

1 KENT MARKUS, OH Bar #16005
Enforcement Director
2 LAURA SCHNEIDER, NY Bar #2715449
(Phone: 202-435-7311)
(Email: Laura.Schneider@cfpb.gov)
3 CRYSTAL R. SUMNER, CA Bar #261435
(Phone: 202-435-7549)
(Email: Crystal.Sumner@cfpb.gov)
4 JAMES MEADE, DC Bar #414732
(Phone: 202-435-9202)
(Email: James.Meade@cfpb.gov)
5 Consumer Financial Protection Bureau
1700 G Street NW
6 Washington, DC 20552
7 Fax: (202) 435-7722

10 KENT KAWAKAMI, CA Bar #149803 – Local Counsel
(Phone: 213-894-4858)
(Email: Kent.Kawakami@usdoj.gov)
11 United States Attorney's Office
12 Central District of California - Civil Division
13 300 North Los Angeles Street, Room 7516
14 Los Angeles, CA 90012
15 Fax: (213) 894-2380

16 Attorneys for Plaintiff
Consumer Financial Protection Bureau

18 UNITED STATES DISTRICT COURT
19 CENTRAL DISTRICT OF CALIFORNIA

20 Consumer Financial Protection Bureau,
21 Plaintiff,
22 v.
23 Chance Edward Gordon, *et al.*,
24 Defendants.

Case No. CV12-6147-RSWL (MRWx)

**STIPULATED FINAL JUDGMENT
AND ORDER FOR PERMANENT
INJUNCTION AND SETTLEMENT
OF CLAIMS AS TO DEFENDANTS
ABRAHAM MICHAEL PESSAR,
DIVISION ONE INVESTMENT
AND LOAN, INC., AND
PROCESSING DIVISION, L.L.C.**

1 Plaintiff, the Consumer Financial Protection Bureau (“CFPB” or “Bureau”),
2 commenced this civil action on July 18, 2012, pursuant to: (1) Sections 1031(a), 1036(a),
3 1054, and 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C.
4 §§ 5531(a), 5536(a), 5564, and 5565; and (2) Section 626 of the Omnibus Appropriations
5 Act, 2009, as amended by Section 1097 of the CFPA, 12 U.S.C. § 5538, and the
6 Mortgage Assistance Relief Services Rule, 16 C.F.R. Part 322, recodified as 12 C.F.R.
7 Part 1015 (“Regulation O”), by filing a Complaint for preliminary and permanent
8 injunctive relief, rescission or reformation of contracts, the refund of monies paid,
9 restitution, disgorgement of ill-gotten monies, and other relief for Defendants’ acts or
10 practices in violation of the CFPA and Regulation O in connection with the marketing
11 and sale of mortgage assistance relief services. The Bureau and Defendants Abraham
12 Michael Pessar, Division One Investment and Loan, Inc., and Processing Division,
13 L.L.C. (collectively “Settling Defendants”) hereby stipulate to this Final Judgment and
14 Order for Permanent Injunction and Settlement of Claims (“Order”).

15 FINDINGS

16 By stipulation of the parties and being advised of the premises, the Court finds:

17 1. This is an action by the Bureau instituted under Sections 1031(a), 1036(a),
18 1054, and 1055 of the CFPA, 12 U.S.C. §§ 5531(a), 5536(a), 5564, and 5565; and
19 Regulation O, 16 C.F.R. Part 322, recodified as 12 C.F.R. Part 1015. The Complaint
20 seeks permanent injunctive relief and monetary relief for the Settling Defendants’ alleged
21 acts or practices in violation of the CFPA and Regulation O as alleged therein. The
22 Bureau has the authority under the CFPA and Regulation O to seek the relief it has
23 requested.

24 2. The Complaint states a claim upon which relief can be granted against the
25 Settling Defendants.
26
27
28

1 3. This Court has jurisdiction over the subject matter of this case and has
2 jurisdiction over the Settling Defendants. Venue in the Central District of California is
3 proper.

4 4. The Bureau and the Settling Defendants stipulate and agree to entry of this
5 Order, without trial or final adjudication of any issue of fact or law, to settle and resolve
6 all matters in dispute arising from the conduct of the Settling Defendants alleged in the
7 Complaint to the date of entry of this Order. This settlement does not settle and resolve
8 any matters not alleged in the Complaint. The Settling Defendants have consented to
9 entry of this Order without admitting or denying any of the allegations set forth in the
10 Complaint, other than admitting the jurisdictional facts.

11 5. The Settling Defendants waive all rights to seek judicial review or otherwise
12 challenge or contest the validity of this Order. The Settling Defendants also waive any
13 claim that they may have held under the Equal Access to Justice Act, 28 U.S.C. § 2412,
14 concerning the prosecution of this action to the date of this Order. Each settling party
15 shall bear its own costs and attorneys fees.

16 6. This action and the relief awarded herein are in addition to, and not in lieu
17 of, other remedies as may be provided by law, including both civil and criminal remedies.

18 7. Entry of this Order is in the public interest.

19 **DEFINITIONS**

20 For the purposes of this Order, the following definitions shall apply:

21 1. “Assets” means any legal or equitable interest in, right to or claim to any
22 real, personal, or intellectual property, wherever located, including, but not limited
23 to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects,
24 leaseholds, contracts, mail or other deliveries, shares of stock, commodities,
25 futures, inventory, checks, notes, accounts, credits, receivables (as those terms are
26 defined in the Uniform Commercial Code), funds, trusts, and all cash.

27 2. “Assisting others” includes, but is not limited to:
28

- a. performing customer service functions including, but not limited to, receiving or responding to consumer complaints;
 - b. formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including, but not limited to, any telephone sales script, direct mail solicitation, or the text of any Internet website, email, or other electronic communication;
 - c. formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including but not limited to, web or Internet Protocol addresses or domain name registration for any Internet websites, affiliate marketing services, or media placement services;
 - d. providing names of, or assisting in the generation of, potential customers;
 - e. performing marketing, billing, or payment services of any kind; and
 - f. acting or serving as an owner, officer, director, manager, or principal of any entity.
2. "Competent and reliable evidence" means tests, analyses, research, studies, or other evidence based on the expertise of professionals in the relevant area, that has been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results.
3. "Consumer financial product or service" is synonymous in meaning and equal in scope to the definitions of the term in section 1002(5) and (15) of the CFPA, and, subject to applicable restrictions contained in the CFPA, includes but is not limited to:

- a. extending credit and servicing loans, including acquiring, purchasing, selling, brokering, or other extensions of credit (other than solely extending commercial credit to a person who originates consumer credit transactions);
 - b. providing real estate settlement services or performing appraisals of real estate or personal property;
 - c. collecting, analyzing, maintaining, or providing consumer report information or other account information, including information relating to the credit history of consumers, used or expected to be used in connection with any decision regarding the offering or provision of a consumer financial product or service; and
 - d. collecting debt related to any consumer financial product or service.
4. "Debt relief product or service" means any product, service, plan, or program represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt or obligation, including but not limited to a tax debt or obligation, between a person and one or more creditors or debt collectors, including but not limited to, a reduction in the balance, interest rate, or fees owed by a person to a creditor or debt collector.
5. "Defendants" means Chance Edward Gordon, The Gordon Law Firm, P.C., Abraham Michael Pessar, Division One Investment and Loan, Inc., and Processing Division, L.L.C., individually, collectively, or in any combination, and each of them by whatever names each might be known.
6. "Document" and "Electronically Stored Information" are synonymous in meaning and equal in scope to the usage of the terms in Rule 34(a) of the Federal Rules of Civil Procedure and include but are not limited to writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which the information can be obtained and translated, if necessary, through detection devices into reasonably usable form.

- 1 7. “Federal homeowner relief or financial stability program” means any
2 program (including its sponsoring agencies, telephone numbers, and Internet
3 websites) operated or endorsed by the United States government to provide relief
4 to homeowners or stabilize the economy, including but not limited to:
- 5 a. the Making Home Affordable Program;
 - 6 b. the Financial Stability Plan;
 - 7 c. the Troubled Asset Relief Program and any other program sponsored
8 or operated by the United States Department of the Treasury;
 - 9 d. the HOPE for Homeowners program, any program operated or created
10 pursuant to the Helping Families Save Their Homes Act, and any other
11 program sponsored or operated by the Federal Housing Administration;
 - 12 e. any program sponsored or operated by the United States Department
13 of Housing and Urban Development (“HUD”), the HOPE NOW Alliance,
14 the Homeownership Preservation Foundation, or any HUD-approved
15 housing counseling agency;
 - 16 f. the claims program mandated by the February 2012 settlements
17 entered into by state attorneys general, the federal government, and five
18 mortgage servicers (www.nationalmortgagesettlement.com); or
 - 19 g. the Independent Foreclosure Review program mandated by the April
20 2011 settlements entered into by the Office of the Comptroller of the
21 Currency, the Board of Governors of the Federal Reserve System, the Office
22 of Thrift Supervision, and fourteen mortgage servicers
23 (www.IndependentForeclosureReview.com).
- 24 8. “Material fact” means any fact that is likely to affect a person’s choice of, or
25 conduct regarding, goods or services.
- 26 9. “Mortgage assistance relief product or service” means any product, service,
27 plan, or program, offered or provided to the consumer in exchange for
28

1 consideration, that is represented, expressly or by implication, to assist or attempt
2 to assist the consumer with any of the following:

- 3 a. stopping, preventing, or postponing any mortgage or deed of trust
4 foreclosure sale for the consumer's dwelling, any repossession of the
5 consumer's dwelling, or otherwise saving the consumer's dwelling from
6 foreclosure or repossession;
- 7 b. negotiating, obtaining, or arranging a modification of any term of
8 dwelling loan, including a reduction in the amount of interest, principal
9 balance, monthly payments, or fees;
- 10 c. obtaining any forbearance or modification in the timing of payments
11 from any dwelling loan holder or servicer on any dwelling loan;
- 12 d. negotiating, obtaining, or arranging any extension of the period of
13 time within which the consumer may (i) cure his or her default on a dwelling
14 loan, (ii) reinstate his or her dwelling loan, (iii) redeem a dwelling, or (iv)
15 exercise any right to reinstate a dwelling loan or redeem a dwelling;
- 16 e. obtaining any waiver of an acceleration clause or balloon payment
17 contained in any promissory note or contract secured by any dwelling; or
- 18 f. negotiating, obtaining, or arranging (i) a short sale of a dwelling, (ii) a
19 deed in lieu of foreclosure, or (iii) any other disposition of a dwelling loan
20 other than a sale to a third party that is not the dwelling loan holder.

21 The foregoing shall include any manner of claimed assistance, including, but not
22 limited to, auditing or examining a consumer's mortgage or home loan application.

23 10. "Person" means an individual, partnership, company, corporation,
24 association (incorporated or unincorporated), trust, estate, cooperative
25 organization, or other entity.
26
27
28

11. "Related Consumer Action" means a private-damages action brought against Settling Defendants by or on behalf of one or more consumers based on substantially the same facts as alleged in the Complaint in this action.

12. "Settling Defendants" means Abraham Michael Pessar, Division One Investment and Loan, Inc., and Processing Division, L.L.C, and their successors, assigns, affiliates, or subsidiaries, and each of them by whatever names each might be known.

13. "Temporary Receiver" means Robb Evans & Associates, 11450 Sheldon Street, Sun Valley, CA 91352-1121.

14. The words "and" and "or" shall be understood to have both conjunctive and disjunctive meanings as necessary to make the applicable phrase or sentence inclusive rather than exclusive.

ORDER

I.

BAN ON MORTGAGE ASSISTANCE AND DEBT RELIEF PRODUCTS AND SERVICES

IT IS HEREBY ORDERED that the Settling Defendants, whether acting directly or through any other person, are permanently restrained and enjoined from:

A. Advertising, marketing, promoting, offering for sale, or selling any mortgage assistance or debt relief product or service; and

B. Assisting others engaged in advertising, marketing, promoting, offering for sale, or selling any mortgage assistance or debt relief product or service.

Provided, that sections I.A. and B. shall not prohibit the actions of any Settling Defendant that is licensed or registered as a real estate broker or real estate agent, in accordance with State law, to the extent that such Settling Defendant: (1) acts as a real estate agent or broker for a buyer, seller, lessor, or lessee of real property; (2) brings together parties interested in the sale, purchase, lease, rental, or exchange of real

1 property; (3) negotiates, on behalf of any party, any portion of a contract relating to the
2 sale, purchase, lease, rental or exchange of real property (other than in connection with
3 the provision of financing with respect to any such transaction); or (4) offers to engage in
4 any activity, or act in any capacity, described in subparagraphs (1), (2), or (3) above.

5 **II.**

6 **PROHIBITED MISREPRESENTATIONS RELATING TO CONSUMER**
7 **FINANCIAL PRODUCTS OR SERVICES**

8 **IT IS FURTHER ORDERED** that the Settling Defendants and their officers,
9 agents, servants, employees, and attorneys, and those persons in active concert or
10 participation with any of them who receive actual notice of this Order by personal
11 service, facsimile transmission, email, or otherwise, whether acting directly or through
12 any corporation, subsidiary, division, or other device, in connection with the advertising,
13 marketing, promotion, offering for sale, sale, or performance of any consumer financial
14 product or service, are hereby permanently restrained and enjoined from:

15 A. Misrepresenting, or assisting others in misrepresenting, expressly or by
16 implication, any material fact, including but not limited to:

17 1. The terms or rates that are available for any loan or other extension of
18 credit, including but not limited to:

- 19 a) Closing costs or other fees;
20 b) The payment schedule, the monthly payment amount(s), or
21 other payment terms, or whether there is a balloon payment; interest
22 rate(s), annual percentage rate(s), or finance charge(s); the loan
23 amount, the amount of credit; the draw amount, or outstanding
24 balance; the loan term, the draw period, or maturity; or any other term
25 of credit;
26 c) The savings associated with the credit;
27
28

- d) The amount of cash to be disbursed to the borrower out of the proceeds, or the amount of cash to be disbursed on behalf of the borrower to any third parties;
 - e) Whether the payment of the minimum amount specific each month covers both interest and principal, and whether the credit has or can result in negative amortization;
 - f) That the credit does not have a prepayment penalty or that no prepayment penalty and/or other fees or costs will be incurred if the consumer subsequently refinances; and
 - g) That the interest rate(s) or annual percentage rate(s) are fixed rather than adjustable or adjustable rather than fixed;
2. Any person's ability to improve or otherwise affect a consumer's credit record, credit history, or credit rating or ability to obtain credit;
 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 history, or credit rating, even where such information is accurate and not obsolete;
 4. Any aspect of any consumer financial product or service, including but not limited to, the amount of savings a consumer will receive from purchasing, using, or enrolling in such consumer financial product or service, or the reduction or cessation of collection calls;
 5. Any aspect of the 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 granted to the consumer;
 6. That a consumer will receive legal representation;

1 7. That any person providing a testimonial has purchased, received, or
2 used the specific consumer financial product or service;

3 8. That the experience represented in a testimonial of the consumer
4 financial product or service represents the person's actual experience
5 resulting from the use of the consumer financial product or service under the
6 circumstances depicted in the advertisement;

7 9. The total costs to purchase, receive, or use, or the quantity of, the
8 consumer financial product or service, including that there will be no charge
9 for all or a portion of such service;

10 10. That any person is affiliated with, endorsed or approved by, or
11 otherwise connected to any other person, government entity, any federal
12 homeowner relief or financial stability program, public, non-profit, or other
13 non-commercial program, or any other program;

14 11. Any material restriction, limitation, or condition to purchase, receive,
15 or use the consumer financial product or service; and

16 12. Any material aspect of the performance, efficacy, nature, or
17 characteristics of the consumer financial product or service.

18 B. Advertising or assisting others in advertising credit terms other than those
19 terms that actually are or will be arranged or offered by a creditor or lender; and

20 C. Advising a customer that the customer cannot or should not contact,
21 communicate with, or make payments to the customer's lender or servicer.

22 **III.**

23 **SUBSTANTIATION FOR BENEFIT, PERFORMANCE, AND EFFICACY**

24 **CLAIMS**

25 **IT IS FURTHER ORDERED** that the Settling Defendants and their officers,
26 agents, servants, employees, and attorneys, and those persons or entities in active concert
27 or participation with any of them who receive actual notice of this Order by personal
28

1 service, facsimile transmission, email, or otherwise, whether acting directly or through
2 any corporation, subsidiary, division, or other device, in connection with the advertising,
3 marketing, promotion, offering for sale, or sale of any consumer financial product or
4 service are hereby permanently restrained and enjoined from making any representation
5 or assisting others in making any representation, expressly or by implication, about the
6 benefits, performance, or efficacy of any consumer financial product or service, unless, at
7 the time such representation is made, the Settling Defendants possess and rely upon
8 competent and reliable evidence that substantiates that the representation is true.

9 **IV.**

10 **COOPERATION WITH BUREAU COUNSEL**

11 **IT IS FURTHER ORDERED** that the Settling Defendants shall, in connection
12 with this action or any subsequent investigation or litigation related to or associated with
13 the transactions or occurrences that are the subject of the Bureau's Complaint, cooperate
14 in good faith with the Bureau, and appear at such places and times as the Bureau shall
15 reasonably request, after written notice, for interviews, conferences, pretrial discovery,
16 review of documents, and for such other matters as may be reasonably requested by the
17 Bureau. If requested in writing by the Bureau, the Settling Defendants shall appear and
18 testify at any trial, deposition, or other proceeding related to or associated with the
19 transactions or the occurrences that are the subject of the Complaint, without service of a
20 subpoena.

21 **V.**

22 **PROHIBITION ON DISCLOSING CUSTOMER INFORMATION**

23 **IT IS FURTHER ORDERED** that the Settling Defendants and their officers,
24 agents, servants, employees, and attorneys, and those persons in active concert or
25 participation with any of them who receive actual notice of this Order by personal
26 service, facsimile transmission, email, or otherwise, whether acting directly or through
27
28

1 any corporation, subsidiary, division, or other device, are permanently restrained and
2 enjoined from:

3 A. Disclosing, using, or benefitting from customer information, including the
4 name, address, telephone number, email address, social security number, other
5 identifying information, or any data that enables access to a customer's account
6 (including a credit card, bank account, or other financial account) of any person
7 that any Settling Defendant obtained prior to entry of this Order in connection with
8 the advertising, marketing, promotion, offering for sale or sale of any mortgage
9 assistance relief service or any debt relief service; and

10 B. Failing to dispose of such customer information in all forms in their
11 possession, custody, or control within thirty (30) days after entry of this Order.
12 Disposal shall be by means that protect against unauthorized access to the
13 customer information, such as by burning, pulverizing, or shredding any papers,
14 and by erasing or destroying any electronic media, to ensure that the customer
15 information cannot practicably be read or reconstructed.

16 *Provided, however*, that prior to destroying any customer information, Settling
17 Defendants must disclose such information to the Bureau; and

18 *Further provided*, that that prior to destroying any customer information, Settling
19 Defendants may disclose such information to the extent requested by a government
20 agency or required by a law, regulation, or court order.

21 VI.

22 PROHIBITION ON COLLECTING ACCOUNTS

23 **IT IS FURTHER ORDERED** that Settling Defendants, and their officers, agents,
24 servants, employees, attorneys, and all other persons in active concert or participation
25 with them who receive actual notice of this Order by personal service, facsimile
26 transmission, email, or otherwise, whether acting directly or through any corporation,
27 subsidiary, division, or other device, are hereby permanently restrained and enjoined

1 from attempting to collect, collecting, selling, or assigning, or otherwise transferring any
2 right to collect payment from any consumer who purchased or agreed to purchase
3 mortgage assistance relief products or services from Defendants.

4 **VII.**

5 **ORDER TO PAY CIVIL-MONEY PENALTY**

6 **IT IS FURTHER ORDERED** that:

7 A. By reason of the alleged violations of law, and because of the Settling
8 Defendants' demonstrated inability to pay a higher amount, and taking into
9 account such other matters as justice may require, pursuant to section 1055(c) of
10 the CFPA, 12 U.S.C. §5565(c), Settling Defendants shall pay a total civil-money
11 penalty of one dollar (\$1).

12 B. Within ten (10) days of the Court's entry of this Order, Settling Defendants
13 shall pay the one dollar (\$1) civil-money penalty in the form of a wire transfer to
14 the Bureau or to such agent as the Bureau may direct, and in accordance with
15 wiring instructions to be provided by counsel for the CFPB, in accordance with
16 section 1017(d) of the CFPA, §12 U.S.C. 5497(d).

17 C. The civil-money penalty paid pursuant to this Order shall be deposited in the
18 Civil Penalty Fund of the Bureau. Payments from the Civil Penalty Fund may be
19 made to victims of activities for which civil penalties have been imposed under the
20 Federal consumer financial laws, including eligible victims of activities of the
21 Defendants alleged in the Complaint.

22 **VIII.**

23 **JUDGMENT FOR EQUITABLE MONETARY RELIEF**

24 **IT IS FURTHER ORDERED** that:

25 A. A judgment for equitable monetary relief and damages is hereby entered in
26 favor of the Bureau and against the Settling Defendants, jointly and severally, in
27 the amount of ten million dollars (\$10,000,000); provided, however, that full
28 payment of this judgment shall be suspended upon satisfaction of the obligations

1 set forth in subparagraphs B through D of this section, and subject to Sections IX
2 and X of this Order.

3 B. To partially satisfy the judgment as set forth in subsection A above, Settling
4 Defendants hereby grant to the Bureau all rights and claims they have to their
5 frozen assets currently in the possession, custody, or control of the Temporary
6 Receiver ("Pessar Funds"), and shall forfeit any rights to the Pessar Funds in the
7 Receivership Estate, including but not limited to:

8 1. Funds that were previously held in Account Number XXXXX3561 at
9 JP Morgan Chase Bank in the name of DAE Holdings, L.L.C., which
10 amount is approximately \$200,000;

11 2. Funds that were previously held in Account Number XXXXX9166 at
12 JP Morgan Chase Bank in the name of Processing Division, L.L.C., which
13 amount is approximately \$110,626.74;

14 3. Funds that were previously held in Account Number XXXXX3948 at
15 JP Morgan Chase Bank in the name of Processing Division, L.L.C., which
16 amount is approximately \$2,719.22;

17 4. Funds that were previously held in Account Number XXXXX8769 at
18 JP Morgan Chase Bank in the name of Processing Division, L.L.C., which
19 amount is approximately \$3.44;

20 5. Funds that were previously held in Account Number XXXXX2511 at
21 JP Morgan Chase Bank in the name of Attorney Marketing Services, Inc.,
22 which amount is approximately \$3,766.83;

23 6. Funds that were previously held in Account Number XXXXX3955 at
24 JP Morgan Chase Bank in the name of Nation Source, L.L.C., which amount
25 is approximately \$11,568.65;

1 7. Funds that were previously held in Account Number XXXXX1036at
2 JP Morgan Chase Bank in the name of Empire Legal, which amount is
3 approximately \$92.37;

4 8. Funds that were previously held in Account Number XXXXX7975 at
5 JP Morgan Chase Bank in the name of Attorney Marketing Services, Inc.;

6 9. Funds that were previously held in Account Number XXXXX1132at
7 JP Morgan Chase Bank in the name of Empire Legal;

8 10. Funds that were previously held in Account Number XXXXX9078at
9 JP Morgan Chase Bank in the name of Empire Legal;

10 11. Funds that were previously held in Account Number XX6209 with
11 Meracord in the name of Empire Legal, which amount is approximately
12 \$3,329.16;

13 12. Funds from the JP Morgan Chase Cashier's Check #43329471
14 addressed to Division One Investment & Loan, Inc., which amount is
15 \$1,850;

16 13. Funds obtained from the sale by the Temporary Receiver of furniture
17 and office equipment located at 5455 Wilshire Boulevard, Suites 2005,
18 2011, 2012, and 2025, Los Angeles, CA 91210, which amount is
19 approximately \$4,653.19;

20 14. Funds obtained from the sale by the Temporary Receiver of the 2004
21 Lamborghini Coupe with Vehicle Identification Number
22 ZHWGU11M54LA01816, which amount is approximately \$55,000; and

23 15. Any other funds held by or deposited into the Court Registry by the
24 Temporary Receiver.

25 C. In partial satisfaction of the judgment as set forth in subsection A above, the
26 Temporary Receiver shall within ten (10) days of the Court's authorization of
27
28

1 payment of fees and expenses to the Temporary Receiver, wire transfer the
2 remaining Pessar Funds to the Bureau or to such agent as the Bureau may direct.
3 *Provided that*, in the event that all or a portion of the Pessar Funds have been
4 deposited into the Court Registry at the time the Court enters this Order, such
5 funds shall be transferred from the Court Registry to the Bureau.

6 D. Any Pessar Funds received by the Bureau in partial satisfaction of the
7 judgment in subsection A above shall be deposited into a fund or funds
8 administered by the Bureau or its agent in accordance with applicable statutes and
9 regulations to be used for redress for consumers injured by the activities of
10 Defendants alleged in the Complaint, including, but not limited to, refunds of
11 moneys, restitution, damages or other monetary relief, and any attendant expenses
12 for the administration of any such redress.

13 1. Settling Defendants shall cooperate fully to assist the Bureau in
14 identifying consumers who should receive redress and in what amount.

15 2. If the Bureau determines, in its sole discretion, that redress to
16 consumers is wholly or partially impracticable or if funds remain after
17 redress is completed, the Bureau may apply any remaining funds for such
18 other equitable relief (including consumer information remedies) as
19 determined to be reasonably related to Defendants' practices alleged in the
20 Complaint. Any funds not used for such equitable relief shall be deposited
21 in the U.S. Treasury as disgorgement. Settling Defendants shall have no
22 right to challenge the Bureau's choice of remedies under this Section, and
23 shall have no right to contest the manner of distribution chosen by the
24 Bureau.

25 3. The judgment for equitable monetary relief and damages is solely
26 remedial in nature and is not a fine, penalty, punitive assessment, or
27 forfeiture.
28

IX.

OTHER MONETARY PROVISIONS

IT IS FURTHER ORDERED that:

A. In the event of any default on Settling Defendants' obligation to make payment required by this Order, interest, computed pursuant to 28 U.S.C. § 1961, as amended, shall accrue on any outstanding amounts not paid from the date of default to the date of payment, and shall immediately become due and payable.

B. The Settling Defendants shall relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law. The Settling Defendants shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

C. The Settling Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true without further proof in any bankruptcy case or subsequent civil litigation pursued by the Bureau to enforce its rights to any payment or money judgment pursuant to this Order, including but not limited to a nondischargeability complaint in any bankruptcy case. Settling Defendants further agree that the facts alleged in the Complaint establish all elements necessary to sustain an action by the Bureau pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and that this Order shall have collateral estoppel effect for such purposes.

D. In accordance with 31 U.S.C. § 7701, Settling Defendants, unless they have already done so, shall furnish to the Bureau their taxpayer identifying numbers, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

E. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report

1 concerning any Settling Defendant to the Bureau, which shall be used for purposes
2 of collecting and reporting on any delinquent amount arising out of this Order.

3 F. Settling Defendants shall not seek or accept, directly or indirectly,
4 reimbursement or indemnification from any source, including but not limited to
5 payment made pursuant to any insurance policy, with regard to any monetary
6 relief, whether in the form of equitable monetary relief, damages, or a civil-money
7 penalty, that Settling Defendants pay pursuant to this Order, regardless of whether
8 any civil-money penalty amounts or any part thereof are added to the Civil Penalty
9 Fund or otherwise used for the benefit of consumers.

10 G. Settling Defendants shall not claim, assert, or apply for a tax deduction or
11 tax credit with regard to any federal, state, or local tax for any monetary relief,
12 whether in the form of equitable monetary relief, damages, or a civil-money
13 penalty, that Settling Defendants pay pursuant to this Order, regardless of whether
14 any civil-money penalty amounts or any part thereof are added to the Civil Penalty
15 Fund or otherwise used for the benefit of consumers.

16 **X.**

17 **RIGHT TO REOPEN**

18 **IT IS FURTHER ORDERED** that the Bureau's agreement to, and the Court's
19 approval of, this Order is expressly premised on the truthfulness, accuracy, and
20 completeness of Settling Defendants' financial statements and supporting documents
21 submitted to the Bureau on or about July 24, 2012, December 17, 2012, and December
22 21, 2012, which Settling Defendants assert are truthful, accurate, and complete. If, upon
23 motion by the Bureau, the Court finds that any of the Settling Defendants have failed to
24 disclose any material asset or the financial statement of any Settling Defendant contains
25 any material misrepresentation or omission, including materially misstating the value of
26 any asset, then this Order shall be reopened and the Court shall terminate the suspension
27 of the monetary judgment entered in Section VIII. The Court, without further
28

1 adjudication, shall reinstate the judgment entered in Section VIII of this Order and the
2 full amount of ten million dollars (\$10,000,000) will become immediately due and
3 payable less any amounts paid to the Bureau pursuant to Section VIII of the Order.

4 *Provided, however,* that in all other respects this Order shall remain in full force
5 and effect unless otherwise ordered by the Court; and, *provided further,* that proceedings
6 instituted under this provision would be in addition to, and not in lieu of any other civil or
7 criminal remedies as may be provided by law, including any other proceedings that the
8 Bureau may initiate to enforce this Order. For purposes of this Section, Settling
9 Defendants waive any right to contest any of the allegations in the Complaint.

10 Upon any reinstatement of the monetary judgment pursuant to this Section, the
11 Court shall make an express determination that the monetary judgment shall be
12 immediately due and payable. The Bureau shall be entitled to interest on the judgment,
13 computed from the date of entry of this Order, at the rate prescribed by 28 U.S.C. § 1961,
14 as amended, on any outstanding amounts not paid. The Bureau shall be permitted to
15 execute on the judgment immediately after the suspension is lifted and engage in
16 discovery in aid of execution.

17 XI.

18 LIFTING OF ASSET FREEZE

19 **IT IS FURTHER ORDERED** that upon entry of this Order, the freeze of Settling
20 Defendants' assets pursuant to the Stipulated Preliminary Injunction entered on
21 November 16, 2012, shall be dissolved upon payment of the judgment pursuant to
22 Section VIII of this Order.

23 XII.

24 ORDER ACKNOWLEDGMENTS

25 **IT IS FURTHER ORDERED** that Settling Defendants provide and obtain
26 acknowledgments of receipt of this Order:
27
28

1 A. Each Settling Defendant within seven (7) days of entry of this Order, must
2 submit to the Bureau an acknowledgment of receipt of this Order sworn under
3 penalty of perjury.

4 B. For five (5) years after entry of this Order, Settling Defendant Abraham
5 Michael Pessar, for any business that he, individually or collectively with any other
6 Defendant, is the majority owner or directly or indirectly controls, and each
7 Settling Defendant, must deliver a copy of this Order to: (1) all principals,
8 officers, directors, and managers; (2) all employees, agents, and representatives
9 who participate in conduct related to the marketing of any financial good or
10 service; and (3) any business entity resulting from any change in structure as set
11 forth in the Section titled Compliance Reporting. Delivery must occur within
12 seven (7) days of entry of this Order for current personnel. To all others, delivery
13 must occur before they assume their responsibilities.

14 C. From each individual or entity to which a Settling Defendant delivered a
15 copy of this Order, that Settling Defendant must obtain, within thirty (30) days, a
16 signed and dated acknowledgment of receipt of this Order and provide such
17 records to the Bureau in accordance with Section XIII of this Order.

18 XIII.

19 COMPLIANCE REPORTING

20 **IT IS FURTHER ORDERED** that in order to monitor compliance with the
21 provisions of this Order:

22 A. One hundred and eighty (180) days after entry of this Order, each Settling
23 Defendant must submit a compliance report to the Bureau, sworn under penalty of
24 perjury.

25 1. Each Settling Defendant must: (a) designate at least one telephone
26 number and an email, physical, and postal address as points of contact,
27 which representatives of the Bureau may use to communicate with the
28

1 Settling Defendant; (b) identify all of that Settling Defendant's businesses
2 by all of their names, telephone numbers, and physical, postal, email, and
3 Internet addresses; (c) describe the activities of each business, including the
4 products and services offered, the means of advertising, marketing, and
5 sales, and the involvement of any other Defendant (which Settling
6 Defendant Pessar must describe if he knows or should know due to his own
7 involvement); (d) describe in detail whether and how that Settling Defendant
8 is in compliance with each Section of this Order; and (e) provide a copy of
9 each Order Acknowledgment obtained pursuant to this Order, unless
10 previously submitted to the Bureau;

11 2. Additionally, Settling Defendant Abraham Michael Pessar must: (a)
12 identify all telephone numbers and all email, Internet, physical, and postal
13 addresses, including all residences; (b) identify all titles and roles in all
14 business activities, including any business for which such Settling Defendant
15 performs services whether as an employee or otherwise and any entity in
16 which such Settling Defendant has any ownership interest; and (c) describe
17 in detail such Settling Defendant's involvement in each such business,
18 including title, role, responsibilities, participation, authority, control, and any
19 ownership.

20 B. For ten (10) years following entry of this Order, each Settling Defendant
21 must submit a compliance notice, sworn under penalty of perjury, within fourteen
22 (14) days of any change in the following:

23 1. Each Settling Defendant must report any change in: (a) any
24 designated point of contact; or (b) the structure of the corporate Settling
25 Defendants or any entity that any Settling Defendant has any ownership
26 interest in or directly or indirectly controls that may affect compliance
27 obligations arising under this Order, including: creation, merger, sale, or
28

1 dissolution, or the sale of all or substantially all of the assets, of a Settling
2 Defendant or any such entity or any subsidiary, parent, or affiliate that
3 engages in any acts or practices subject to this Order.

4 2. Additionally, Settling Defendant Pessar must report any change in:
5 (a) name, including aliases or fictitious name, or residence address; or (b)
6 title or role in any business activity, including any business for which such
7 Settling Defendant performs services whether as an employee or otherwise
8 and any entity in which such Settling Defendant has any ownership interest,
9 and identify its name, physical address, and Internet address, if any.

10 C. Each Settling Defendant must submit to the Bureau notice of the filing of
11 any bankruptcy petition, insolvency proceeding, or any similar proceeding by or
12 against such Settling Defendant within fourteen (14) days of its filing.

13 D. Any submission to the Bureau required by this Order to be sworn under
14 penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746,
15 such as by concluding: "I declare under penalty of perjury under the laws of the
16 United States of America that the foregoing is true and correct. Executed
17 on: _____" and supplying the date, signatory's full name, title (if applicable), and
18 signature.

19 E. Unless otherwise directed by a Bureau representative in writing, all
20 submissions to the Bureau pursuant to this Order must be emailed to
21 enforcement@cfpb.gov or sent by commercial overnight courier (not the U.S.
22 Postal Service) to:

23 Assistant Director for Enforcement
24 Consumer Financial Protection Bureau
25 1700 G Street, NW, ATTN: 1750 PA
26 Washington, DC 20552
27 ATTN: Office of Enforcement

28 The subject line must begin: RE: CFPB v. Gordon, et al.

1 **XIV.**

2 **RECORDKEEPING**

3 **IT IS FURTHER ORDERED** that the Settling Defendants must create certain
4 records for ten (10) years after entry of the Order, and retain each such record for five (5)
5 years after its creation. Specifically, each Settling Defendant for any business involving
6 consumer financial products or services in which that Settling Defendant, individually or
7 collectively with any other Defendants, is a majority owner or directly or indirectly
8 controls, must maintain the following records:

9 A. Accounting records showing the revenues from all consumer financial
10 products or services, all costs incurred in generating those revenues, and the
11 resulting net profit or loss;

12 B. Personnel records showing, for each person providing services, whether as
13 an employee or otherwise, that person's: name, addresses, and telephone numbers;
14 job title or position; dates of service; and, if applicable, the reason for termination;

15 C. Customer files showing the names, addresses, telephone numbers, dollar
16 amounts paid, and the quantity and description of goods or services purchased;

17 D. Complaints and refund requests, whether received directly or indirectly, such
18 as through a third party, and any response;

19 E. All records necessary to demonstrate full compliance with each provision of
20 this Order, including all submissions to the Bureau; and

21 F. A copy of each advertisement or other marketing material related to the
22 marketing of any consumer financial product or service.

23 **XV.**

24 **COMPLIANCE MONITORING**

25 **IT IS FURTHER ORDERED** that, for the purpose of monitoring Settling
26 Defendants' compliance with this Order, including the financial representations upon
27 which part of the judgment was suspended:

1 A. Within fourteen (14) days of receipt of a written request from a
2 representative of the Bureau, each Settling Defendant must: submit additional
3 compliance reports or other requested information, which must be sworn under
4 penalty of perjury; appear for depositions; and produce documents for inspection
5 and copying. The Bureau is also authorized to obtain discovery, without further
6 leave of court, using any of the procedures prescribed by Federal Rules of Civil
7 Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

8 B. For matters concerning this Order, the Bureau is authorized by this Order to
9 communicate directly with each Settling Defendant. Settling Defendants must
10 permit representatives of the Bureau to interview any employee or other person
11 affiliated with any Settling Defendant who has agreed to such an interview. The
12 person interviewed may have counsel present.

13 The Bureau is authorized by this Order to use all other lawful means,
14 including posing, through its representatives, as consumers, suppliers, or other
15 individuals or entities, to Settling Defendants or any individual or entity affiliated
16 with Settling Defendants, without the necessity of identification or prior notice.
17 Nothing in this Order limits the Bureau's lawful use of compulsory process,
18 pursuant to 12 C.F.R. § 1080.6.

19 **XVI.**

20 **RETENTION OF JURISDICTION**

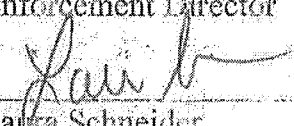
21 **IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for
22 purposes of construction, modification, and enforcement of this Order.

23
24 **XVII.**

25 **IT IS FURTHER ORDERED** that pursuant to Fed. R. Civ. P. 54(b), there is no
26 just reason for delay, and the Clerk of the Court shall immediately enter this Order as a
27 final order.

1 SO STIPULATED:

2 KENT MARKUS
3 Enforcement Director

4 
5 Laura Schneider
6 Crystal E. Sumner
7 James Meade

Date 1/25/13

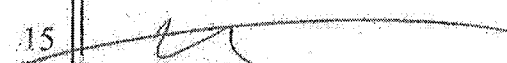
8 Attorneys for Plaintiff
9 Consumer Financial Protection Bureau

10 
11 Abraham Michael Pessar

Date 1/22/13

12 
13 Abraham Michael Pessar, Division
14 One Investment & Loan, Inc.,

Date 1/22/13

15 
16 Abraham Michael Pessar as
17 owner/manager of
18 Processing Division, L.L.C.

Date 1/22/13

19  by 
20 Edwin C. Schreiber, Esq.

Date 1/22/13

21 Counsel for Abraham Michael Pessar,
22 Division One Investment & Loan, Inc., and
23 Processing Division, L.L.C.

24 IT IS SO ORDERED, this 1st day of February, 2013, at _____ o'clock ____m.

25 
26 United States District Judge
27
28