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**UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA**

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**Federal Trade Commission** }

1 Issue and Why a Permanent Receiver Should Not Be Appointed. On December 5,  
2 2012, the Court entered a Stipulated Preliminary Injunction With Asset Freeze,  
3 Appointment of Receiver, Limited Expedited Discovery, And Other Equitable  
4 Relief.

5 Plaintiff and Defendants National Card Monitor LLC and James Eric Cox  
6 (“Defendants”) have now agreed to entry of this Stipulated Order for Permanent  
7 Injunction and Final Judgment (“Order”) (Doc. 51) by this Court in order to resolve  
8 all claims against Defendants in this action. Plaintiff and Defendants have  
9 consented to entry of this Order without trial or adjudication of any issue of law or  
10 fact herein.

11 **NOW THEREFORE**, Plaintiff and Defendants, hav~~g~~,

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2. **“Assisting others**

1 not limited to, a reduction in the balance, interest rate, or fees owed by a consumer  
2 to any secured or unsecured creditor or debt collector.

3 5. **“Defendant Cox”** means Defendant James Eric Cox, by whatever  
4 name he may be known.

5 6. **“Defendant NCM”** means Defendant National Card Monitor LLC,  
6 and its successors and assigns, as well as any subsidiaries, and any fictitious  
7 business entities or business names created or used by any of these entities, or any  
8 of them.

9 7. **“Defendants”** means **Defendant Cox** and **Defendant NCM**,  
10 individually or collectively, and their successors and assigns, as well as any  
11 subsidiaries, and any fictitious business entities or business names created or used  
12 by either Defendant, or any of them.

13 8. **“Document”** or **“Documents”** means any materials listed in Federal  
14 Rule of Civil Procedure 34(a) and includes writings, drawings, graphs, charts,  
15 photographs, audio and video recordings, computer records, and other data  
16 compilations from which information can be obtained and translated, if necessary,  
17 into reasonably usable form through detection devices. A draft or nonidentical  
18 copy is a separate Document within the meaning of the term.

19 9. **“Financial institution”** means any bank, savings and loan institution,  
20 credit union, or any financial depository of any kind, including, but not limited to,  
21 any brokerage house, trustee, broker-dealer, escrow agent, title company,  
22 commodity trading company, or precious metal dealer.

23 10. **“Financial related product or service”** means any product or service  
24 represented, directly or by implication, to:

25 A. provide any consumer, arrange for any consumer to receive, or  
26 assist any consumer in receiving debit or stored value cards;

27 B. improve, or arrange to improve, any consumer’s credit record,  
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1 credit history, or credit rating;

2 C. provide advice or assistance to any consumer with regard to any  
3 activity or service the purpose of which is to improve a consumer's credit  
4 record, credit history, or credit rating; or

5 D. provide any consumer, arrange for any consumer to receive, or  
6 assist any consumer in receiving, a secured loan or other extension of credit  
7 secured by collateral.

8 11. "**Person**" means a natural person, an organization or other legal entity,  
9 including a corporation, partnership, sole proprietorship, limited liability company,  
10 association, cooperative, or any other group or combination acting as an entity.

11 12. "**Plaintiff**" means the Federal Trade Commission ("Commission" or  
12 "FTC").

13 13. "**Telemarketing**" means any plan, program, or campaign which is  
14 conducted to induce the purchase of goods or services, or a charitable contribution,  
15 by use of one or more telephones, and which involves a telephone call, whether or  
16 not covered by the Telemarketing Sales Rule.

17 **I.**

18 **PERMANENT BAN ON TELEMARKETING**

19 **IT IS THEREFORE ORDERED** that **Defendants**, whether acting directly  
20 or through any **person**, trust, corporation, partnership, limited liability company,  
21 subsidiary, division, or other device, are permanently restrained and enjoined from  
22 participating in **telemarketing**, or **assisting others** engaged in **telemarketing**.

23 **II.**

24 **PERMANENT BAN ON MARKETING**

25 **CREDIT RELATED PRODUCTS OR SERVICES**

26 **IT IS FURTHER ORDERED** that **Defendants**, whether acting directly or  
27 through any **person**, trust, corporation, partnership, limited liability company,  
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1 subsidiary, division, or other device, are permanently restrained and enjoined from  
2 engaging in, participating in, or **assisting others** in the advertising, marketing,  
3 promotion, offering for sale, sale, or distribution of any **credit related product or**  
4 **service**.

5 **III.**

6 **PROHIBITED PRACTICES RELATING TO**  
7 **FINANCIAL RELATED PRODUCTS OR SERVICES**  
8 **AND DEBT RELIEF PRODUCTS OR SERVICES**

9 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
10 servants, employees, attorneys, and all other **persons** in active concert or  
11 participation with any of them, who receive actual notice of this Order by personal  
12 service or otherwise, whether acting directly or through any trust, corporation,  
13 partnership, limited liability company, subsidiary, division, or other device, in  
14 connection with the advertising, marketing, promotion, offering for sale, or sale of  
15 any **financial related product or service** or any **debt relief product or service**,  
16 are permanently restrained and enjoined from:

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

19 1. The terms or rates that are available for any secured loan or  
20 other extension of credit secured by collateral, including but not limited to:

21 a. closing costs or other fees;

22 b. the payment schedule, the monthly payment amount(s),  
23 or other payment terms, or whether there is a balloon payment; interest  
24 rate(s), annual percentage rate(s), or finance charge; the loan amount,  
25 the amount of credit, the draw amount, or outstanding balance; the  
26 loan term, the draw period, or maturity; or any other term of credit;

27 c. the savings associated with the credit;

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1 d. the amount of cash to be disbursed to the borrower out of  
2 the proceeds, or the amount of cash to be disbursed on behalf of the  
3 borrower to any third party;

4 e. whether the payment of the minimum amount specified  
5 each month covers both interest and principal, and whether the credit  
6 has or can result in negative amortization;

7 f. that the credit does not have a prepayment penalty or that  
8 no prepayment penalty and/or other fees or costs will be incurred if the  
9 consumer subsequently refinances; and

10 g. that the interest rate(s) or annual percentage rate(s) are  
11 fixed rather than adjustable or adjustable rather than fixed;

12 2. Any aspect of any mortgage loan modification service or  
13 foreclosure relief service, including, but not limited to, the amount of savings  
14 or reduction in interest rate, loan principal, or monthly payment that a  
15 consumer will receive from purchasing, using, or enrolling in such mortgage  
16 loan modification service or foreclosure relief service; the amount of time  
17 before a consumer will receive a mortgage loan modification or relief from  
18 foreclosure; the likelihood that a consumer will obtain a modified mortgage  
19 loan or relief from foreclosure; or the reduction or cessation of collection  
20 calls;

21 3. Any aspect of any **debt relief product or service**, including,  
22 but not limited to, the amount of, or likelihood of obtaining, any reduction in  
23 the balance, interest rate, or fees owed by a consumer to any creditor or debt  
24 collector;

25 4. That any **person** can improve any consumer's credit record,  
26 credit history, or credit rating by permanently removing negative information  
27 from the consumer's credit record, credit history, or credit rating, even where  
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1 such information is accurate and not obsolete;

2 5. Any **person**'s ability to improve or otherwise affect a  
3 consumer's credit record, credit history, credit rating, or ability to obtain  
4 credit; and

5 6. That a consumer will receive legal representation; and

6 B. For any secured loan or other extension of credit secured by collateral,  
7 advertising or **assisting others** in advertising credit terms other than those terms  
8 that actually are or will be arranged or offered by a creditor or lender.

9 **IV.**

10 **PROHIBITED PRACTICES RELATING TO**

11 **ANY PRODUCTS OR SERVICES**

12 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
13 servants, employees, attorneys, and all other **persons** in active concert or  
14 participation with any of them, who receive actual notice of this Order by personal  
15 service or otherwise, whether acting directly or through any trust, corporation,  
16 partnership, limited liability company, subsidiary, division, or other device, in  
17 connection with the advertising, marketing, promotion, offering for sale or sale of  
18 any product or service, are permanently restrained and enjoined from  
19 misrepresenting or **assisting others** in misrepresenting, expressly or by  
20 implication, any material fact, including but not limited to:

21 A. Any material aspect of the nature or terms of any refund, cancellation,  
22 exchange, or repurchase policy, including, but not limited to, the likelihood of a  
23 consumer obtaining a full or partial refund, or the circumstances in which a full or  
24 partial refund will be granted to the consumer;

25 B. That any **person** is affiliated with, endorsed or approved by, or  
26 otherwise connected to any other **person**, government entity, or public, non-profit,  
27 or other non-commercial program, or any other program;

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1 C. The total costs to purchase, receive, or use, or the quantity of, the  
2 product, or service;

3 D. Any material restriction, limitation, or condition on purchasing,  
4 receiving, or using the product or service; and

5 E. Any material aspect of the performance, efficacy, nature, or  
6 characteristics of the product or service.

7 **V.**

8 **SUBSTANTIATION FOR**  
9 **BENEFIT, PERFORMANCE, AND EFFICACY CLAIMS**

10 **IT IS FURTHER ORDERED** that each of the **Defendants**, and their  
11 officers, agents, servants, employees, attorneys, and all other **persons** in active  
12 concert or participation with any of them, who receive actual notice of this Order  
13 by personal service or otherwise, whether acting directly or through any trust,  
14 corporation, partnership, limited liability company, subsidiary, division, or other  
15 device, in connection with the advertising, marketing, promotion, offering for sale  
16 or sale of any product or service, are permanently restrained and enjoined from  
17 making any representation or **assisting others** in making any representation,  
18 expressly or by implication, about the benefits, performance, or efficacy of any  
19 product or service, unless, at the time such representation is made, the **Defendant**  
20 possesses and relies upon competent and reliable evidence that substantiates that  
21 the representation is true.

22 **VI.**

23 **MONETARY JUDGMENT**

24 **IT IS FURTHER ORDERED** that:

25 A. Judgment is hereby entered in favor of the Commission and against  
26 Defendants James Eric Cox and National Card Monitor LLC, jointly and severally,  
27 for equitable monetary relief, including, but not limited to, consumer redress and/or  
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1 ordered by the Court; and

2 C. Any proceedings instituted under this Section shall be in addition to,  
3 and not in lieu of, any other civil or criminal remedies that may be provided by  
4 law, including, but not limited to, contempt proceedings, or any other proceedings  
5 that the Commission or the United States might initiate to enforce this Order. For  
6 purposes of this Section, **Defendants** waive any right to contest any of the  
7 allegations in the Commission's Complaint.

8 **VIII.**

9 **PROHIBITIONS REGARDING CONSUMER INFORMATION**

10 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
11 servants, employees, attorneys, and all other **persons** in active concert or  
12 participation with any of them who receive actual notice of this Order by personal  
13 service or otherwise, are permanently restrained and enjoined from:

14 A. Failing to provide sufficient customer information to enable the  
15 Commission to efficiently administer consumer redress. If a representative of the  
16 Commission requests in writing any information related to redress, **Defendants**  
17 must provide it, in the form prescribed by the Commission, within fourteen (14)  
18 days;

19 B. Disclosing, using, or benefitting from customer information, including  
20 the name, address, telephone number, email address, social security number, other  
21 identifying information, or any data that enables access to a customer's account  
22 (including a credit card, bank account, or other financial account), of any **person**  
23 which any Defendant obtained prior to entry of this Order in connection with the  
24 marketing or sale of any **credit related product or service**; and

25 C. Failing to dispose of such customer information in all forms in their  
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1 information, such as by burning, pulverizing, or shredding any papers, and by  
2 erasing or destroying any electronic media, to ensure that the customer information  
3 cannot practicably be read or reconstructed.

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

7 **IX.**

8 **PROHIBITION ON COLLECTING ON ACCOUNTS**

9 **IT IS FURTHER ORDERED** that **Defendants**, and their officers, agents,  
10 servants, employees, attorneys, and all other **persons** in active concert or  
11 participation with any of them who receive actual notice of this Order by personal  
12 service or otherwise, whether acting directly, or through any trust, corporation,  
13 partnership, limited liability company, subsidiary, division, or other device, are  
14 permanently restrained and enjoined from attempting to collect, collecting, or  
15 assigning any right to collect payment from any consumer who purchased or  
16 agreed to purchase any **credit related product or service**.

17 **X.**

18 **ORDER ACKNOWLEDGMENTS**

19 **IT IS FURTHER ORDERED** that **Defendants** obtain acknowledgments of  
20 receipt of this Order:

21 A. Each of the **Defendants**, within 7 days of entry of this Order, must  
22 submit to the Commission an acknowledgment of receipt of this Order sworn under  
23 penalty of perjury.

24 B. For 5 years after entry of this Order, **Defendant Cox**, for any business  
25 that he, individually or collectively with any other Defendant, is the majority  
26 owner or directly or indirectly controls, and **Defendant NCM**, must deliver a copy  
27 of this Order to: (1) all principals, officers, directors, and managers; (2) all  
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1 employees, agents, and representatives who participate in conduct related to the  
2 subject matter of the Order; and (3) any business entity resulting from any change  
3 in structure as set forth in the Section titled Compliance Reporting. Delivery must  
4 occur within 7 days of entry of this Order for current personnel. To all others,  
5 delivery must occur before they assume their responsibilities.

6 C. From each individual or entity to which a Defendant delivered a copy  
7 of this Order, that Defendant must obtain, within 30 days, a signed and dated  
8 acknowledgment of receipt of this Order.

9 **XI.**

10 **COMPLIANCE REPORTING**

11 **IT IS FURTHER ORDERED** that **Defendants** make timely submissions to  
12 the Commission:

13 A. One year after entry of this Order, each Defendant must submit a  
14 compliance report, sworn under penalty of perjury.

15 1. Each Defendant must: (a) designate at least one telephone  
16 number and an email, physical, and postal address as points of contact,  
17 which representatives of the Commission may use to communicate with  
18 Defendant; (b) identify all of that Defendant's businesses by all of their  
19 names, telephone numbers, and physi  
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1 numbers and all email, Internet, physical, and postal addresses, including all  
2 residences; (b) identify all titles and roles in all business activities, including  
3 any business for which he performs services whether as an employee or  
4 otherwise and any entity in which he has any ownership interest; and (c)  
5 describe in detail his involvement in each such business, including title, role,  
6 responsibilities, participation, authority, control, and any ownership.

7 B. For 20 years following entry of this Order, each Defendant must  
8 submit a compliance notice, sworn under penalty of perjury, within 14 days of any  
9 change in the following:

10 1. Each Defendant must report any change in: (a) any designated  
11 point of contact; or (b) the structure of **Defendant NCM** or any entity that  
12 the Defendant has any ownership interest in or directly or indirectly controls  
13 that may affect compliance obligations arising under this Order, including:  
14 creation, merger, sale, or dissolution of the entity or any subsidiary, parent,  
15 or affiliate that engages in any acts or practices subject to this Order.

16 2. Additionally, **Defendant Cox** must report any change in: (a)  
17 name, including aliases or fictitious name, or residence address; or (b) title  
18 or role in any business activity, including any business for which he  
19 performs services whether as an employee or otherwise and any entity in  
20 which he has any ownership interest, and identify its name, physical address,  
21 and Internet address, if any.

22 C. Each Defendant must submit to the Commission notice of the filing of  
23 any bankruptcy petition, insolvency proceeding, or any similar proceeding by or  
24 against such Defendant within 14 days of its filing.

25 D. Any submission to the Commission required by this Order to be  
26 sworn under penalty of perjury must be true and accurate and comply with 28  
27 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under  
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1 provision of this Order, including all submissions to the Commission; and

2 E. A copy of each advertisement or other marketing material.

3 **XIII.**

4 **COMPLIANCE MONITORING**

5 **IT IS FURTHER ORDERED** that, for the purpose of monitoring  
6 **Defendants'** compliance with this Order, including the financial representations  
7 upon which part of the judgment was suspended and any failure to transfer any  
8 **assets** as required by this Order:

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

16 B. For matters concerning this Order, the Commission is authorized to  
17 communicate directly with each Defendant. **Defendants** must permit  
18 representatives of the Commission to interview any employee or other **person**  
19 affiliated with any Defendant who has agreed to such an interview. The **person**  
20 interviewed may have counsel present.

21 C. The Commission may use all other lawful means, including posing,  
22 through its representatives, as consumers, suppliers, or other individuals or entities,  
23 to **Defendants** or any individual or entity affiliated with **Defendants**, without the  
24 necessity of identification or prior notice. Nothing in this Order limits the  
25 Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of  
26 the FTC Act, 15 U.S.C. §§ 49, 57b-1.

**XIV.**

**COOPERATION WITH FTC COUNSEL**

**IT IS FURTHER ORDERED** that **Defendants** shall, in connection with this action or any subsequent investigations related to or associated with the transactions or the occurrences that are the subject of the FTC's Complaint, cooperate in good faith with the FTC and appear, or cause their officers, employees, representatives, or agents to appear, at such places and times as the FTC shall reasonably request, after written notice, for interviews, conferences, pretrial discovery, review of **documents**, and for such other matters as may be reasonably requested by the FTC. If requested in writing by the FTC, **Defendants** shall appear, or cause their officers, employees, representatives, or agents to appear, and provide truthful testimony in any trial, deposition, or other proceeding related to or associated with the transactions or the occurrences that are the subject of the Complaint, without the service of a subpoena.

**XV.**

**COMPLETION OF RECEIVERSHIP**

**IT IS FURTHER ORDERED** that the appointment of Peter Davis as Receiver over **Defendant NCM** pursuant to Section XII of the Preliminary Injunction entered on December 5, 2012, is hereby continued in full force and effect except as modified by this Section.

- A. The Receiver is directed and authorized to accomplish the following:
1. Complete, as necessary, the liquidation of the **assets** of the **Defendant NCM**;
  2. Prepare and file with the Court a final report describing the Receiver's activities pursuant to this Order and the Preliminary Injunction Order, and a final application for compensation and expenses; and
  3. Upon the Court's approval of the Receiver's final application

1 for compensation and expenses, distribute to the Commission any remaining  
2 liquid **assets** at the conclusion of the Receiver's duties.

3 B. Upon completion of the above tasks, the duties of the Receivership  
4 shall terminate, and the Receiver shall be discharged.

5 **XVI.**

6 **DISSOLUTION OF ASSET FREEZE**

7 **IT IS FURTHER ORDERED** that the freeze on the **assets** of **Defendant**  
8 **Cox** pursuant to the Preliminary Injunction entered in this action shall remain in  
9 effect until all funds described in Section VI.A.1 above have been transferred to  
10 the Commission. Upon receipt by the Commission of all such funds, the freeze  
11 against **Defendant Cox's assets** shall be lifted permanently. The freeze on the  
12 **assets** of **Defendant NCM** shall remain in effect until such time as the Receiver  
13 receives payment of all Court-approved fees and expenses of the Receiver and the  
14 Receiver is discharged pursuant to Section XVI of this Order. A **financial**  
15 **institution** shall be entitled to rely upon a letter from **Plaintiff** stating that the  
16 freeze on **Defendants' assets** has been lifted.

17 **XVII.**

18 **SEVERABILITY**

19 **IT IS FURTHER ORDERED** that the provisions of this Order are separate  
20 and severable from one another. If any provision is stayed or determined to be  
21 invalid, the remaining provisions shall remain in full force and effect.

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**XVIII.**

**JURISDICTION**

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

DATED this 15<sup>th</sup> day of July, 2013.



The image shows a handwritten signature in black ink over a horizontal line. Below the signature is a rectangular stamp with a grid pattern. The text within the stamp is partially legible and appears to read "Clerk of Court" and "District Court".