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

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DENNY LAKE, *et al.*,

Defendants.

Case No. SACV 15-00585-CJC(JPRx)

**STIPULATED PRELIMINARY
INJUNCTION ORDER WITH
ASSET FREEZE AND OTHER
EQUITABLE RELIEF AS TO
DEFENDANTS CHAD
CALDARONELLO, DEREK
NELSON, BRIAN PACIOS, AND
JUSTIN MOREIRA, AND RELIEF
DEFENDANT CORTNEY
GONSALVES**

1 Plaintiff Federal Trade Commission (“FTC”) filed this action on April 13,
2 2015, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act
3 (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud
4 and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and
5 the 2009 Omnibus Appropriations Act, Public Law 111-8, Section 626, 123 Stat.
6 524, 678 (Mar. 11, 2009) (“Omnibus Act”), as clarified by the Credit Card
7 Accountability Responsibility and Disclosure Act of 2009, Public Law 111-24,
8 Section 511, 123 Stat. 1734, 1763-64 (May 22, 2009) (“Credit Card Act”), and
9 amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act,
10 Public Law 111-203, Section 1097, 124 Stat. 1376, 2102-03 (July 21, 2010)
11 (“Dodd-Frank Act”), 12 U.S.C. § 5538.

12 On April 16, 2015, upon motion by the FTC, this Court issued an *ex parte*
13 temporary restraining order (“TRO”) with asset freeze, appointment of a Receiver,
14 and other equitable relief. The FTC and Defendants Brian Pacios, as Chad
15 Caldaronello, Derek Nelson, and Justin Moreira, and Relief Defendant Cortney
16 Gonsalves, each representing themselves *pro se*, have consented to the entry of this
17 Stipulated Preliminary Injunction.

18 **FINDINGS OF FACT**

19 This Court, on the stipulations of the parties, finds that:

20 1. This Court has jurisdiction over the subject matter of this case, and
21 there is good cause to believe it will have jurisdiction over all parties hereto;

22 2. There is good cause to believe that venue lies properly with this
23 Court;

24 3. As an agency of the United States, the FTC need not post a security
25 for the issuance of a preliminary injunction. Fed. R. Civ. P. 65(c).

26 4. There is good cause to believe that Defendants Chad Caldaronello,
27 Derek Nelson, Brian Pacios, and Justin Moreira have engaged and are likely to
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1 continue to engage in acts or practices that violate Section 5(a) of the FTC Act, 15
2 U.S.C. § 45(a), including but not limited to falsely and misleadingly representing,
3 directly or indirectly, expressly or by implication that:

4 a. Defendants will obtain mortgage modifications for consumers
5 that will make their payments substantially more affordable, will substantially
6 lower their interest rates, and/or will help them avoid foreclosure;

7 b. A consumer's trial payments and/or reinstatement fee payment
8 will be held in his or her lender's trust account and either be paid to his or her
9 lender at the end of the trial period to finalize his or her modification, or be
10 refunded;

11 c. Defendants are affiliated with, endorsed or approved by, or
12 otherwise associated with the United States government, Making Home Affordable
13 ("MHA"), the Department of Housing and Urban Development ("HUD"), or the
14 Neighborhood Assistance Corporation of America ("NACA");

15 d. Defendants communicate with specialized departments,
16 divisions, or "higher-ups" at the maker, holder, or servicer of the consumer's
17 dwelling loan;

18 e. The consumer's lender can no longer foreclose on the
19 consumer's house after Defendants receive signed documents and the first payment
20 from the consumer;

21 f. Defendants typically deliver a loan modification within several
22 months;

23 5. There is good cause to believe that Defendants Chad Caldaronello,
24 Derek Nelson, Brian Pacios, and Justin Moreira have engaged and are likely to
25 continue to engage in acts or practices that violate the MARS Rule, 12 C.F.R. Part
26 1015, including but not limited to:
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1 a. Misrepresenting, expressly or by implication, material aspects
2 of any mortgage assistance relief services, in violation of the MARS Rule; 12
3 C.F.R. § 1015.3(b);

4 b. Representing, expressly or by implication, in connection with
5 the advertising, marketing, promotion, offering for sale, sale, or performance of
6 any mortgage assistance relief service, that a consumer cannot or should not
7 contact or communicate with his or her lender or servicer, in violation of the
8 MARS Rule; 12 C.F.R. § 1015.3(a);

9 c. Failing to make disclosures in all general and consumer-

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1 aspects of the nature or terms of Defendants' refund, cancellation, exchange, or
2 repurchase policies, in violation of the TSR; 16 C.F.R. § 310.3(a)(2)(iv);

3 c. In connection with the telemarketing of Defendants' services,
4 asking for or receiving payment of any fee or other consideration in advance of
5 obtaining a loan or other extension of credit after representing a high likelihood of
6 success in obtaining or arranging a loan or other extension of credit to consumers,
7 in violation of the TSR; 16 C.F.R. § 310.4(a)(4);

8 7. There is good cause to believe that Relief Defendant Cortney
9 Gonsalves received funds or assets that can be traced directly to Defendants'
10 unlawful acts or practices, and that she has no legitimate claim to those funds;

11 8. There is good cause to believe that immediate and irreparable harm
12 will result from Defendants' ongoing violations of Section 5(a) of the FTC Act,
13 MARS Rule, and the TSR unless Defendants are restrained and enjoined by Order
14 of this Court;

15 9. There is good cause to believe that an Order is necessary to prohibit
16 immediate and irreparable damage to the Court's ability to grant effective final
17 relief for consumers in the form of monetary restitution and disgorgement of ill-
18 gotten gains that could occur if they transferred, dissipated, or concealed their
19 assets or business records; and

20 10. Weighing the equities and of
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1 United States or abroad, including but not limited to chattel, goods, instruments,
2 equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or
3 other deliveries, inventory, checks, notes, accounts, credits, receivables (as those
4 terms are defined in the Uniform Commercial Code), shares of stock, futures, all
5 cash or currency, and trusts, including but not limited to a trust held for the benefit
6 of any Defendant or Relief Defendant, any of the Individual Defendants' or Relief
7 Defendant's minor children, or any of the Individual Defendants' or Relief
8 Defendant's spouses, and shall include both existing assets and assets acquired
9 after the date of entry of this order, or any interest therein.

10 B. **“Asset Freeze Accounts”** are accounts that are (1) associated with
11 Asset Freeze Defendants and (2) are maintained at Bank of America with an
12 account number ending in “6164”; are maintained at Bank of America with an
13 account number ending in “4546”; are maintained at Bank of America with an
14 account number ending in “3352”; are maintained at Comerica Bank with an
15 account number ending in “2545”; are maintained at Comerica Bank with an
16 account number ending in “6298”; are maintained at Comerica Bank with an
17 account number ending in “2594”; are maintained at Comerica Bank with an
18 account number ending in “6132”; are maintained at Comerica Bank with an
19 account number ending in “8381”; are maintained at Comerica Bank with an
20 account number ending in “8344”; are maintained at Comerica Bank with an
21 account number ending in “8707”; are maintained at Comerica Bank with an
22 account number ending in “3367”; are maintained at Comerica Bank with an
23 account number ending in “5726”; are maintained at Comerica Bank with an
24 account number ending in “8882”; are maintained at Comerica Bank with an
25 account number ending in “6561”; are maintained at Comerica Bank with an
26 account number ending in “6320”; are maintained at Farmers & Merchants Bank
27 with an account number ending in “1538”; are maintained at JP Morgan Chase
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1 with an account number ending in “1963”; are maintained at JP Morgan Chase
2 with an account number ending in “0038”; are maintained at JP Morgan Chase
3 Bank with an account number ending in “4854”; are maintained at JP Morgan
4 Chase Bank with an account number ending in “6050”; are maintained at JP
5 Morgan Chase Bank with an account number ending in “6529”; are maintained at
6 JP Morgan Chase Bank with an account number ending in “6636”; are maintained
7 at JP Morgan Chase Bank with an account number ending in “9414”; are
8 maintained at JP Morgan Chase Bank with an account number ending in “0647”;
9 are maintained at JP Morgan Chase Bank with an account number ending in
10 “9828”; are maintained at JP Morgan Chase Bank with an account number ending
11 in “9215”; are maintained at JP Morgan Chase Bank with an account number
12 ending in “0618”; are maintained at JP Morgan Chase Bank with an account
13 number ending in “1855”; are maintained at JP Morgan Chase Bank with an
14 account number ending in “2920”; are maintained at JP Morgan Chase Bank with
15 an account number ending in “6320”; are maintained at JP Morgan Chase Bank
16 with an account number ending in “2666”; are maintained at Wells Fargo Bank
17 with an account number ending in “2347”; are maintained at Wells Fargo Bank
18 with an account number ending in “6854”; are maintained at Wells Fargo Bank
19 with an account number ending in “9082”; or are maintained at Wells Fargo Bank
20 with an account number ending in “1575.”

21 C. **“Asset Freeze Defendants”** means all Individual Defendants, and
22 Relief Defendant Gonsalves.

23 D. **“Assisting others”** includes but is not limited to: (1) performing
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1 text, or use of images of any Internet website, email, or other electronic
2 communications; (3) formulating or providing, or arranging for the formulation or
3 provision of, any marketing support material or service, including but not limited
4 to, web or Internet Protocol addresses or domain name registration for any Internet
5 websites, affiliate marketing services, or media placement services; (4) providing
6 names of, or assisting in the generation of, potential customers; (5) performing or
7 providing marketing, billing, or payment services of any kind; (6) acting or serving
8 as an owner, officer, director, manager, or principal of any entity; or (7) providing
9 telemarketing services.

10 E. **“Corporate Defendants”** means C.C. Enterprises, Inc. (also d/b/a
11 HOPE Services, Trust Payment Center, and Retention Divisions), and D.N.
12 Marketing, Inc. (also d/b/a HAMP Services and Trial Payment Processing), and
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1 J. **“Individual Defendants”** means Chad Caldaronello (a/k/a Chad
2 Carlson and Chad Johnson), Derek Nelson (a/k/a Dereck Wilson), Brian Pacios
3 (a/k/a Brian Barry and Brian Kelly), Justin Moreira (a/k/a Justin Mason, Justin
4 King, and Justin Smith), and any other names they might use, have used, be known
5 or have been known.

6 K. **“Mortgage assistance relief product or service”** means any product,
7 service, plan, or program, offered or provided to the consumer in exchange for
8 consideration, that is represented, expressly or by implication, to assist or attempt
9 to assist the consumer with any of the following:

10 1. stopping, preventing, or postponing any mortgage or deed of
11 trust foreclosure sale for the consumer’s dwelling, any repossession of the
12 consumer’s dwelling, or otherwise saving the consumer’s dwelling from
13 foreclosure or repossession;

14 2. negotiating, obtaining, or arranging a modification of any term
15 of a dwelling loan, including a reduction in the amount of interest, principal
16 balance, monthly payments, or fees;

17 3. obtaining any forbearance or modification in the timing of
18 payments from any dwelling loan holder or servicer on any dwelling loan;

19 4. negotiating, obtaining, or arranging any extension of the period
20 of time within which the consumer may (i) cure his or her default on a dwelling
21 loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv) exercise
22 any right to reinstate a dwelling loan or redeem a dwelling;

23 5. obtaining any waiver of an acceleration clause or balloon
24 payment contained in any promissory note or contract secured by any dwelling; or

25 6. negotiating, obtaining, or arranging (i) a short sale of a
26 dwelling, (ii) a deed-in-lieu of foreclosure, (iii) or any other disposition of a
27 dwelling loan other than a sale to a third party that is not the dwelling loan holder.
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1 Q. **“Telemarketer”** means any person who, in connection with
2 telemarketing, initiates or receives telephone calls to or from a customer or donor.
3 16 C.F.R. § 310.2(cc).

4 R. **“Telemarketing”** means a plan, program, or campaign (whether or
5 not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310) that is conducted
6 to induce the purchase of goods or services

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1 D. Failing to make the following disclosure in all general and consumer-
2 specific commercial communications: “Even if you accept this offer and use our
3 service, your lender may not agree to change your loan,” in violation of 12 C.F.R.
4 §§ 1015.4(a)(2) & 1015.4(b)(3);

5 E. Failing to make the following disclosure in all consumer-specific
6 commercial communications: “You may stop doing business with us at any time.
7 You may accept or reject the offer of mortgage assistance we obtain from your
8 lender [or servicer]. If you reject the offer, you do not have to pay us. If you
9 accept the offer, you will have to pay us [insert amount or method for calculating
10 the amount] for our services,” in violation of 12 C.F.R. § 1015.4(b)(1). For the
11 purposes of this subsection, the amount “you will have to pay” shall consist of the
12 total amount the consumer must pay to purchase, receive, and use all of the
13 mortgage assistance relief services that are the subject of the sales offer, including
14 but not limited to, all fees and charges; and

15 F. Failing, in all general commercial communications, consumer-specific
16 commercial communications, and other communications in cases where any
17 Defendant or person has represented, expressly or by implication, in connection
18 with the advertising, marketing, promotion, offering for sale, or performance of
19 any mortgage assistance relief service, that the consumer should temporarily or
20 permanently discontinue payments, in whole or in part, on a dwelling loan, to place
21 clearly and prominently, and in close proximity to any such representation the
22 following disclosure: “If you stop paying your mortgage, you could lose your
23 home and damage your credit rating,” in violation of 12 C.F.R. § 1015.4(c).

24 **III. ADVANCE FEE PROHIBITION**

25 **IT IS FURTHER ORDERED** that Defendants, Defendants’ officers,
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1 acting directly or indirectly, in connection with the advertising, marketing,
2 promotion, offering for sale, sale, or provision of any mortgage assistance relief
3 service or debt relief service, or in connection with telemarketing, are hereby
4 restrained and enjoined from asking for, or receiving payment of, any fee or other
5 consideration until a consumer has executed a written agreement between the
6 consumer and the consumer's loan holder or servicer incorporating the offer of
7 mortgage assistance relief the Defendants obtained on the consumer's behalf.

8 **IV. PRESERVATION OF RECORDS AND TANGIBLE THINGS**

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1 A. Immediately take all necessary steps to ensure that any Internet
2 website used by Defendants for the advertising, marketing, promotion, offering for
3 sale, sale, or provision of any mortgage assistance relief service, and containing
4 statements or representations prohibited by Sections I and II of this Order cannot
5 be accessed by the public; and

6 B. Prevent the alteration, destruction or erasure of any (1) Internet
7 website used by Defendants for the advertising, marketing, promotion, offering for
8 sale, sale, or provision of any mortgage assistance relief service, by preserving
9 such websites in the format in which they are maintained currently and (2) any
10 electronically stored information stored on behalf of Corporate Defendants, or
11 entities in active concert or participation with any of them.

12 **VI. SUSPENSION OF INTERNET DOMAIN NAME REGISTRATIONS**

13 **IT IS FURTHER ORDERED** that any domain name registrar shall
14 suspend the registration of any Internet website used by Defendants for the
15 advertising, marketing, promotion, offering for sale, sale, or provision of any
16 mortgage assistance relief service, and containing statements or representations
17 prohibited by Sections I and II of this Order and provide immediate notice to
18 counsel for the FTC and the R6 Ts[.000-fmrtgaTc-.0009 Tw(counsel [t]4.2(atem)]TJ11.Tw(Pt)4

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2 Defendant; or

3 corporation, partnership, or other entity directly or indirectly owned 4 of any

1 Defendant, Relief Defendant, or other party subject to Section VIII above, whether
2 in whole or in part;

3 2. the balance of each such account, or a description of the nature
4 and value of such asset, as of the close of business on the day on which this Order
5 is served;

6 3. the identification of any safe deposit box that is either titled in
7 the name of, individually or jointly, or is otherwise subject to access or control by,
8 any Defendant or Relief Defendant, or other party subject to Section VIII above,
9 whether in whole or in part; and

10 4. if the account, safe deposit box, or other asset has been closed
11 or removed, the date closed or removed, the balance on said date, and the name or
12 the person or entity to whom such account or other asset was remitted;

13 E. Provide counsel for the FTC, within five (5) business days after being
14 served with a request, copies of all documents pertaining to such account or asset,
15 including but not limited to: account statements, account applications, signature
16 cards, checks, deposit tickets, transfers to and from the accounts, wire transfers, all
17 other debit and credit instruments or slips, 1099 forms, and safe deposit box logs;
18 and

19 F. Cooperate with all reasonable requests of the FTC relating to this
20 Order's implementation.

21 **IT IS FURTHER ORDERED** that the accounts subject to this provision
22 include (a) all assets of each Defendant or Relief Defendant deposited as of the
23 time the TRO was entered on April 16, 2015, at 10:30 a.m. Pacific Standard Time,
24 and (b) those assets deposited after entry of the TRO that are derived from the
25 actions alleged in Plaintiff's Complaint.

26 **IT IS FURTHER ORDERED** that, in addition to the information and
27 documents required to be produced pursuant to other provisions herein, the FTC is
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1 D. Transferring, receiving, altering, selling, encumbering, pledging,
2 assigning, liquidating, or otherwise disposing of any Assets owned, controlled, or
3 in the possession or custody of, or in which an interest is held or claimed by, the
4 Receivership Defendants, or the Receiver;

5 E. Failing to provide any assistance or information requested by the
6 Receiver in connection with obtaining possession, custody, or control of any
7 Assets within the receivership estate that the Receiver or the FTC has identified; or

8 F. Doing any act or thing whatsoever to interfere with the Receiver's
9 taking and keeping custody, control, possession, or managing of the Assets or
10 documents subject to this receivership; or to harass or interfere with the Receiver
11 in any way; or to interfere in any manner with the exclusive jurisdiction of this
12 Court over the Assets or documents of the Receivership Defendants; or to refuse to
13 cooperate with the Receiver or the Receiver's duly authorized agents in the
14 exercise of their duties or authority under any Order of this Court.

15 **XI. TRANSFER OF FUNDS TO THE RECEIVER BY FINANCIAL**
16 **INSTITUTIONS AND OTHER THIRD PARTIES**

17 **IT IS FURTHER ORDERED** that, upon service of a copy of this Order,
18 any financial or brokerage institution or depository, escrow agent, title company,
19 commodity trading company, payment processing company, or trust shall
20 cooperate with all reasonable requests of counsel for the FTC and the Receiver
21 relating to implementation of this Order, including transferring funds at the
22 Receiver's direction.

23 **XII. RECEIVER'S REPORTS**

24 **IT IS FURTHER ORDERED** that the Receiver shall report to this Court
25 on or before the date set for the hearing regarding the Preliminary Injunction,
26 regarding: (1) the steps taken by the Receiver to implement the terms of this
27 Order; (2) the value of all liquidated and unliquidated Assets of the Receivership
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1 Defendants; (3) the sum of all liabilities of the Receivership Defendants; (4) the
2 steps the Receiver intends to take in the future to: (a) prevent any diminution in
3 the value of Assets of the Receivership Defendants; (b) pursue receivership Assets
4 from third parties; and (c) adjust the liabilities of the Receivership Defendants, if
5 appropriate; and (5) any other matters which the Receiver believes should be
6 brought to the Court's attention. Provided, however, if any of the required
7 information would hinder the Receiver's ability to pursue receivership Assets, the
8 portions of the Receiver's report containing such information may be filed under
9 seal and not served on the parties. Further provided, however, that if the remaining
10 non-stipulating Defendants in this action subsequently stipulate to a Preliminary
11 Injunction (or a Preliminary Injunction is otherwise entered against the remaining
12 non-stipulating Defendants), and the Receiver has not already submitted the Report
13 this section requires, then the Receiver shall report to this Court regarding the
14 matters herein within fourteen days of the last Preliminary Injunction entered.

15 **XIII. MISCELLANEOUS PROVISIONS**

16 **IT IS FURTHER ORDERED** that:

17 A. Nothing herein modifies any existing Order in any way, including the
18 Orders governing Defendant Pacios and nonparty Assurity Law Group. *See FTC*
19 *v. Lakhany*, No. SACV 12-00337. The FTC may take discovery and pursue other
20 measures any existing Order permits.

21 B. The FTC may obtain credit reports concerning any Defendant or
22 Relief Defendant pursuant to Section 604(a)(1) of the Fair Credit Reporting Act,
23 15 U.S.C. § 1681b(a)(1), and that, upon written request, any credit reporting
24 agency from which such reports are requested shall provide them to the FTC.

25 C. Pending further order of this Court, no Individual or Relief Defendant
26 has any obligation to disclose, produce, or turn over the contents of any safe (in his
27 or her residence) the Corporate Defendants purchased with corporate assets paid
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1 directly from an Asset Freeze Account to a safe retailer. However, also pending
2 further order of this Court, any Individual or Relief Defendant may not access,
3 remove, dissipate, or otherwise disturb the contents of any such safe.

4 D. No Individual or Relief Defendant is obligated to disclose or produce
5 contents they are able to control or access on any social media platform (including,
6 without limitation, Facebook, Twitter, Instagram, Pinterest, and LinkedIn), except
7 as they may be obligated to disclose such material pursuant to the Orders
8 governing Defendant Pacios and nonparty Assurity Law Group, *see FTC v.*
9 *Lakhany*, No. SACV 12-00337, or after the Court authorizes discovery that may
10 encompass such material in this action. However, no Individual or Relief
11 Defendant may destroy or delete such material.

12 **XIV. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY**
13 **DEFENDANTS**

14 **IT IS FURTHER ORDERED** that each Defendant and Relief Defendant,
15 within five (5) business days of receipt of this Order, must submit to counsel for
16 the FTC a truthful sworn statement acknowledging receipt of this Order.

17 **XV. CORRESPONDENCE WITH PLAINTIFF**

18 **IT IS FURTHER ORDERED** that, for the purposes of this Order, because
19 mail addressed to the FTC is subject to delay due to heightened security screening,
20 all correspondence and service of pleadings on Plaintiff shall be sent via electronic
21 submission or Federal Express to:

22 Jonathan Cohen
23 Miriam Lederer
24 Federal Trade Commission
25 600 Pennsylvania Ave., NW, Mail Drop CC-9528
26 Washington, DC 20580
27 Telephone: (202) 326-2551, -2975
28 Fax: (202) 326-3197
Jcohen2@ftc.gov, mlederer@ftc.gov

1 **XVI. SERVICE OF THIS ORDER**

2 **IT IS FURTHER ORDERED** that copies of this Order may be served by
3 facsimile, email, personal or overnight delivery, U.S. Mail, or hand-delivery, by
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21  A rectangular area containing a signature that has been redacted with a grey bar. The signature is written in black ink on a light pink background.