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

Consumer Financial Protection Bureau,

Plaintiff,

v.

Morgan Drexen, Inc.,
and
Walter Ledda, individually, and as
owner, officer, or manager of Morgan
Drexen, Inc.,

Defendants.

Case No. SACV13-01267 JLS (JEMx)

**MEMORANDUM IN SUPPORT OF
PLAINTIFF'S *EX PARTE* APPLICATION
FOR AN ORDER TO SHOW CAUSE
WHY VINCENT HOWARD, LAWRENCE
WILLIAMSON, HOWARD LAW, PC,
THE WILLIAMSON LAW FIRM, LLC,
AND WILLIAMSON & HOWARD, LLP,
SHOULD NOT BE HELD IN CONTEMPT**

HON. JOSEPHINE L. STATON

Courtroom 10-A (Santa Ana)

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1 **I. INTRODUCTION**

2 Pursuant to Local Rule 7-19, Plaintiff, the Consumer Financial Protection
3 Bureau (“Bureau”), hereby submits this *ex parte* application for an order to show
4 cause why Vincent Howard, Lawrence Williamson, Howard Law, PC, the
5 Williamson Law Firm, LLC, and Williamson & Howard, LLP (collectively, “the
6 Attorneys”), should not be held in contempt.

7 When the Court issued its June 18, 2015 *Order re: Permanent Injunction*
8 (hereinafter “Injunction Order”),¹ holding that Defendant Morgan Drexen, Inc.
9 (“Morgan Drexen”) violated the Telemarketing Sales Rule (“TSR”)² and the
10 Consumer Financial Protection Act of 2010 (“CFPA”),³ the Attorneys could have
11 washed their hands of Morgan Drexen’s unlawful enterprise and distanced
12 themselves from the individuals responsible for facilitating the company’s scheme.
13 Or they could have attempted to minimize the damage caused by Morgan Drexen
14 by assisting consumers in obtaining refunds of money in their trust accounts.
15 Instead, they preyed on the very same consumers harmed by Morgan Drexen’s
16 practices. Among other things, they hired a substantial number of former Morgan
17 Drexen employees—including the company’s former Chief Financial Officer and
18 Chief Technology Officer—and used these employees to keep Morgan Drexen’s
19 debt relief scheme alive. In furtherance of the scheme, the Attorneys have gone to
20 significant lengths to confuse consumers about their rights, including sending
21 letters to consumers that contradict the Court-approved letters sent by the Trustee
22 for the Morgan Drexen Bankruptcy Estate. In fact, the Attorneys’ letters instruct
23 consumers that the Bureau’s lawsuit has “no effect” on consumers’ payment plans,
24 and that consumers should keep paying their Attorneys.⁴ Worst of all, in the past

25 _____
26 ¹ Doc. 306.

27 ² 16 C.F.R. part 310.

28 ³ 12 U.S.C. §§ 5531(a), 5536(a), 5564, and 5565.

⁴ See Felder Decl., Ex. 1.

1 two months alone, the Attorneys have collected *hundreds of thousands of dollars*
2 in unlawful fees from former Morgan Drexen customers, even though the Court
3 explicitly prohibited the collection of such unlawful fees in its Injunction Order.⁵

4 By their brazen actions, the Attorneys have made clear that they will stop at
5 nothing to line their pockets with the last pennies of vulnerable consumers. In
6 preying upon these consumers, the Attorneys have thwarted every vital consumer
7 protection this Court built into its Injunction Order. Severe sanctions are necessary
8 to compel the Attorneys to comply with the Court's Order and to compensate the
9 consumers they have harmed. The Bureau therefore respectfully requests that this
10 Court enter an Order to Show Cause why the Attorneys should not be held in
11 contempt.

12 Pursuant to Local Rule 7-19.1, the Bureau informed counsel for Vincent
13 Howard, Howard Law, PC, and Williamson & Howard, LLP, via telephone on
14 August 19, 2015, that it would file this *ex parte* application. Counsel advised the
15 Bureau that his clients would oppose the *ex parte* application. The Bureau also
16 made a reasonable, good faith effort to orally advise Lawrence Williamson and the
17 Williamson Law Firm, LLC of this *ex parte* application, but was not able to reach
18 Mr. Williamson or his representative.

19 **II. RELEVANT BACKGROUND⁶**

20 **A. PROCEDURAL BACKGROUND**

21 On June 18, 2015, the Court entered its Injunction Order, which permanently
22 restrains and enjoins Morgan Drexen, "whether acting directly or indirectly"
23 through others, from (among other things) charging consumers upfront fees for
24 debt relief services.⁷ The Court also permanently restrained and enjoined "Morgan

25
26 ⁵ Doc. 306 at 7.

27 ⁶ This Section assumes familiarity with the procedural history of this case through
28 July 6, 2015.

⁷ Doc. 306 at 2.

1 Drexen and its officers, agents, servants, and employees who receive actual notice
2 of this Order by personal service, facsimile transmission, email, or otherwise,
3 whether acting directly or indirectly,” from “disclosing, using, or benefitting from
4 customer information,” or “attempting to collect, collecting, selling, or assigning,
5 or otherwise transferring any right to collect payment from any consumer who
6 purchased or agreed to purchase a debt relief product or service from Morgan
7 Drexen.”⁸ Importantly, the Injunction Order also prohibits Morgan Drexen from
8 collecting any additional fees from Affected Consumers as of the date of the Order
9 (June 18, 2015).⁹

10 Section VII of the Injunction Order contains specific directives to Morgan
11 Drexen¹⁰ and the Bureau regarding notifications to consumers and creditors about
12 this lawsuit and the Injunction Order.¹¹ The Court noted that, “[d]ue to the harm
13

14 ⁸ *Id.* at 9-10. In addition, the Injunction Order permanently restrains and enjoins
15 “Morgan Drexen and its officers, agents, servants, and employees, and those
16 persons in active concert or participation with any of them who receive actual
17 notice of this Order by personal service, facsimile transmission, email, or
18 otherwise, whether acting directly or indirectly in connection with the advertising,
19 marketing, promotion, offering for sale, sale, or performance of any consumer
20 financial product or service” from “misrepresenting, or assisting others in
21 misrepresenting, expressly or by implication” any material facts concerning any
22 consumer financial product or service. *Id.* at 8.

23 ⁹ *Id.* at 8. “Affected Consumers” is a defined term in the Injunction Order, and
24 includes consumers who, “from October 27, 2010 to the present, have paid
25 advance (“upfront”) fees to Morgan Drexen prior to Morgan Drexen renegotiating,
26 settling, reducing, or otherwise altering the terms of at least one of such
27 consumers’ debts;” or “enrolled in a debt relief service with Morgan Drexen in
28 response to Morgan Drexen’s deceptive advertisements.” *Id.* at 4.

¹⁰ Morgan Drexen filed for bankruptcy on April 30, 2015. *See In re: Morgan
Drexen, Inc.*, No. 8:15-bk-12278-CB (C.D. Cal. Apr. 30, 2015). All directives to
and action taken by Morgan Drexen are handled by the Chapter 7 Bankruptcy
Trustee for Morgan Drexen, Jeffrey I. Golden (hereinafter “Morgan Drexen
Trustee”). Doc. 122, No. 8:15-bk-12278-CB.

¹¹ Doc. 306 at 11-15.

1 already suffered by Affected Consumers, the dissemination of [notifications] and
2 information to Affected Consumers and creditors is of the highest priority.”¹² The
3 Court therefore ordered Morgan Drexen to meet and confer with the Bureau to
4 create a publicly-available website and a template for letters to be sent to all
5 Affected Consumers informing them of: (a) the nature of the Bureau’s lawsuit
6 against Morgan Drexen; (b) the Court’s terminating sanctions against Morgan
7 Drexen; and (c) how the rulings from the Court will impact Affected Consumers.¹³
8 The Court also required the letters to Affected Consumers to contain information
9 about the consumers’ creditors; the terms of any debt relief payment plan in place
10 for the consumer; the date when the next payment is due; and contact information
11 for the consumers’ creditors.¹⁴ Finally, the Court ordered Morgan Drexen to meet
12 and confer with the Bureau to create a letter to the creditors of Affected Consumers
13 to (among other things) inform the creditors about the Court’s orders and to request
14 a 90-day suspension of debt collection activities.¹⁵

15 On June 26, 2015, the Morgan Drexen Trustee filed an *ex parte* application
16 seeking clarification about a number of provisions of the Order.¹⁶ Among other
17 things, the Morgan Drexen Trustee sought clarification about whether it could
18 copy and turn over consumer data to the Attorneys related to the Affected
19 Consumers at the request and expense of the Attorneys.¹⁷ The Bureau filed a
20 response the same day stating that it did not oppose the Morgan Drexen Trustee’s
21 proposal to provide the Attorneys copies of the consumer files so long as the
22 Attorneys agreed that they would not collect fees from Affected Consumers and
23

24 ¹² *Id.* at 11.

25 ¹³ *Id.* at 11-13.

26 ¹⁴ *Id.* at 13.

27 ¹⁵ *Id.* at 14.

28 ¹⁶ Doc. 311.

¹⁷ *Id.* at 7.

1 would not improperly disclose consumer information in a manner inconsistent with
2 the Injunction Order.¹⁸

3 Also on June 26, 2015, the Attorneys filed their own *ex parte* application
4 seeking clarification of the Injunction Order.¹⁹ Among other things, the Attorneys
5 requested a clarification of the Injunction Order that would permit Morgan Drexen
6 to provide the Attorneys with the consumer files of Morgan Drexen’s customers
7 and access to the Morgan Drexen-created case management software, called
8 “MDIS.”²⁰ Vincent Howard declared under penalty of perjury in support of the *ex*
9 *parte* application that, without access to the consumer files and MDIS system, “the
10 [Attorneys] and their Clients will be irreparably harmed.”²¹ The Attorneys claimed
11 they needed access to the files and MDIS or else “hundreds and eventually
12 thousands of [consumer settlement] plans will fall into default and the affected
13 Clients will become subject to legal recourse by the creditors who have been
14 promised payments under these plans.”²²

15 On June 30, 2015, the Morgan Drexen Trustee and the Bureau submitted a
16 joint report attaching templates of the court-ordered website and letters to
17 consumers and creditors for the District Court’s review.²³

18 On July 6, 2015, the Court issued an Order clarifying its Injunction Order
19 and approving the website and letter templates submitted by Morgan Drexen and
20 the Bureau (hereinafter “Clarification Order”).²⁴ Among other things, the Court
21 found that the Attorneys were in “active concert or participation” with Morgan
22 Drexen within the meaning of Federal Rule of Civil Procedure 65(d)(2), and thus

23
24 ¹⁸ Doc. 318.

25 ¹⁹ Doc. 313.

26 ²⁰ *Id.* at 1-2.

27 ²¹ Declaration of Vincent Howard, Doc. 309 at 19-23, ¶ 14-15.

28 ²² Doc. 309 at 6.

²³ Doc. 321.

²⁴ Doc. 326.

1 “the Attorneys are bound by the Court’s preliminary injunction order to the extent
2 that the Attorneys were ‘in active concert or participation with’ Morgan Drexen
3 and its illegal conduct.”²⁵ The Court cited the Attorneys’ own filings²⁶ for the
4 “undisputed” fact that the Attorneys receive 5% to 15% of the fees Affected
5 Consumers have paid, and that “marketing and debt relief materials and the
6 consumer files ‘were prepared under the [Attorneys]’ direction and control.”²⁷ The
7 Court therefore concluded that, “[a]s a result of the fee-sharing arrangement and
8 contractual relationship between the Attorneys and Morgan Drexen, it appears to
9 the Court that the Attorneys were in ‘active concert or participating with’ Morgan
10 Drexen while Morgan Drexen was collecting illegal up-front fees from Affected
11 Consumers.”²⁸ The Court therefore warned that “[a]ny violation of the terms of the
12 [Injunction Order] by the Attorneys could subject them to contempt proceedings
13 before this Court.”²⁹

14 The Court granted the Attorneys’ access to consumer files, but stated that the
15 Attorneys should not have “unfettered access” to those files given the Attorneys’
16 active concert and participation with Morgan Drexen’s illegal conduct.³⁰ Rather,
17 the Court permitted the Attorneys to copy the consumer files from the Morgan
18 Drexen Trustee if they chose to do so.³¹

19 On July 14, 2015, Howard Law, PC, Williamson & Howard, LLP, and the
20 Williamson Law Firm, LLC, commenced an appeal of this Court’s Injunction
21 Order and Clarification Order in the U.S. Court of Appeals for the Ninth Circuit.³²
22

23 ²⁵ *Id.* at 10-11.

24 ²⁶ Doc. 309, 313.

25 ²⁷ Doc. 326 at 10 (citing Attorneys’ Mot., Doc. 313, at 4).

26 ²⁸ Doc. 326 at 10.

27 ²⁹ *Id.* at 11.

28 ³⁰ *Id.* at 11.

³¹ *Id.* at 13.

³² Case. No. 15-56089, Doc. 1-4.

1 The Attorneys sought an emergency stay of proceedings in this Court pending their
2 appeal to stop the Morgan Drexen Trustee and the Bureau from sending the Court-
3 ordered letters to consumers to inform them of their rights.³³ The Attorneys also
4 argued that they “should not be compelled to live under the cloud of an Injunction
5 that may impair their own ability to provide debt-settlement and insolvency related
6 services directly to their ten thousand Clients.”³⁴ The Attorneys requested that the
7 Ninth Circuit enter an emergency stay of this Court’s Injunction Order and
8 Clarification Order pending the Attorneys’ appeal.³⁵

9 On July 17, 2015, the Ninth Circuit denied the Attorneys’ emergency motion
10 to stay.³⁶

11 **B. THE ATTORNEYS’ CONDUCT**

12 Rather than comply with the Court’s Injunction and Clarification Orders and
13 the Ninth Circuit’s denial of their emergency motion to stay, the Attorneys have
14 engaged in conduct that blatantly violates this Court’s Orders and undermines the
15 notices the Court ordered to ensure that consumers would be apprised of their
16 rights in connection with the cessation of Morgan Drexen’s debt relief services.

17 On August 12, 2015, the Morgan Drexen Trustee and the Bureau took sworn
18 testimony (in connection with Morgan Drexen’s bankruptcy proceedings) from
19 Morgan Drexen’s former Chief Financial Officer, David Walker, who is now an
20 employee at Howard Law, PC.³⁷ Among other things, Walker testified that:

- 21 • Howard Law, PC, now employs 50-60 former Morgan Drexen
22 employees, including a former owner of Morgan Drexen³⁸ who was

23
24 ³³ Case No. 15-56089, Doc. 3-1.

25 ³⁴ Case No. 15-56089, Doc. 8 at 4.

26 ³⁵ *Id.* at 5-6.

27 ³⁶ Case No. 15-56089, Doc. 11; *see also* Doc. 334 (same).

28 ³⁷ Case No. 8:15-bk-12278-CB (C.D. Cal.). *See* Exhibit A to O’Malley Declaration
(hereinafter “Walker Tr.”) at 7:6-9; 57:17-20.

³⁸ Doc. 180-2 at 39.

1 the company’s Chief Technology Officer Avi Gupta, to perform *the*
2 *same debt relief services* that Morgan Drexen previously performed
3 and which the Court enjoined;³⁹

- 4 • From the time Morgan Drexen went out of business in June 2015 to
5 the present, Howard Law, PC, has worked to ensure that Affected
6 Consumers would stay in the debt relief program;⁴⁰
- 7 • Vincent Howard purchased a “backup and data storage” company
8 called LegalSoft, Inc., from Defendant Walter Ledda for \$25,000,⁴¹
9 which included all the information that had previously been stored in
10 Morgan Drexen’s case management system (MDIS) relating to the
11 files of Affected Consumers;⁴²
- 12 • From the time Morgan Drexen went out of business in June 2015, the
13 Attorneys have collected “**a couple hundred thousand dollars**”
14 from Affected Consumers in fees;⁴³
- 15 • The Attorneys continue to charge Affected Consumers impermissible
16
17

18 ³⁹ See, e.g., Walker Tr. 60:3-9 (“The services that Howard law now performs are
19 primarily all the administrative services that Morgan Drexen previously performed,
20 but for their own clients, and my understanding is temporarily for the—some of the
21 other attorneys until they're able to get their own services for their own law
22 firms.”); *id.* at 65:10-12 (“Approximately -- best guess is 50 to 60 individuals are
23 at Howard law that used to be with Morgan Drexen.”); *id.* at 73:9-10 (“Avi Gupta
24 works for Howard law as a programmer.”).

25 ⁴⁰ See, e.g., *id.* at 66:24-67:1 (“I mean Howard Law has the same consumers that
26 they had that Morgan Drexen [was] providing services for”); *id.* at 69:15-19
(Howard Law has attempted to keep consumers in the debt relief program and
27 provide them with the same services that they had been provided when Morgan
28 Drexen was involved).

⁴¹ *Id.* at 38:16-20, 78:18-20.

⁴² *Id.* at 77:3-5, 77:16-19.

⁴³ *Id.* at 71:11-12 (emphasis added).

1 up-front fees;⁴⁴ and

- 2 • The Keshner Law Group, which is the law firm formed by former
3 Morgan Drexen General Counsel Jeffrey Katz, has invoiced the
4 Attorneys for “legal advisory services” in connection with their
5 continuation of Morgan Drexen’s debt relief services.⁴⁵

6 In addition, Walker testified that Howard Law, PC, has no intention of
7 winding down the debt-relief scheme that Howard and the other Attorneys took
8 over from Morgan Drexen, and, in fact, Howard is planning on running “new
9 advertisements” and “marketing [debt relief services] and accepting new
10 consumers” as debt relief clients.⁴⁶

11 Aside from going to great lengths to continue Morgan Drexen’s debt relief
12 scheme and collect fees from Affected Consumers, the Attorneys engaged in
13 numerous tactics designed to ensure consumers would—at a minimum—be
14 confused about their rights, if not misinformed. Prior to July 17, 2015, when
15 Morgan Drexen began the process of mailing and emailing the notifications
16 required by this Court’s Injunction Order, Howard Law, PC, mailed a letter dated
17 July 10, 2015, to Morgan Drexen’s former customers to inform them, among other
18 things, that, even though Morgan Drexen has gone out of business, “[t]his change
19 will have no effect on your monthly ACH payment or fees—these items will
20 remain the same.”⁴⁷ The letter informed consumers that they needed to do

21
22
23
24 ⁴⁴ *Id.* at 69:21-24 (“Q: Is Howard law accepting payments from consumers who are
25 formerly services by Morgan Drexen? A: Yes, I believe they are.”); *id.* at 69:15-
26 71:12 (noting that Williamson and Howard continue to collect fees from
consumers enrolled in Morgan Drexen’s debt relief program).

27 ⁴⁵ *Id.* at 71:22-72:25.

28 ⁴⁶ *Id.* at 67:3-10.

⁴⁷ *See* Felder Decl. at ¶ 4; *see also* Ex. 1 to Felder Decl.

1 “[n]othing” in the wake of Morgan Drexen’s shut-down, but that they should
2 “NOT speak to any Morgan Drexen representatives.”⁴⁸

3 To further confuse consumers about their rights, a website at the domain
4 name www.morgandrexenbankruptcy.com instructs consumers to, among other
5 things, “NOT contact [] creditors directly,” and “not make payments directly to []
6 creditors” in the wake of Morgan Drexen’s shut-down.⁴⁹ The website notes that
7 consumers will receive a letter or email from Morgan Drexen and the Bureau, but
8 states that this letter “may not apply to you and in fact, may actually be putting
9 your legal rights in jeopardy!”⁵⁰ Instead of explaining that the letters and emails
10 from Morgan Drexen and the Bureau were required by an Order of this Court, the
11 website states that these letters and emails were the result of a “wrongful[]
12 assum[ption] that without Morgan Drexen’s support, your attorney would be
13 incapable of handling your debts. THIS WAS WRONG!”⁵¹ The “FAQ” portion of
14 the website notes that Morgan Drexen’s bankruptcy “will not have any effect on
15 your monthly ACH payment or your attorney’s fees—these items will remain the
16 same.”⁵²

17 As a result of the Attorneys’ blatant disregard of this Court’s Injunction and
18 Clarification Orders—and the significant measures they have taken to confuse and
19 mislead consumers about their rights in the wake of Morgan Drexen’s shut-

21 _____
22 ⁴⁸ See Felder Decl. at ¶ 5; see also Ex. 1 to Felder Decl.

23 ⁴⁹ See Albanese Decl. ¶ 6; see also Ex. 1 to Albanese Decl. Although the Bureau
24 does not have conclusive proof that the Attorneys created and own the website, the
25 toll-free number listed on the website (877-336-3629) is the same number Vincent
26 Howard urges consumers to call in his letter to them. Compare Ex. 1 to Felder
27 Decl. with Ex. 1 to Albanese Decl. Moreover, the content of the website is
28 substantially the same as the content of Howard’s letter. *Id.*

⁵⁰ Ex. 1 to Albanese Decl. (emphasis in original).

⁵¹ *Id.* ¶ 7; Ex. 1 to Albanese Decl.

⁵² *Id.*

1 down—the Bureau now respectfully requests that this Court enter an Order to
2 Show Cause why the Attorneys should not be held in contempt.

3 **III. THE COURT SHOULD GRANT THE BUREAU’S *EX PARTE***
4 **APPLICATION AND ENTER AN ORDER TO SHOW CAUSE WHY**
5 **THE ATTORNEYS SHOULD NOT BE HELD IN CONTEMPT.**

6 **A. THE COURT HAS THE POWER TO ENFORCE ITS ORDERS**
7 **THROUGH CIVIL CONTEMPT.**

8 The Court has the inherent power to enforce its orders through civil
9 contempt proceedings.⁵³ Civil contempt proceedings may be initiated by the Court
10 itself, or upon motion by any party to the action.⁵⁴

11 Civil contempt is warranted where there is “clear and convincing evidence
12 that the contemnors violated a specific and definite order of the court.”⁵⁵ The
13 contempt “need not be willful,” and there is no good faith exception to the
14 requirement of obedience to a court order.⁵⁶ Moreover, Federal Rule of Civil
15 Procedure 71 “grants to the district courts the power to enforce orders against ‘a

16
17 ⁵³ *Shillitani v. United States*, 384 U.S. 364, 370, 86 S. Ct. 1531, 1535, 16 L. Ed. 2d
18 622, 627 (1966) (“There can be no question that courts have inherent power to
19 enforce compliance with their lawful orders through civil contempt.”).

20 ⁵⁴ *See Inst. of Cetacean Research v. Sea Shepherd Conservation Soc’y*, 774 F.3d
21 935, 944 (9th Cir. 2014) (noting that courts “possess [the] inherent authority to
22 initiate contempt proceedings for disobedience to [their] orders” (quoting *Young v.*
23 *U.S. ex rel. Vuitton et Fils S.A.*, 481 U.S. 787, 793, 107 S. Ct. 2124, 95 L.Ed.2d
24 740 (1987)); *see also FTC v. Affordable Media, LLC*, 179 F.3d 1228, 1239 (9th
25 Cir.1999) (contempt proceedings initiated upon motion of the Federal Trade
26 Commission).

27 ⁵⁵ *Affordable Media*, 179 F.3d at 1239. When contempt proceedings are initiated
28 upon motion, “[t]he moving party has the burden of showing by clear and
convincing evidence that the contemnors violated a specific and definite order of
the court. The burden then shifts to the contemnors to demonstrate why they were
unable to comply.” *Id.* (citation omitted).

⁵⁶ *Go–Video, Inc. v. Motion Picture Ass’n of America*, 10 F.3d 693, 695 (9th
Cir.1993).

1 person who is not a party . . . as if a party.”⁵⁷ Thus, “when an injunction is
2 addressed to a non-party and he is given notice of the injunction, Rule 71 permits a
3 district court to use ‘the same processes for enforcing obedience to the order as
4 if[he were] a party,’ such as holding him in contempt for violating it.”⁵⁸

5 As explained below, the clear and convincing evidence demonstrates that the
6 Attorneys had notice of the Court’s Injunction and Clarification Orders—and,
7 more specifically, knew those Orders governed the Attorneys’ conduct relating to
8 Affected Consumers. The evidence further demonstrates beyond doubt that, despite
9 their knowledge of the Injunction and Clarification Orders, the Attorneys
10 intentionally stepped into the shoes of Morgan Drexen to collect unlawful upfront
11 fees from Affected Consumers for debt relief services. Even worse, the Attorneys
12 took measures designed to ensure Affected Consumers would be confused—if not
13 outright misled—about their rights in the wake of Morgan Drexen’s shut-down.
14 For all of these reasons, which are explained in greater detail below, the Attorneys
15 should be ordered to show cause why they should not be held in contempt.

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17
18
19 ⁵⁷ *Irwin v. Mascott*, 370 F.3d 924, 931 (9th Cir. 2004) (quoting Fed. R. Civ. P. 71);
20 Fed. R. Civ. P. 71 (“When an order grants relief for a nonparty or may be enforced
21 against a nonparty, the procedure for enforcing the order is the same as for a
22 party.”).

23 ⁵⁸ *Irwin*, 370 F.3d at 931 (quoting Fed. R. Civ. P. 71); *see also Chicago Truck*
24 *Drivers v. Brotherhood Labor Leasing*, 207 F.3d 500, 506-07 (8th Cir. 2000) (“It is
25 well-settled that a court’s contempt power extends to non-parties who have notice
26 of the court’s order and the responsibility to comply with it.”); *McGraw-Edison Co.*
27 *v. Preformed Line Prods. Co.*, 362 F.2d 339, 344 (9th Cir. 1966) (finding that
28 “[n]onparties may be found in contempt of an injunction provided they have actual
notice of the injunction and aid or abet in its violations”); *United States Commodity*
Futures Trading Comm’n v. Forex Liquidity LLC, 2009 WL 2231684 (C.D. Cal.
July 23, 2009) (finding a nonparty agent of the defendant in civil contempt for
failing to turn over assets pursuant to court-ordered receivership).

1 **B. THE ATTORNEYS HAD NOTICE OF THE INJUNCTION**
2 **ORDER AND CLARIFICATION ORDER.**

3 There is no dispute that the Attorneys had notice of the Court’s Injunction
4 Order no later than June 26, 2015. On that date, the Attorneys filed an *ex parte*
5 application seeking clarification of the Injunction Order and requesting (among
6 other things) access to Morgan Drexen’s case management software (MDIS) so
7 that they could (presumably) continue collecting fees from Affected Consumers.⁵⁹
8 Thus, no later than June 26, 2015, the Attorneys had knowledge that the Injunction
9 Order (among other things):

- 10 • Prohibited Morgan Drexen from collecting any fees from Affected
11 Consumers;⁶⁰
- 12 • Prohibited Morgan Drexen, “whether acting directly or indirectly”
13 through others, from charging consumers upfront fees for debt relief
14 services;⁶¹
- 15 • Prohibited “Morgan Drexen and its officers, agents, servants, and
16 employees who receive actual notice of this Order by personal
17 service, facsimile transmission, email, or otherwise, whether acting
18 directly or indirectly,” from “disclosing, using, or benefitting from
19 customer information,” or “attempting to collect, collecting, selling, or
20 assigning, or otherwise transferring any right to collect payment from
21 any consumer who purchased or agreed to purchase a debt relief
22 product or service from Morgan Drexen;”⁶² and
- 23 • Required Morgan Drexen, in consultation with the Bureau, to create a
24 publicly-available website and a template for letters to be sent to all

25
26 ⁵⁹ Doc. 313.

27 ⁶⁰ Doc. 306 at 8.

28 ⁶¹ *Id.*

⁶² *Id.* at 9-10.

1 Affected Consumers informing them of this lawsuit and how rulings
2 from this Court will impact their rights.⁶³

3 Any doubt about the applicability of the Injunction Order to the Attorneys
4 was extinguished by the Court’s Clarification Order, which denied the Attorneys’
5 June 26, 2015 *ex parte* application.⁶⁴ The Clarification Order held that the
6 Attorneys were in “active concert or participation” with Morgan Drexen within the
7 meaning of Federal Rule of Civil Procedure 65(d)(2), and thus “the Attorneys are
8 bound by the Court’s preliminary injunction order to the extent that the Attorneys
9 were ‘in active concert or participation with’ Morgan Drexen and its illegal
10 conduct.”⁶⁵ The Court explicitly warned that “[a]ny violation of the terms of the
11 Court’s preliminary injunction order by the Attorneys could subject them to
12 contempt proceedings before this Court.”⁶⁶

13 In response to the Clarification Order, the Attorneys immediately
14 commenced an appeal of this Court’s Injunction Order and Clarification Order in
15 the U.S. Court of Appeals for the Ninth Circuit.⁶⁷ The Attorneys argued that the
16 Ninth Circuit should stop Morgan Drexen and the Bureau from sending the Court-
17 ordered letters to consumers⁶⁸ and that the Attorneys should not be compelled to
18 comply with the terms of this Court’s Injunction Order.⁶⁹ The Ninth Circuit
19 declined to enter the requested relief.⁷⁰

20 The Attorneys’ appeal of the Court’s Injunction and Clarification Orders
21 prove beyond any doubt that the Attorneys had a thorough understanding of the
22

23 ⁶³ *Id.* at 13.

24 ⁶⁴ Doc. 326.

25 ⁶⁵ *Id.* at 10-11.

26 ⁶⁶ *Id.* at 11.

27 ⁶⁷ Case No. 15-56089, Doc. 1-4.

28 ⁶⁸ Case No. 15-56089, Doc. 3-1.

⁶⁹ Case No. 15-56089, Doc. 8 at 4.

⁷⁰ Case No. 15-56089, Doc. 11; *see also* Doc. 334 (same).

1 terms of both Orders—and likewise knew that the Orders governed their conduct.
2 They are required to comply with the letter and spirit of those Orders pending their
3 appeal.⁷¹ As explained below, their failure to do so warrants an Order to show
4 cause why the Attorneys should not be held in contempt.

5 **C. THE ATTORNEYS VIOLATED SPECIFIC AND DEFINITE**
6 **ORDERS OF THE COURT.**

7 The Attorneys have blatantly violated at least four specific and definite
8 provisions of this Court’s Injunction and Clarification Orders.

9 First, for over two months, the Attorneys have collected fees from Affected
10 Consumers in violation of Section I of the Injunction Order, which prohibits the
11 collection of fees from Affected Consumers “as of the date of this Order” (June 18,
12 2015).⁷² As Walker testified, the Attorneys have collected hundreds of thousands
13 of dollars in fees from Affected Consumers in the past two months alone, and there
14 is no indication that the Attorneys intend to comply with this Court’s Injunction
15 Order any time soon.⁷³ Indeed, in letters to consumers, Vincent Howard states that
16 there will be “no effect on your monthly ACH payment or fees—these items will
17 remain the same.”⁷⁴ This evidence demonstrates that the Attorney have ignored—
18 and will continue to ignore—this Court’s Injunction Order and, absent severe
19 sanctions from this Court, will continue to prey upon vulnerable consumers.
20

21
22 ⁷¹ *Donovan v. Mazzola*, 716 F.2d 1226, 1240 (9th Cir. 1983) (absent a stay, all
23 court orders and judgments must be complied with promptly); *GTE Sylvania, Inc.*
24 *v. Consumers Union*, 445 U.S. 375, 386 (1980) (as a matter of respect for the
25 judicial process, persons subject to an injunctive order issued by a court with
26 jurisdiction are expected to obey that decree until it is modified or reversed, even if
27 there may exist proper grounds to object to the order).

28 ⁷² Doc. 306 at 7.

⁷³ Walker Tr. 71:11-12; *see also id.* at 69:15-71:12 (noting that Williamson and
Howard continue to collect fees from Affected Consumers).

⁷⁴ Felder Decl. Ex. 1.

1 Second, the Attorneys have violated Section I(B) of the Injunction Order by,
2 among other possible violations, “providing any debt relief product or service that
3 charges consumers advance fees.”⁷⁵ By definition, “Affected Consumers” are
4 individuals who were charged advance fees for debt relief services.⁷⁶ As noted, in
5 the last two months, Attorneys have received *hundreds of thousands* of dollars in
6 fees. Moreover, Howard’s hiring of a significant portion of Morgan Drexen’s
7 former staff to work directly for Howard Law, PC⁷⁷ makes it abundantly clear that
8 the Attorneys intend to step into the shoes of Morgan Drexen indefinitely and
9 “[a]dvertis[e], market[], promot[e], offer[] for sale, sell[], or provid[e] . . . debt
10 relief product[s] or service[s] that charge[] consumers advance fees”⁷⁸ to a whole
11 new group of unsuspecting consumers moving forward.

12 Third, the Attorneys have engaged in obstructionist tactics to confuse and
13 mislead Affected Consumers in order to ensure that they continue to pay unlawful
14 fees instead of taking steps to protect their rights. The Attorneys had a perfect
15 roadmap for how to effectively accomplish their goal: the Court’s Injunction Order
16 specified in great detail the substance of the letters and emails that Morgan Drexen,
17 in consultation with the Bureau, was required to send to consumers, and the parties
18 filed a joint report attaching templates for the letters they anticipated sending.⁷⁹
19 Before the Morgan Drexen Trustee could generate and mail the letters, however,
20 the Attorneys sent out letters of their own, advising consumers to effectively ignore
21 the Court-ordered letters they were about to receive.⁸⁰ To make matters worse, a
22 website that parrots the layout of the Court-ordered website at

23
24 ⁷⁵ Doc. 306 at 7.

25 ⁷⁶ *Id.* at 4.

26 ⁷⁷ Walker Tr. 60:3-9; 65:10-12.

27 ⁷⁸ Doc. 306 at 7.

28 ⁷⁹ *Id.* at 4.

⁸⁰ Doc. 321.

⁸⁰ *See, e.g.,* Felder Decl., Ex. 1.

1 www.morgandrexen.com—complete with a “Frequently Asked Questions” page,
2 as specifically mandated in the Injunction Order—appeared at the domain name
3 www.morgandrexenbankruptcy.com, which further served to confuse any
4 consumer unfortunate enough to stumble upon it.⁸¹ Incredibly, the parrot website
5 informs consumers that the letters and emails they will receive from Morgan
6 Drexen and the Bureau “may not apply to you and, in fact, may actually be putting
7 your legal rights in jeopardy!”⁸² The parrot website neglects to mention that these
8 letters and emails were required by Order of this Court. Instead, it states that these
9 communications were the result of a “wrongful[] assum[ption] that without
10 Morgan Drexen’s support, your attorney would be incapable of handling your
11 debts. THIS WAS WRONG!”⁸³

12 The Attorneys’ letters to consumers, coupled with the content at
13 www.morgandrexenbankruptcy.com, serves no purpose other than to undermine
14 the effectiveness of the consumer notices required by Section VII of the Injunction
15 Order. The Attorneys’ efforts to confuse and mislead consumers in the wake of the
16 Court’s Injunction Order is especially egregious given that, as the Court rightfully
17 noted, “[d]ue to the harm already suffered by Affected Consumers, the
18 dissemination of the [] notices and information to Affected Consumers and
19 creditors is of the highest priority.”⁸⁴ Instead of helping consumers already
20 victimized by Morgan Drexen, the Attorneys lined their pockets at the consumers’
21 expense. In doing so, the Attorneys thwarted the Court’s highest priority and the
22 Bureau’s entire objective for filing a lawsuit against Morgan Drexen and
23 Defendant Ledda: to protect consumers from being charged unlawful upfront fees
24 for debt relief services.

25 _____
26 ⁸¹ See Albanese Decl., Ex. 1.

27 ⁸² *Id.* (emphasis in original).

28 ⁸³ *Id.*

⁸⁴ Doc. 306 at 11.

1 Fourth, the Attorneys violated the provisions of the Clarification Order
2 prohibiting them from having “unfettered access” to consumer files.⁸⁵ The Court
3 restricted the Attorneys’ access to the consumer files because of its concern that
4 unfettered access would lead to further victimization of Affected Consumers.⁸⁶
5 Instead, as the Morgan Drexen Trustee proposed, the Court granted the Attorneys
6 the opportunity to copy the consumer files if they chose to do so.⁸⁷

7 Without the Morgan Drexen Trustee knowing, the Attorneys managed to
8 obtain “unfettered access” to the consumer files on their own.⁸⁸ According to
9 David Walker, Vincent Howard paid Defendant Ledda \$25,000 to purchase a
10 “backup and data storage” company owned by Ledda called LegalSoft, Inc.
11 (LegalSoft”).⁸⁹ Included in that purchase was “the backup data storage of all the
12 attorney information,” which means that all the information that was stored in
13 Morgan Drexen’s software system (MDIS) relating to the files of Affected
14 Consumers was stored in LegalSoft’s system.⁹⁰ This testimony is corroborated by
15 the Morgan Drexen Trustee’s recent filing in this Court, in which he explains that
16 Howard obtained access to the information in the MDIS system through LegalSoft
17 on June 21, 2015.⁹¹

18 Despite Howard’s sworn statement to the Court on June 26, 2015—five days
19 after his purchase of LegalSoft—that “irreparabl[e] harm[.]” would result if the
20 Court did not grant the Attorneys unfettered access to the MDIS system, in reality,
21 the Attorneys already had unfettered access to the contents of that system through
22
23

24 ⁸⁵ Doc. 326 at 11.

25 ⁸⁶ *Id.*

26 ⁸⁷ *Id.* at 13.

27 ⁸⁸ *See* Doc. 347, Decl. of Jeffrey I. Golden at 7.

28 ⁸⁹ Walker Tr. 38:16-20, 78:18-20.

⁹⁰ *Id.* at 77:3-5, 77:16-19.

⁹¹ *Id.* at 79:2-3.

1 Howard’s acquisition of LegalSoft.⁹² The Attorneys’ purchase and use of
2 LegalSoft to obtain unfettered access to the files of Affected Consumers, which
3 presumably enabled the Attorneys to stand in the shoes of Morgan Drexen and
4 continue business as usual, is a fourth violation of a specific and definite order of
5 this Court.

6 In short, the evidence is beyond clear and convincing that the Attorneys have
7 violated at least three specific provisions of the Injunction Order and at least one
8 specific provision of the Clarification Order. If Walker is correct that Howard is
9 planning to run “new advertisements” and is “marketing [debt relief services] and
10 accepting new consumers” as debt relief clients under the same Morgan Drexen
11 model that this Court shut down, the Attorneys will continue to violate the
12 Injunction and Clarification Orders absent Court action.⁹³ An Order to Show
13 Cause—and severe sanctions—are warranted to ensure the Attorneys do not
14 continue to stand in the shoes of Morgan Drexen and violate the rights of
15 vulnerable consumers.

19
20 ⁹² Declaration of Vincent Howard, Doc. 309 at 19-23, ¶ 14-15 (declaring under
21 penalty of perjury that “[Morgan Drexen’s] closure has forced the Law Firms to
22 directly provide the Clients with the services previously provided by MD. To
23 provide these services directly, the Law Firms must obtain copies of their
24 respective Clients’ files, and secure a copy of the MDIS software (the ‘MDIS
25 Software’) that allows them to access these files. Without access to the files and
26 the software, the Law Firms and their Clients will be irreparably harmed.”); *see*
27 *also* Doc. 309 at 6 (brief filed by the Attorneys, which claims that they needed
28 access to Morgan Drexen’s computer software (MDIS) or else “hundreds and
eventually thousands of [consumer settlement] plans will fall into default and the
affected Clients will become subject to legal recourse by the creditors who have
been promised payments under these plans”).

⁹³ Walker Tr. 67:3-10.

1 **D. COERCIVE AND COMPENSATORY SANCTIONS ARE**
2 **WARRANTED.**

3 Once a party is found in contempt, the Court has wide discretion in
4 determining the appropriate sanctions.⁹⁴ Sanctions for civil contempt may be
5 imposed “for either or both of two purposes; to coerce the defendant into
6 compliance with the court's order, and to compensate the complainant for losses
7 sustained.”⁹⁵ A court may “excuse minor, technical, or good faith violations of an
8 injunction,” but it “likewise has discretion to punish substantial violations when
9 appropriate.”⁹⁶

10 Here, the Attorneys have flagrantly thwarted this Court’s efforts to protect
11 consumers from Morgan Drexen’s nationwide debt relief scheme. Not only have
12 these Attorneys taken significant measures to stand in the shoes of Morgan Drexen
13 to continue the scheme, but they have also engaged in obstructionist tactics to
14 confuse consumers about important rights that this Court ordered Morgan Drexen
15 and the Bureau to communicate. The Attorneys’ conduct warrants significant
16 sanctions—both coercive and compensatory.

17 **1. Coercive sanctions are warranted.**

18 Courts have broad discretion in designing a contempt sanction that will
19 ensure compliance with the court’s orders.⁹⁷ The two paradigmatic civil contempt
20 sanctions are imprisonment and a per diem fine imposed for each day a contemnor
21 fails to comply with an affirmative court order.⁹⁸ Per diem fines exert a constant
22
23

24 _____
25 ⁹⁴ *United States v. United Mine Workers of Am.*, 330 U.S. 258, 303-04 (1947).

26 ⁹⁵ *Id.*

27 ⁹⁶ *Irwin*, 370 F.3d at 932.

28 ⁹⁷ *Falstaff Brewing Corp v. Miller Brewing Co.*, 702 F.2d 770, 779-80 (9th Cir. 1983).

⁹⁸ *United Mine Workers of Am. v. Bagwell*, 512 U.S. 821, 829 (1994).

1 coercive pressure, and once the commands of the injunction are obeyed, daily fines
2 may be purged.⁹⁹

3 The Attorneys need a severe coercive sanction to compel their compliance
4 with the Court's Orders because, as evidenced by their conduct throughout the
5 course of this litigation, they will not otherwise follow the terms of the Orders. A
6 coercive sanction of \$10,000 per day for each day between June 18, 2015 and the
7 date of any contempt order issued by the Court is appropriate. The Court should
8 also impose a sanction of \$20,000 per day for each day that the Attorneys continue
9 to violate the Court's Orders after the date of any contempt order issued by the
10 Court.¹⁰⁰

11 **2. Compensatory sanctions are warranted.**

12 Ordinarily, the amount of a compensatory sanction is the actual damage
13 caused to the petitioner by the respondent's contumacious act.¹⁰¹ However, "a civil
14 compensatory sanction need not always be dependent upon proof of actual loss."¹⁰²

16
17 ⁹⁹ *FTC v. Productive Mktg. Inc.*, 136 F. Supp. 2d 1096, 1112-13 (C.D. Cal. 2001)
18 (finding nonparty in civil contempt for failing to turn over assets to a court ordered
19 receivership and issuing a per diem fine that doubled each day the nonparty failed
20 to comply).

21 ¹⁰⁰ The proposed sanctions would be well within the Court's discretion to compel
22 compliance with its Orders. *See, e.g., Koninklijke Philips Electronics N.V. v. KXD*
23 *Tech., Inc.*, 539 F.3d 1039, 1041 (9th Cir. 2008) (dismissing appeal of contempt
24 sanctions in patent infringement case that included \$353,611.70 in attorney's fees,
25 \$37,098.14 in costs, \$1,284,090.00 in lost royalties, and \$10,000.00 per day until
26 the defendants came into compliance with the court's reporting requirements);
27 *Richmark Corp. v. Timber Falling Consultants*, 959 F.2d 1468, 1482 (9th Cir.
1992) (upholding contempt sanction of \$10,000 per day in fraud and breach of
contract case; noting that if the "\$10,000 per day was insufficient to coerce
compliance, the appropriate solution would seem to be to remand the case to the
district court so that it can increase the sanction").

28 ¹⁰¹ *United States v. Asay*, 614 F.2d 655, 660 (9th Cir. 1980).

¹⁰² *In re: General Motors Corp.*, 110 F.3d 1003, 1018-19 fn. 16 (4th Cir. 1997).

1 In fact, courts are justified in ordering the contemnors to disgorge profits or gross
2 revenue generated from the illicit activity.¹⁰³

3 Here, given that the Attorneys have preyed upon—and continue to prey
4 upon—the very consumers the Court seeks to protect, nothing less than full redress
5 to Affected Consumers is warranted. The Attorneys should be required to submit
6 an accounting to the Court demonstrating the total amount of payments they
7 received from Affected Consumers from June 18, 2015 (the date of the Injunction
8 Order) to the present, and to refund those payments to consumers.

9 **3. The Attorneys Should be Held Jointly and Severally Liable**
10 **for Sanctions.**

11 Finally, any award of monetary relief should be entered jointly and severally
12 against each of the Attorneys since each is responsible for the repeated violations
13 of this Court's Orders.¹⁰⁴

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18 ¹⁰³ *FTC v. Kuykendall*, 371 F.3d 745, 764 (10th Cir. 2004) (FTC may seek
19 contempt sanctions in an amount reflecting the defendants' gross receipts); *Asay*,
20 614 F.2d at 660 (finding no abuse of discretion in the imposition of a fine for
21 recovery of all expenses incurred where it was impossible to determine how much
22 money the government 'lost'); *Rebis v. Universal Cad Consultants, Inc.*, No. C-96-
23 4201 SC, 1998 U.S. Dist. LEXIS 12366, at *11 (N.D. Cal. Aug. 11, 1998)
24 (contempt sanction based on gross revenue generated from the illicit product is
25 warranted in order to deter future violations) (citing *Colonial Williamsburg Found.*
26 *v. Kittinger Co.*, 792 F. Supp. 1397, 1407 (E.D. Va. 1992)).

27 ¹⁰⁴ *NLRB v. AFL-CIO*, 882 F.2d 949, 955 (5th Cir. 1989) ("Where ... parties join
28 together to evade a judgment, they become jointly and severally liable for the
amount of damages resulting from the contumacious conduct."); *Colonial*
Williamsburg Found., 792 F. Supp. at 1406 (holding contempt defendants jointly
and severally liable because all defendants had actively violated consent
judgment).

1 **IV. THE BUREAU HAS COMPLIED WITH ALL NOTICE**
2 **REQUIREMENTS OF LOCAL RULE 7-19.1.**

3 Local Rule 7-19.1 requires *ex parte* applicants:

4 (a) to make reasonable, good faith efforts orally to advise counsel for
5 all other parties, if known, of the date and substance of the proposed
6 *ex parte* application and (b) to advise the Court in writing and under
7 oath of efforts to contact other counsel and whether any other counsel,
8 after such advice, opposes the application.

9 L.R. 7-19.1.

10 As the attached Declaration of R. Gabriel D. O'Malley demonstrates, the
11 Bureau has fulfilled the notice requirements of Local Rule 7-19. Mr. O'Malley,
12 who is counsel for the Bureau, contacted counsel for the Attorneys, Sean A.
13 O'Keefe, on August 19, 2015, via telephone to inform the Attorneys that the
14 Bureau would file this *ex parte* application.¹⁰⁵ Mr. O'Keefe informed Mr.
15 O'Malley that the Attorneys would oppose the application.¹⁰⁶

16 Pursuant to Local Rule 7-19, the name, address, telephone number and e-
17 mail address of counsel for the Trustee are as follows: Sean A. O'Keefe; O'Keefe
18 & Associations Law Corp., P.C.; 4675 MacArthur Court, Suite 550; Newport
19 Beach, CA, 92660; 949-334-4135; sokeefe@okeefelc.com.

20 Mr. O'Malley also called the Williamson Law Firm, LLC, on August 19,
21 2015, and left a detailed message for Lawrence Williamson.¹⁰⁷ In the message, Mr.
22 O'Malley provided his name, contact information, and a detailed description of the
23 Bureau's *ex parte* application.¹⁰⁸ The message also requested that Mr. Williamson
24 or his representative call Mr. O'Malley as soon as possible to advise whether Mr.

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26 ¹⁰⁵ O'Malley Decl. at ¶ 6.

27 ¹⁰⁶ *Id.*

28 ¹⁰⁷ *Id.* at ¶ 8.

¹⁰⁸ *Id.*

1 Williamson would oppose the Bureau's *ex parte* application.¹⁰⁹ Neither Lawrence
2 Williamson nor his representative returned Mr. O'Malley's telephone call.¹¹⁰

3 Mr. O'Malley has satisfied his duty under Local Rule 7-19.1 to make a
4 reasonable, good faith effort to orally advise counsel for Lawrence Williamson and
5 the Williamson Law Firm, LLC, of the Bureau's *ex parte* application.

6 Pursuant to Local Rule 7-19, the name, address, telephone number, and e-
7 mail address of Lawrence Williamson are as follows: Lawrence Williamson; the
8 Williamson Law Firm, LLC; 816 Ann Ave., Kansas City, KS 66101; (913) 871-
9 7060; l.williamson@thewilliamsonfirm.com.

10 **V. CONCLUSION**

11 For the foregoing reasons, the Bureau respectfully requests that the Court
12 grant its *ex parte* application and enter an Order to Show Cause Why Vincent
13 Howard, Lawrence Williamson, Howard Law, PC, the Williamson Law Firm,
14 LLC, and Williamson & Howard, LLP, Should Not Be Held in Contempt.

15 Respectfully submitted,

16 Dated: August 19, 2015

CARA PETERSEN
Deputy Enforcement Director for
Litigation

19 /s/ R. Gabriel D. O'Malley
20 R. Gabriel D. O'Malley
21 Jan Singelmann
22 Amy Radon
23 Consumer Financial Protection
24 Bureau
25 1700 G Street NW
26 Washington, DC 20552
27 Fax: (202) 435-7722

27 ¹⁰⁹ *Id.*

28 ¹¹⁰ *Id.*