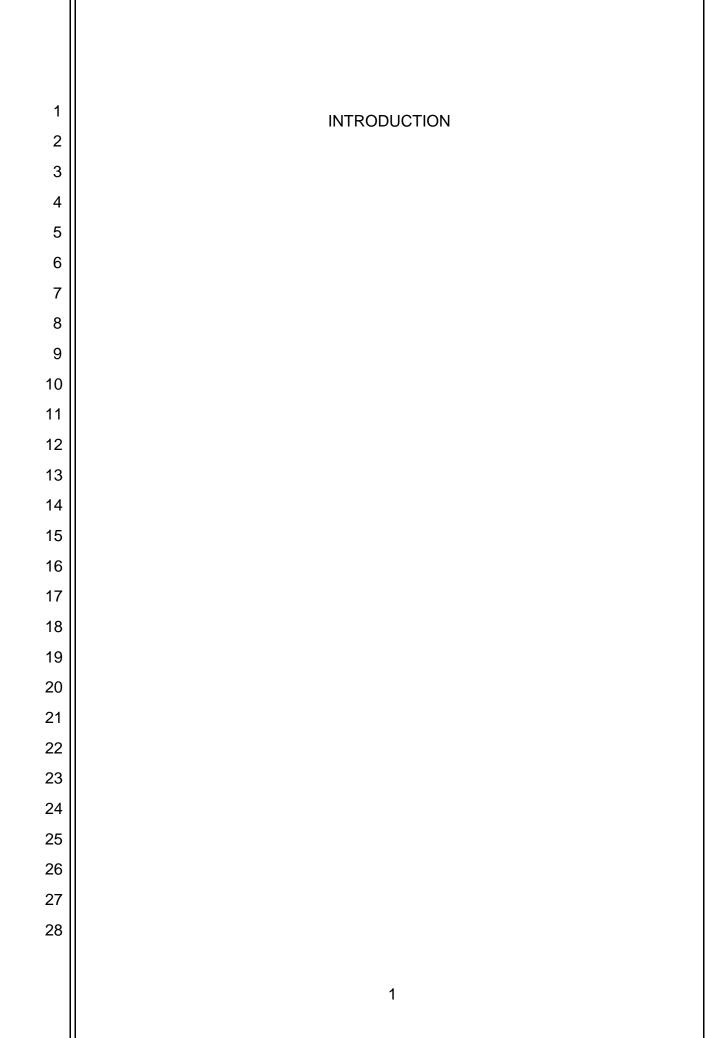
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1	Group;" "Rushmore Financial Group;" and "Ag <b>grat</b> e Merchants." (PX22 ¶7, Att. D at 6, 10,							
2	13, 18, 35, 55, 68, 70.)							
3	The mailers promise recipients they will be ive sizable payouts, stating, among other							
4	things:							
5	x "Our office has issued this Certified Lette your immediate attention regarding	g						
6	money due you from our current award distribution and to make available to							
7	as a CASH AWARD WINNER the mandatorw7p p6(ofilon re 6, orw7p ))							
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Burke is in constant contact withis network of associates arouthe world to keep track of his mailboxes, manage the mail directed to each **bod**, direct the opening and closing of boxes as necessary. (PX22 ¶16, Att. M at 60-75.)

Once consumers send their money to one **of &Bs** boxes, his associates open and sort the returns. (Dkt. 155-4 at 6-7, PX2 ¶¶ **5P0** (22 ¶16, Att. M at 2-13, 20-22.) Depending or Burke's arrangement with the associate who holded eposited into one of Burke's accounts. (Dkt. 155-4 at 6, PX2 ¶6; PX22 ¶16, Att. M at 20-21, 27, 76h) ecks and money orders are harder to process, particularly as they are dreaout to many different payee **£**.**g**, PX22 ¶7, Att. D at 85-93, checks to Security Services, RDC, SSI, Electivatilements, CAN, Processing Center, LFS, Peterson & Associates, and Hage Funding Resources.) rise has employed a range of solutions for this problem. For years, he **agreed** for his associates **op** en accounts at banks, including in Panama, willing to accept deposition for the same of checks each day. (PX22 ¶16, Att. M at 15, 17-22.) In one instance, to accompting Burke agreed to pay a \$2,000 "required gift" through his associates (PX22 ¶16, Att. M at 14-15.)

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1		<b>.</b>
2	ask PAS [a list broker] to put NV back on the site mail to? We thought the original reason	TOP
3	suppressing NV was so no one could walk rig <b>tu th</b> e box location and	
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million. That figure, however, does not accotor cash received, credit-card payments, or checks processed through othearchels, and thus likely signifiantly underestimates the amount consumers paid in response to Burke's mailers.

## ARGUMENT

Civil contempt is warranted where thereclies ar and convincing extence the contemnors violated a specific and defte order of the courtFTC v. Affordable Media, LL,CI79 F.3d 1228, 1239 (9th Cir. 1999). Here, in addition the violations outlined in the FTC's First Contempt Motion, there is cleand convincing evidence the turke's deceptive direct-mail scheme violates the specific and definitevoirs ion of the Permanent Injunction prohibiting misrepresentations. Thus, following a brief period discovery to estable the extent of the

Specifically, the additional mailer asks consumventiant kinds of big-ticket items they purchased with their purported winnings and pushes comers who have not yet received the "winnings" checks – which, in fact, include all consumersoweleceive the additional mailer – to send in a fee while Burke's fictitious compay prepares the "replacement check."

In reality, no consumer ever receives the promised winnings. The mailers do not come from law firms, financial firms, or governmeadgencies; instead, Burkænd his team of hired copywriters and designers creative letters and devise afficial-sounding name to emblazon across the top. The purported "diaaæs" creating a sense of urgency and legitimacy are false – Burke simply routes consumers' funds inhis own accounts whenever they arrive. Most importantly, not a single consumer ever receithe full amount of money the mailers so prominently and repeatedly promise. If Burkedse consumers anything at all, he sends a check or money order for less than \$2. These missemptations deceive consumers into paying Burke's fees, as demonstrated by the numecoursplaints Burke received from consumers (many of which he shreds) and the actions bits to hide his misrepesentations from law enforcement.

III. Burke's Direct Mail Violations Have Caused Millions in Consumer Harm.

After appropriate contempt proceedings, Baushould be found in contempt for both his deceptive telemarketing and his deceptive mailings, and ordered to compensate victimized consumers. The Court has broad authoritympose sanctions for violations of its orders, including requiring compensation flowsses sustained as a result of the failure to comply with the order. United States v. UniteMine Workers of Am330 U.S. 258, 303-04 (1947K)oninklijke Philips Elec. N.V. v. KXD Tech., In ©39 F.3d 1039, 1042 (9th Cir. 2008) (purpose of civil contempt is coercive or compensatory).athFTC contempt action, consumer loss is an

Some of the deceptive mailers include a **depise**k of text on the back titled "Consumer Disclosure," which does nothing to cure the **reps** sentations featured prominently throughout the mailer. [E.g., PX22 ¶7, Att. D at 69.) Indeed et purported "disclosure" actually makes additional misrepresentations – claiming, for **amst**e, that as part of a so-called "premium incentive" promotion, the consumer is "entitled" **resc**eive a "prize" that may be thousands of dollars. (d.) In fact, no consumer **ev** receives more than \$1.12.

appropriate measure of the compensatory remedy.

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