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**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

**STIPULATED FINAL ORDER FOR
PERMANENT INJUNCTION AND
SETTLEMENT OF CLAIMS AS TO
DEFENDANT SJ CAPITOL, LLC**

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 Defendant SJ Capitol, LLC. The Court entered a Stipulated Preliminary Injunction against SJ Capitol on August 19, 2013 (“Stipulated Preliminary Injunction”). The

1 FTC, defendant SJ Capitol, LLC, and the Receiver have stipulated and agreed to
2 entry of this Final Order for Permanent Injunction and Settlement of Claims
3 (“Order”) to resolve all matters in dispute in this action between them.
4

5 The Receiver is entering into this Order on behalf of SJ Capitol based upon
6 the powers granted to him under the Stipulated Preliminary Injunction. The
7 Receiver notes that SJ Capitol has not appeared in this action through counsel. The
8 Receiver has spoken to the principal for SJ Capitol, Shenea January, who has
9 indicated she does not intend to oppose entry of this Order.
10
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12 FINDINGS

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

- 14 1. This is an action by the FTC instituted under Section 13(b) of the FTC Act,
15 15 U.S.C. § 53(b), and Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a).
16 The Complaint seeks both permanent injunctive relief and equitable
17 monetary relief for the Stipulating Defendant’s alleged deceptive acts or
18 practices as alleged therein.
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- 20 2. The FTC has the authority under Section 13(b) of the FTC Act and
21 Section 814(a) of the FDCPA to seek the relief it has requested, and the
22 Complaint states a claim upon which relief can be granted against the
23 Stipulating Defendant.
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3. This Court has jurisdiction over the subject matter of this case and has

DEFINITIONS

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2 1. **“Consumer”** means any person.
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4 2. **“Credit repair services”** means using any instrumentality of interstate
5 commerce or the mails to sell, provide, or perform any service, in return for
6 the payment of money or other valuable consideration, for the express or
7 implied purpose of (i) improving any consumer’s credit record, credit
8 history, or credit rating, or (ii) providing advice or assistance to any
9 consumer with regard to any activity or service described in clause (i).
10
- 11
12 3. **“Debt”** means any obligation or alleged obligation to pay money arising out
13 of a transaction, whether or not such obligation has been reduced to
14 judgment.
15
- 16 4. **“Debt collection activities”** means any activities of a debt collector to
17 collect or attempt to collect, directly or indirectly, a debt owed or due, or
18 asserted to be owed or due, another.
19
- 20 5. **“Debt collector”** means any person who uses any instrumentality of
21 interstate commerce or the mails in any business the principal purpose of
22 which is the collection of any debts, or who regularly collects or attempts to
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1 indicate that a third person is collecting or attempting to collect such debts.

2 The term also include any person to the extent such person receives an
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28 (A) negotiate, settle, or in

a sale to a third party that is not th

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**PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL
RELATED PRODUCTS OR SERVICES**

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3 **II. IT IS FURTHER ORDERED** that the Stipulating Defendant and its
4 officers, agents, servants, employees, and attorneys, and those persons or
5 entities in active concert or participation with any of them who receive
6 actual notice of this Order by personal service, facsimile transmission, email,
7 or otherwise, whether acting directly or through any corporation, subsidiary,
8 division, or other device, in connection with the advertising, marketing,
9 promotion, offering for sale or sale of any financial-related product or
10 service, are hereby permanently restrained and enjoined from:
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14 A. Misrepresenting or assisting others in misrepresenting, expressly or by
15 implication, any material fact, including but not limited to:

- 16
17 1. The terms or rates that are available for any loan or other
18 extension of credit;
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20 2. Any person's ability to improve or otherwise affect a
21 consumer's credit record, credit history, or credit rating or
22 ability to obtain credit;
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3. That any person can improve any consumer's credit record,
credit history, or credit rating by permanently removing
negative information from the consumer's credit record, credit
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7. The nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be provided to the consumer; and

8. Any other fact material to consumers concerning any financial-related product or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics; and

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CONSUMER INFORMATION

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III. IT IS FURTHER ORDERED that the Stipulating Defendant and its successors, assigns, officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient consumer information to enable the FTC to administer efficiently consumer redress. If a representative of the FTC requests in writing any information related to redress, the Stipulating Defendants must provide it, in the form prescribed by the FTC, within 14 days.
- B. Disclosing, using, or benefitting from consumer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer’s account (including a credit card, bank account, or other financial account) of any person that any Defendant obtained prior to entry of this Order in connection with the collection or attempted collection of any debt, and

1 C. Failing to destroy such consumer information in all forms in their
2 possession, custody, or control within thirty (30) days after receipt of
3 written direction to do so from a representative of the FTC.
4

5 D. **Provided, however,** that consumer information need not be disposed
6 of, and may be disclosed, to the extent requested by a government
7 agency or required by a law, regulation, or court order.
8

9 **MONETARY JUDGMENT**

10 **IV. IT IS FURTHER ORDERED** that:
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12 A. Judgment in the amount of TWO HUNDRED SIXTY THOUSAND
13 AND TWO HUNDRED FORTY FOUR DOLLARS (\$260,244) is
14 entered in favor of the FTC agai
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1 any, in account number xxxx5727 in the name of SJ Capitol d/b/a
2 SCG; (b) Global Payments Direct, Inc. shall, within ten (10) business
3 days of receipt of a copy of this Order, transfer to the Receiver or his
4 designated agent all funds, if any, in account number xxxx0563 in the
5 name of SJ Capitol; (c) JP Morgan Chase Bank shall, within ten (10)
6 business days of receipt of a copy of this Order, transfer to the
7 Receiver or his designated agent all funds, if any, in account numbers
8 xxxx8290 in the name of SJ Capitol d/b/a SCG, and xxxx8700 in the
9 name of SJ Capitol d/b/a SCG; (d) Wells Fargo Bank shall, within ten
10 (10) business days of receipt of a copy of this Order, transfer to the
11 Receiver or his designated agent all funds, if any, in account number
12 xxxx1765 in the name of SJ Capitol;
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17 C. All money paid to the FTC pursuant to this Order may be deposited
18 into a fund administered by the FTC or its designee to be used for
19 equitable relief, including but not limited to consumer redress and any
20 attendant expenses for the administration of any redress funds. If a
21 representative of the FTC decides that direct redress to consumers is
22 wholly or partially impracticable or money remains after redress is
23 completed, the FTC may apply any remaining money for such other
24 equitable relief, including but not limited to consumer information
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1 remedies, as the FTC determines to be reasonably related to the
2 practices alleged in the Complaint. Any money not used for such
3 equitable relief is to be deposited to the United States Treasury as
4 equitable disgorgement. The Stipulating Defendant has no right to
5 challenge any actions the FTC or its representatives may take pursuant
6 to this Subsection.
7

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9 D. The Stipulating Defendant relinquishes dominion and all legal and
10 equitable right, title, and interest in all assets transferred pursuant to
11 this Order and may not seek the return of any assets.
12

13 E. The facts alleged in the Complaint will be taken as true, without
14 further proof, in any subsequent civil litigation by or on behalf of the
15 FTC, including in a proceeding to enforce its rights to any payment or
16 monetary judgment pursuant to this Order, such as a
17 nondischargeability complaint in any bankruptcy case.
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19
20 F. The facts alleged in the Complaint establish all elements necessary to
21 sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the
22 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have
23 collateral estoppel effect for such purposes.
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26 G. The Stipulating Defendant acknowledges that its Taxpayer
27 Identification Numbers (Social Security Numbers or Employer
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1 Identification Numbers), which the Stipulating Defendant previously
2 submitted to the FTC, may be used for collecting and reporting on any
3 delinquent amount arising out of this Order, in accordance with
4
5 31 U.S.C. § 7701.

6 H. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act,
7
8 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish
9
10 a consumer report concerning the Stipulating Defendant to the FTC,
11
12 which shall be used for purposes of collecting and reporting on any
delinquent amount arising out of this Order.

13 CONTINUATION OF RECEIVERSHIP

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15 V. **IT IS FURTHER ORDERED** that Thomas W. McNamara, Esq. shall
16
17 continue as a permanent receiver over the Stipulating Defendant with full
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19 powers of a permanent receiver, including but not limited to those powers
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21 set forth in the Stipulated Preliminary Injunction entered by the Court in this
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23 matter on August 19, 2013, and including full liquidation powers. The
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25 Receiver is directed to wind up the Stipulating Defendant and liquidate all
26
27 assets within 365 days after entry of this Order, but any party or the Receiver
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may request that the Court extend the Receiver's term for good cause. Upon
termination of the receivership and final payment to the Receiver of all

1 approved fees, costs, and expenses, the Receiver shall turn over to the FTC
2 or its designated agent all remaining assets in the receivership estate.

3
4 **COOPERATION**

5 **VI. IT IS FURTHER ORDERED** that the Stipulating Defendant must fully
6 cooperate with representatives of the FTC and the Receiver in this case and
7 in any investigation related to or associated with the transactions or the
8 occurrences that are the subject of the Complaint. The Stipulating
9 Defendant must provide truthful and complete information, evidence and
10 testimony. The Stipulating Defendant must cause its officers, employees,
11 representatives, or agents to appear for interviews, discovery, hearings,
12 trials, and any other proceedings that an FTC representative may reasonably
13 request upon 5 days written notice, or other reasonable notice, at such places
14 and times as an FTC representative may designate, without the service of a
15 subpoena.
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20 **ORDER ACKNOWLEDGMENTS**

21 **VII. IT IS FURTHER ORDERED** that the Stipulating Defendant obtain
22 acknowledgments of receipt of this Order:
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24 A. The Stipulating Defendant, within 7 days of entry of this Order, must
25 submit to the FTC an acknowledgment of receipt of this Order sworn
26 under penalty of perjury.
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1 B. For 5 years after entry of this Order, the Stipulating Defendant, must
2 deliver a copy of this Order to: (1) all principals, officers, directors,
3 and LLC managers and members; (2) all employees, agents, and
4 representatives who participate in conduct related to the subject matter
5 of the Order; and (3) any business
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C. The Stipulating Defendant must submit to the FTC notice of the filing

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1 sworn under penalty of perjury; appear for depositions; and produce
2 documents, for inspection and copying. The FTC is also authorized to
3 obtain discovery, without further leave of Court, using any of the
4 procedures prescribed by Federal Rules of Civil Procedure 29, 30
5 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
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8 B. For matters concerning this Order, the FTC is authorized to
9 communicate directly with the Stipulating Defendant. The Stipulating
10 Defendant must permit representatives of the FTC to interview any
11 employee or other person affiliated with the Stipulating Defendant
12 who has agreed to such an interview. The person interviewed may
13 have counsel present.
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16 C. The FTC may use all other lawful means, including posing, through
17 its representatives, as consumers, suppliers, or other individuals or
18 entities, to the Stipulating Defendant or any individual or entity
19 affiliated with the Stipulating Defendant, without the necessity of
20 identification or prior notice. Nothing in this Order limits the FTC's
21 lawful use of compulsory process, pursuant to Sections 9 and 20 of
22 the FTC Act, 15 U.S.C. §§ 49, 57b-1.
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ENTRY OF JUDGMENT

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XI. IT IS FURTHER ORDERED that there is no just reason for delay of entry of this judgment, and that, pursuant to Federal Rule of Civil Procedure 54(b), the Clerk immediately shall enter this Order as a final judgment as to defendant SJ Capitol, LLC.

RETENTION OF JURISDICTION

XII. IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO ORDERED May 19, 2014



DALE S. FISCHER
United States District Judge