

1 James Novella and Green Fidelity Allegiance, Inc. (“Stipulated Preliminary
2 Injunction”). The FTC, defendants James Novella and Green Fidelity Allegiance,
3 Inc., and the Receiver have stipulated agreed to entry of this Final Order for
4 Permanent Injunction and Settlement of Claim (“Order”) to resolve all matters in
5 dispute in this action between them.
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8 FINDINGS

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

- 10 1. This is an action by the FTC instituted under Section 13(b) of the FTC Act,
11 15 U.S.C. § 53(b), and Section 814(a) of the FDCA, 15 U.S.C. § 1692a).
12 The Complaint seeks both permanent injunctive relief and equitable
13 monetary relief for the Stipulating Defendants’ alleged deceptive acts or
14 practices as alleged therein.
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- 16 2. The FTC has the authority under Section 13(b) of the FTC Act and
17 Section 814(a) of the FDCA to seek the relief it has requested, and the
18 Complaint states a claim upon which relief can be granted against the
19 Stipulating Defendants.
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- 21 3. This Court has jurisdiction over the subject matter of this case and has
22 jurisdiction over the Stipulating Defendant Venue in the Central District
23 of California is proper.
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4. The activities of the Stipulating Defendants, as alleged in the Complaint, are in or affecting commerce, as defined Section 4 of the FTC Act, 15 U.S.C.

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1 assignment or transfer of a debt in default solely for the purpose of
2 facilitating collection of such debt.

3 6. "Financial-related product or service" means any product, service, plan,
4 or program represented, expressly or by implication, to:

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6 A. provide to any consumer, arrange for any consumer to receive, or
7 assist any consumer in receiving an extension of consumer credit;

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9 B. provide to any consumer, arrange for any consumer to receive, or
10 assist any consumer in receiving credit repair services;

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12 C. provide to any consumer, arrange for any consumer to receive, or
13 assist any consumer in receiving a secured or unsecured debt relief
14 product or service;

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16 7. "Person" means a natural person, organization, or other legal entity,
17 including a corporation, partnership, proprietorship, association, cooperative,
18 or any other group or combination acting as an entity.

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20 8. "Receivership Entities" means the Stipulating Corporate Defendant, Mada
21 Loyalty Group Inc., and any successors, assigns, affiliates, and subsidiaries
22 that conduct any business related to Defendants' debt collection business
23 and that the Receiver has reason to believe are owned or controlled in whole
24 or in part by any of the Stipulating Defendants.
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forbearance or modification in the timing of 26 payments from any secured mo

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13. "Stipulating Defendants" means the Stipulating Individual Defendant and the Stipulating Corporate Defendants individually, collectively, or in any combination, and each of them by whatever names each might be known.

ORDER

BAN ON DEBT COLLECTION ACTIVITIES

I. IT IS THEREFORE ORDERED that the Stipulating Defendants, whether acting directly or through any other person, are permanently restrained and enjoined from:

- A. Engaging in debt collection activities;
- B. Assisting others engaged in debt collection activities; and
- C. Advertising, marketing, promoting, offering for sale, or selling, or assisting others engaged in the advertising, marketing, promoting, offering for sale, or selling, of any portfolio of consumer or commercial debt or any program that gathers, organizes, or stores consumer information relating to debt or debt collection activities.

Provided that Section I.C. shall not prohibit the Stipulating Individual Defendant from engaging in any activity involving or related to advertising,

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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 secured or unsecured debt relief product or service, including but not limited to, the amount of savings a consumer will receive from purchasing, using, or enrolling in such secured or unsecured debt relief product or service; the amount of time before which a consumer will receive settlement of that consumer's debts; or the reduction or cessation of collection calls;
5. That a consumer will receive legal representation;
6. That any particular outcome result from a financial-related product or service is guaranteed, assured, highly likely or probable, or very likely or probable;

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7. The nature or terms of any refund, cancellation, exchange, or repurchase policy, including, but not limited to, the likelihood of a consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be provided to the consumer; and

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

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

CONSUMER INFORMATION

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

- 1 A. Failing to provide sufficient consumer information to enable the FTC
2 to administer efficiently consumer redress. If a representative of the
3 FTC requests in writing any information related to redress, the
4 Stipulating Defendants must provide it, in the form prescribed by the
5 FTC, within 14 days.
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7 B. Disclosing, using, or benefiting from consumer information,
8 including the name, address, telephone number, email address, social
9 security number, other identifying information, or any data that
10 enables access to a customer's account (including a credit card, bank
11 account, or other financial account) by any person that any Defendant
12 obtained prior to entry of this Order in connection with the collection
13 or attempted collection of any debt, and
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- 15 C. Failing to destroy such consumer information in all forms in their
16 possession, custody, or control within thirty (30) days after receipt of
17 written direction to do so from a representative of the FTC.
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- 19 D. Provided, however, that consumer information need not be disposed
20 of, and may be disclosed, to the extent requested by a government
21 agency or required by a law, regulation, or court order.
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A. Judgment in the amount ~~FOUR~~ FOUR HUNDRED TWENTY ONE THOUSAND FOUR HUNDRED AND NINETY FIVE DOLLARS (\$421,495) is entered in favor ~~of~~ of the FTC against the Stipulating Defendants, jointly and severally, ~~by~~ by equitable monetary relief.

B. In partial satisfaction of the judgment against the Stipulating Defendants, all financial institutions ~~holding~~ holding accounts in the name of, on behalf of, or for the benefit ~~of~~, any Receivership Entity shall, within ten (10) business days ~~from~~ from receipt of a copy of this Order, transfer to the Receiver or his ~~designated~~ designated agent, all funds, if any, in such accounts, including, but ~~not~~ limited to: (a) Bank of America shall, within ten (10) ~~business~~ business days of receipt of a copy of this Order, transfer to the Receiver or his ~~designated~~ designated agent all funds, if any, in account numbers xxxx7853 in the name ~~of~~ of Green Fidelity Allegiance, Inc., and xxxx1691 in the name ~~of~~ of Mada Loyalty Group, Inc.; (b) Forte Payment Systems shall, within ten (10) business days of receipt of a copy of this Order ~~transfer~~ transfer to the Receiver or his designated agent all funds, if any, ~~in~~ account numbers xxxx6523 in the name of Green Fidelity Allegiance, Inc., xxxx5704 in the name of Green Fidelity Allegiance, Inc. ~~d/b/a/~~ d/b/a/ WRA, and xxxx6022 in the name of Mada Loyalty Group, Inc. (c) Global Payments Direct, Inc.

1 shall, within ten (10) business days of receipt of a copy of this Order,
2 transfer to the Receiver or his designated agent all funds, if any, in
3 account numbers xxxx5704 in the name of Green Fidelity Allegiance,
4 Inc. and xxxx6022 in the name of Mada Loyalty Group, Inc.

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6 C. Upon the asset transfers identified in this Section, the remainder of the
7 judgment is suspended as to the Stipulating Individual Defendant,
8 subject to the Subsections below.

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10 D. The asset freeze is modified to permit the transfers identified in this
11 Section. Upon completion of the transfers, the asset freeze is
12 dissolved.

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14 E. The FTC's agreement to the suspension of the judgment against the
15 Stipulating Individual Defendant is expressly premised upon the
16 truthfulness, accuracy, and completeness of the Stipulating
17 Defendants' sworn financial statements and related documents
18 (collectively, "financial statements") submitted to the FTC, namely
19 (i) the Financial Statement of Individual Defendant James Novella
20 signed on July 29, 2013, including its attachments; and (ii) the
21 Financial Statement of Corporate Defendant Green Fidelity
22 Allegiance, Inc. signed by James Novella on July 26, 2013, including
23 its attachments;
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F. The suspension of the judgment will be lifted as to the Stipulating Individual Defendant if, upon motion by the FTC, the Court finds that the Stipulating Individual Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial statements identified above.

G. If the suspension of the judgment is lifted, the judgment shall become immediately due as to the Stipulating Individual Defendant in the amount specified Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

H. All money paid to the FTC pursuant to this Order may be deposited into a fund administered by the FTC or its designee to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress funds. If a representative of the FTC decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the FTC may apply any remaining money for such other equitable relief, including but not limited to consumer information

1 remedies, as the FTC determines to be reasonably related to the
2 practices alleged in the Complaint. Any money not used for such
3 equitable relief is to be deposited to the U.S. Treasury as equitable
4 disgorgement. The Stipulating Defendants have no right to challenge
5 any actions the FTC or its representatives may take pursuant to this
6 Subsection.
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- 9 I. The Stipulating Defendants relinquish dominion and all legal and
10 equitable right, title, and interest in all assets transferred pursuant to
11 this Order and may not seek the return of any assets.
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- 13 J. The facts alleged in the Complaint will be taken as true, without
14 further proof, in any subsequent litigation by or on behalf of the
15 FTC, including in a proceeding to enforce its rights to any payment or
16 monetary judgment pursuant to this Order, such as a
17 nondischargeability complaint in any bankruptcy case.
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- 19 K. The facts alleged in the Complaint establish all elements necessary to
20 sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the
21 Bankruptcy Code, 11 U.S.C. § 523(a)(2), and this Order will have
22 collateral estoppel effect for such purposes.
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- 24 L. The Stipulating Defendants acknowledge that their Taxpayer
25 Identification Numbers (Social Security Numbers or Employer
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1 Receiver shall turn over to the FTC its designated agent all remaining
2 assets in the receivership estate.

3 COOPERATION

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5 VI. IT IS FURTHER ORDERED that the Stipulating Defendants must fully
6 cooperate with representatives of the FTC and the Receiver in this case and
7 in any investigation related to or associated with the transactions or the
8 occurrences that are the subject of the Complaint. The Stipulating
9 Defendants must provide truthful and complete information, evidence and
10 testimony. The Stipulating Individual Defendant must appear and the
11 Stipulating Corporate Defendant ~~5~~ Form-5.11 he
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VIII. IT IS FURTHER ORDERED that the Stipulating Defendants make timely submissions to the FTC:

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

1. Each Stipulating Defendant must: (a) identify the primary physical, postal, and email and telephone numbers as designated points of contact, which representatives of the FTC may use to communicate with such Stipulating Defendant; (b) identify all of that Stipulating Defendants' businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe

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Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC;

- 2. Additionally, the Stipulating Individual Defendant must:
 - (a) identify all telephone numbers and physical, postal, email, and Internet addresses, including residences; (b) identify all business activities, including any business for which the Stipulating Individual Defendant performs services whether as an employee or otherwise and any entity in which the Stipulating Individual Defendant has any ownership interest; and (c) describe in detail the Stipulating Individual Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

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

- 1. Each Stipulating Defendant must report any change: (a) any designated point of contact; or (b) the structure of the Stipulating Corporate Defendant or any entity that such Stipulating Defendant has any ownership interest in or directly

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1 Defendants, is a majority owner or directly or indirectly controls, must
2 maintain the following records:

3 A. Accounting records showing the revenues from all goods or services
4 sold, all costs incurred in generating those revenues, and the resulting
5 net profit or loss;
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7 B. Personnel records showing, for each person providing services,
8 whether as an employee or otherwise, that person's: name, addresses,
9 and telephone numbers; job title or position; dates of service; and, if
10 applicable, the reason for termination;
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12 C. Complaints and refund requests, whether received directly or
13 indirectly, such as through a third party, and any response;
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15 D. All records necessary to demonstrate full co(whgc6.00190 TD . 0).004 f..8((1.6
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- 1 A. Within 14 days of receipt of written request from a representative of
2 the FTC, each Stipulating Defendant must: submit additional
3 compliance reports or other requested information, which must be
4 sworn under penalty of perjury; appear for depositions; and produce
5 documents, for inspection and copying. The FTC is also authorized to
6 obtain discovery, without further leave of Court, using any of the
7 procedures prescribed by Federal Rules of Civil Procedure 29, 30
8 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
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10 B. For matters concerning this Order, the FTC is authorized to
11 communicate directly with each Stipulating Defendant. The
12 Stipulating Defendants must permit representatives of the FTC to
13 interview any employee or other persons affiliated with any Stipulating
14 Defendant who has agreed to such an interview. The person
15 interviewed may have counsel present.
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17 C. The FTC may use all other lawful means, including posing, through
18 its representatives, as consumers, suppliers, or other individuals or
19 entities, to the Stipulating Defendants or any individual or entity
20 affiliated with the Stipulating Defendants, without the necessity of
21 identification or prior notice. Nothing in this Order limits the FTC's
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1 lawful use of compulsory process, pursuant to Sections 9 and 20 of
2 the FTC Act, 15 U.S.C. §§ 49, 57b-1.

3 ENTRY OF JUDGMENT
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5 XI. IT IS FURTHER ORDERED that there is no just reason for delay of entry
6 of this judgment, and that, pursuant to Federal Rule of Civil Procedure
7 54(b), the Clerk immediately shall enter this Order as a final judgment as to
8 defendants James Novella and ~~or~~ Fidelity Allegiance, Inc.
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10 RETENTION OF JURISDICTION
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12 XII. IT IS FURTHER ORDERED that this Court retains jurisdiction of this
13 matter for purposes of construction, clarification, and enforcement of this
14 Order.
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16 IT IS SO ORDERED, May 19, 2014.
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20 DALE S. FISCHER
21 United States District Judge
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