UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 17-60907-CIV-MORENO/SELTZER

FEDERAL TRADE COMMISSION, *et al.*,

Plaintiffs,

v.

JEREMY LEE MARCUS, *et al.*,

Defendants.
_____/

RECEIVER JONATHAN E. PERLMAN'S OPPOSITION TO JAMES MARCUS' MOTION FOR ORDER DIRECTING BANK OF AMERICA TO RELEASE HOLD ON FUNDS

Jonathan E. Perlman, ("Perlman") "Permanent Receiver" for the Receivership Defendants[1] (the "Receiver"), submits his Opposition to James Marcus' Motion for Order Directing Bank of America to Release Hold on Funds (the "Motion"). [ECF No. 244].

I. INTRODUCTION/BACKGROUND

Recently, this Court entered an order compelling Relief Defendant James Marcus to turn over the subject funds which are clearly receivership assets. [ECF No. 246]. The Receiver has no objection to funds frozen by Bank of America, if any, that are not receivership assets being

[1] Receivership Defendants are Financial Freedom National, Inc. f/k/a Institute for Financial Freedom, Inc. and Marine Career Institute Sea Frontiers, Inc. d/b/a 321 Loans, Instahelp America, Inc., Helping America Group, United Financial Support, Breeze Financial Solutions, 321Financial Education, Credit Health Plan, Credit Specialists of America, American Advocacy Alliance, and Associated Administrative Services, 321Loans, Inc., f/k/a 321 Loans, Inc. d/b/a 321Financial, Inc., Instahelp America, Inc. f/k/a Helping America Team, Inc. d/b/a Helping America Group, Breeze Financial Solutions, Inc. d/b/a Credit Health Plan and Credit Maximizing Program, US Legal Club, LLC, Active Debt Solutions, LLC f/k/a Active Debt Solutions, Inc. d/b/a Guardian Legal Center, Guardian LG, LLC d/b/a Guardian Legal Group, American Credit Security, LLC f/k/a America Credit Shield, LLC, Paralegal Support Group LLC f/k/a Paralegal Support LLC, Associated Administrative Services, LLC d/b/a Jobfax, Cockburn & Associate LLC, JLMJP Pompano, LLC, Halfpay International, LLC, Halfpay NV, LLC, HP Properties Group, Inc., HP Media, Inc., Omni Management Partners, LLC, Nantucket Cove of Illinois, LLC, Discount Marketing USA, S.A., Viking Management Services, LLC, White Light Media LLC, Blue42, LLC, and their divisions, subsidiaries, affiliates, predecessors, successors, and assigns. *See* [ECF No. 102].

unfrozen and made accessible to Relief Defendant James Marcus and his wife.[2] The Motion however fails to provide any evidence that there are funds frozen which are not receivership assets.

The Motion should also be denied because the relief sought runs afoul of this Court's asset freeze. The Motion, without any evidence, conveniently ignores recent filings by the Receiver which establish that the funds frozen by Bank of America are receivership property and therefore subject to this Court's order freezing Receivership funds held by financial institutions. *See* [ECF No.234]; [ECF No. 21]. The Preliminary Injunction ("PI") requires the Receiver to take custody and control of all assets of the Receivership Defendants, wherever situated. *Id.* This Court's PI requires third parties which hold, control and maintain accounts and assets of Receivership Defendants to retain those assets. *Id.* Here, Bank of America has frozen funds it is holding that are receivership assets. The PI requires that and therefore the Motion should be denied.

With respect to the funds frozen by Bank of America, the Receiver and his forensic accountants at KapilaMukamal, LLP ("KM") have traced and verified that the home in California currently titled in the name of Relief Defendant James Marcus and his wife, Jennifer Perez, is in fact a receivership asset that Receivership Defendant Halfpay International, LLC ("Halfpay") and Defendant Jeremy Marcus used consumer monies to purchase in September 2016. [ECF No. 234, Ex. A].[3] On September 17, 2016, Relief Defendant James Marcus and his wife, Jennifer Perez, took title to the real property located at 6665 Green Valley Circle #222, Culver City, CA 90230 (the "Property"). The Receiver's investigation has established and Relief

[2] The Plaintiffs have no objection to the release of funds, if any, that are not receivership assets.
[3] Relief Defendant James Marcus is the brother of Defendant Jeremy Marcus.

Defendant James Marcus has admitted in discovery responses[4] that neither Relief Defendant James Marcus, nor his wife, provided any consideration for the Property.

The Receiver's investigation further revealed that on or about May 13, 2017, days after Plaintiffs filed this action, Relief Defendant James Marcus and his wife, Jennifer Perez, entered into a "cash out" mortgage in the amount of $396,000.00 (the "Property Proceeds") with Watermark Capital, Inc. secured by the Property purchased with consumer monies. The Receiver discovered and Relief Defendant James Marcus admitted in discovery that the Property Proceeds were then deposited into and transferred into various bank accounts titled in the names of Relief Defendant James Marcus and Jennifer Perez at Bank of America. *See* Composite Ex. B

Accordingly, the Receiver recently filed a motion for turn over of the Property and Property Proceeds [ECF No. 234],[5] which was granted. [ECF No. 246].

Nothing in the Motion refutes this record evidence. Instead, Relief Defendant James Marcus creates the misimpression that the freezing of receivership assets at Bank of America is some sort of prejudgment attachment on a defaulted promissory note and beyond the Receiver's authority. That is simply not the case. The Receiver has discovered that funds in the subject accounts are receivership assets and subject to turn over. Bank of America froze the funds which constitute property of the Receiver, a power and obligation clearly and explicitly contemplated by this Court's Preliminary Injunction.[6]

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[4] *See* Composite Ex. B. In his responses to certain requests for admission, Relief Defendant James Marcus admitted that "There was no act, action or consideration given at the time of the transfer." He further admitted that he had no legitimate claim to the funds used to acquire the property and his wife provided no consideration. *Id.*

[5] Relief Defendant James Marcus' liability is so clear that he previously agreed to settle this turn over issue, but then balked. Under the settlement reached, James Marcus and Jennifer Perez agreed to turn over $330,000 of the funds held at Bank of America to the Receiver and place a second mortgage in favor of the Receiver on his home. He admitted as much in an affidavit recently filed with this Court. [ECF No. 250, Ex. B, ¶8]. The Receiver recently filed a motion to enforce the settlement reached. [ECF No. 235].

[6] Despite being the subject of the relief sought in this Motion, Bank of America is not before this Court to represent its interests. Bank of America indicated to Receiver's counsel that it chose, in part, to freeze the funds based upon its depositor's agreement with Relief Defendant James Marcus and Jennifer Perez.

II. LEGAL ARGUMENT

A. This Court has already ruled that the funds should be turned over to the Receiver.

Prior to filing the Motion, the Receiver requested that this Court order Relief Defendant James Marcus to turn over the Property and Property Proceeds to the Receiver as receivership assets. [ECF No. 234]. On May 10, 2018, this Court granted the Receiver's request and ordered Relief Defendant James Marcus to turn over the Property and Property Proceeds (the funds at issue) to the Receiver. [ECF No. 246]. Accordingly, the Motion should be denied and the Property Proceeds should be released to the Receiver by Bank of America.

B. The funds are Receivership Assets and properly frozen.

The Receiver confirmed that Relief Defendant James Marcus was the recipient of ill-gotten gains from his brother, Defendant Jeremy Marcus and Receivership Defendant Halfpay.[7] The Receiver discovered that the Property was purchased with Receivership Defendant monies received from consumers as part of the Receivership Defendants' debt-relief enterprise. [ECF No. 234, Ex. A]. Accordingly, it is undisputed that this Property and Property Proceeds constitute property of the Receivership and title should be turned over to the Receiver. *See SEC v. Creative Capital Consortium*, No. 08-81565-CV, 2013 WL 12167733 (S.D. Fla. Jan. 23, 2013) (because it was undisputed that Options Accounts were funded by receivership Proceeds, they were therefore property of the receivership and "the Receiver ha[d] title to the Options Accounts by operation of law."); *SEC v. Aquacell Batteries, Inc.*, No. 6:07-cv-608, 2008 WL 4371329, at *2-3. (M.D. Fla. May 9, 2008) (granting receiver's turn over motion because "...purchase of property solely with [defendant corporate entity] funds renders the property receivership

[7] Defendant Jeremy Marcus stipulated to the entry of a permanent injunction and monetary judgment on the claims asserted by the Plaintiffs. [ECF No. 231]. Halfpay consented to judgment on the pleadings. [ECF No. 174].

property...").[8] This Court previously held in this case that property acquired (and proceeds thereof) with receivership funds are subject to turn over in summary proceedings. *See* [ECF No. 100]; [ECF No. 197]. This Court has already found that the funds from the "cash out" mortgage are subject to turn over to the Receiver. [ECF No. 246]. The Motion impermissibly seeks this Court to sanction the dissipation of receivership assets by James Marcus upon release. Such a result is preposterous.

The PI requires the Receiver to take custody and control of all assets of the Receivership Defendants wherever situation. [ECF No. 21]. The record evidence clearly reflects that Relief Defendant James Marcus was the recipient of ill-gotten gains and the funds frozen are traceable to Receivership Defendants and, thus, receivership assets. The Motion does not address or attempt to argue that this provision does not control this situation. Clearly, it does. As such, the PI requires the funds to be frozen.

C. The Promissory Note is illusory and evidences a fraudulent transfer.

Relief Defendant James Marcus advances the fiction that he provided a belated unsecured promissory note as consideration for the Property and argues that the only relief available to the Receiver is to enforce the defaulted note. [ECF No. 244, pg. 6]. In doing so, Relief Defendant ignores the Court's PI (as described herein), his own admissions and the various well-founded legal theories and evidence supporting this Court's order requiring Relief Defendant James Marcus to turn over the funds to the Receiver. *See* [ECF No. 234]; [ECF No. 246].

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[8] *See also SEC v. Elmas Trading Corp.*, 620 F. Supp. 231 (D. Nev. 1985), aff'd 805 F.2d 1039 (9th Cir. 1986) (collecting cases where courts have held "that a receiver can exercise control over third-party property purchased using 'scheme proceeds.") (citing *S.E.C. v. Nadel*, No.8:09-cv-87-T-26TBM, 2013 WL 2291871, at *2 (M.D. Fla. May 24, 2013) (third party entity's use of scheme proceeds to purchase oil and gas leases subjected it to inclusion in receivership despite that it was not an alter ego of defendant); *see also SEC v. Lauer*, No. 03-80612-Civ, 2009 WL 812719, at *4-5 (S.D. Fla. Mar. 26, 2009) (proceeds from sale of condominium that was maintained with tainted funds are also tainted by the fraud); *In re Fin. Federated Title & Tr., Inc.*, 347 F.3d 880 (11th Cir. 2003) (establishing constructive trust on property purchased with over 90% funds from Ponzi scheme); *CFTC v. Hudgins*, 620 F. Supp. 2d 790, 795 (E.D. Tex. 2009) (directing sale of condominium because defrauder's innocent girlfriend aid the mortgage with Ponzi scheme funds).

Not surprisingly, Relief Defendant James Marcus does not address the suspicious circumstances surrounding the note. The note itself is evidence of a fraudulent transfer, not grounds to release the funds by Bank of America.

The alleged loan was purportedly made to acquire real property without a corresponding secured interest. Under any arms-length transaction involving a loan to acquire real property, the lender takes the real property as collateral for the loan. In addition, it is not commercially reasonable to have a 30-year interest only balloon payment note.

Furthermore, the Property was titled in the name of Relief Defendant James Marcus and Jennifer Perez. Yet, the purported loan does not obligate Ms. Perez to make any payments. Any arms-length transaction would require her to be jointly liable and be obligated on a security agreement on the property. Otherwise, any prospective lender could not enforce its rights against the property in the event of a default. Neither exists here.

Moreover, the note was drafted almost six weeks after the acquisition of the Property and the transfer of funds. Common sense would dictate that any purported loan would be made contemporaneously with the funds being provided in the acquisition of the Property. *See* Exhibit A.

The alleged loan was made by Relief Defendant's brother, Defendant Jeremy Marcus, who not surprisingly the Receiver found to have misappropriated consumer funds to buy homes for his family for no consideration. *See* [ECF No. 237]; [ECF No. 215].

It does not appear that Relief Defendant James Marcus ever had the financial capability to pay the promissory note or qualify for a loan to acquire the Property. Relief Defendant James Marcus never made a payment on the note and thus it cannot credibly be argued to be valid consideration. The Receiver's investigation has not revealed any evidence to support a finding

that there was any expectation that the unsecured promissory note would be repaid or enforced. Prior to the Receiver's appointment, no efforts were made to collect on the defaulted note. Then when Relief Defendant received a "cash out" mortgage for $400,000, he made no effort to repay any portion of the note. As it stands, Relief Defendant James Marcus and his wife got a free home (worth approximately $500,000) and $396,000 through misappropriated consumer funds by Defendant Jeremy Marcus.

These facts clearly reflect that the Property was a gift or fraudulent transfer by Defendant Marcus to his brother, Relief Defendant James Marcus. Moreover, even if the purported note is accepted on its terms, it still is not valid consideration. *See Estate of Flandreau v. C.I.R.*, 994 F.2d 91 (2nd Cir. 1993); *Springel v. Prosser (In re Prosser),* 2009 W.L. 3270765 (Bankr. D.V.I. Oct. 9. 2009) (summary judgment on fraudulent transfer claims despite a belated unsecured note executed in connection with the purchase of real property); *St. Paul Fire & Marine Ins. Co. v. CEI Fla,* 864 F. Supp. 656 (E.D. Mich. 1994) (unsecured promissory notes exchanged for stock does not constitute fair consideration.) Any argument advanced by Relief Defendant James Marcus regarding the note is baseless and, more importantly, irrelevant to the relief sought in the Motion.

IV. CONCLUSION

The Receiver seeks an order from this Court denying the Motion for the foregoing reasons. For the same foregoing reasons, counsel for Plaintiffs concur with the Receiver's request that the Motion be denied.

WHEREFORE, the Receiver respectfully requests this Court to enter an Order denying the Motion, together with such other and further relief as this Court deems just and proper.

Respectfully submitted this 17th day of May 2018.

GENOVESE JOBLOVE & BATTISTA, P.A.
Attorneys for Jonathan E. Perlman, Court-Appointed Permanent Receiver
100 Southeast 2nd Street, Suite 4400
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By: /s/ Gregory M. Garno
Gregory M. Garno, Esq., FBN 87505
ggarno@gjb-law.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing was served via CM/ECF Notification and/or U.S. Mail to all parties on the attached service list on this 17th day of May 2018.

By: /s/ Gregory M. Garno, Esq.
Gregory M. Garno, Esq.

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Garno, Greg

From: Paul Herman <paherman1956@gmail.com>
Sent: Tuesday, October 25, 2016 8:55 AM
To: 'Shawn Wachter'
Cc: 'James Marcus'
Subject: RE: Loan and note for James R. Marcus
Attachments: BALLOON PROMISSORY NOTE use James Marcus.docx

Here is the redrafted note that Jeremy and James will be signing that addresses all the changes and concerns raised.

From: Shawn Wachter [mailto:shawn@umortgagegroup.com]
Sent: Monday, October 24, 2016 5:49 PM
To: Paul Herman <paherman1956@gmail.com>
Cc: James Marcus <jmarcus0117@gmail.com>
Subject: Re: Loan and note for James R. Marcus

Paul, We should be good with the proposed note. Just a little clean-up; it says 240 month interest-only and then the maturity date is 2046 (30 years). It may be that you intended the interest-only period to be 20 years and then 10 more to maturity or that you intended a 20 year total term with a balloon due at the end. Either is fine as long as its clear which it is, the latter is probably cleaner. Also, please make sure the prepayment penalty provision says that it can be prepaid any time "without penalty" so its clear there is no prepayment penalty. Also, please remove the paragraphs which mention "UCC" and talk about "collateral" or "other loans" and the like. We need to make sure the note is "unsecured."

Thank you

From: Shawn Wachter
Sent: Thursday, October 20, 2016 3:15 PM
To: Paul Herman
Subject: Re: Loan and note for James R. Marcus

Thanks Paul, I am reviewing it now. I will also check with underwriting and get back to you. Thanks.

From: Paul Herman <paherman1956@gmail.com>
Sent: Thursday, October 20, 2016 1:44 PM
To: Shawn Wachter
Cc: jeremy.omni@gmail.com
Subject: RE: Loan and note for James R. Marcus



Shawn,

I have attached a drafted promissory note that James and Jeremy can sign that I believe will satisfy all criteria

Please let us know asap if you agree or if there are any amendments or changes you think should be made so we can get this taken care of – thanks

From: Shawn Wachter [mailto:shawn@umortgagegroup.com]
Sent: Tuesday, October 18, 2016 1:18 AM
To: Paul Herman <paherman1956@gmail.com>
Subject: RE: Loan and note for James R. Marcus

Hi Paul, sorry that I could not be more responsive yesterday. I spent the weekend in conferences and all day Monday in meetings with clients. Your email is accurate except in one respect, the Fannie Mae guidelines do not provide any specifics on the form the note on the unsecured debt needs to take and I was not able to locate any language for the recast feature. I checked with the forms libraries of several title companies, an escrow company and my buddy's law firm but came up empty. Accordingly, here are the salient points: we need it to be an unsecured note, it can be interest-only on the outstanding principal balance of the loan, allow prepayments without penalty, first payment due 12/1, 30 year term, it needs to be dated before the date of closing of the purchase transaction (see closing statement-attached), the amount of the total outlay by Jeremy and his company are also set forth in the closing statement and this can be the original balance of the unsecured loan. The document can be notarized later but the date of the agreement should be before the closing date of the purchase.

I think that about covers it. We will also need to have the money that was used sourced and seasoned for two months so Jeremy will need to let me know what accounts the monies came from that were wired to the closing so that we can begin to put together the bank statements to source and season the money. I won't need that before submitting the loan to underwriting, but I know it will be a condition of approval.

Please acknowledge and reach out to me if you have questions.

Thanks,

Shawn Wachter

From: Paul Herman [mailto:paherman1956@gmail.com]
Sent: Monday, October 17, 2016 8:01 AM
To: Shawn Wachter <shawn@umortgagegroup.com>
Subject: Loan and note for James R. Marcus

Shawn,

Hope you had a pleasant weekend. Just a reminder we were waiting for the exact figures and recasting feature recommended by underwriting so we could come up with the note for James. Have you since heard anything?

When we spoke last week you were waiting to hear from them

Here are my notes

This is an unsecured loan for James R. Marcus in order for him to get a secured loan against the property located at 665 Green Valley Circle unit 222 Culver City, CA 90230.

Payment amount will be calculated based on 3 1/2% interest. It is an unsecured loan and Shawn is waiting for the information from underwriting. The address of the property is for the purpose of explanation in the promissory note but not being used for collateral. There's an 80% payback on the property also not included in this simple promissory note. However, there is the recasting provision which needs to be incorporated and Shawn is waiting for the exact language. The payment goes down after James gets the line of credit based on the balance of the 3 1/2% interest is calculated based on the pending balance. The note is going to be a 30 year note if allowed.

If my understanding of the terms is incorrect please advise – thanks

Paul A. Herman

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Delray Beach, FL 33445

Tel 561-236-8851

Efax 561-431-2352

Paherman1956@gmail.com

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UNSECURED PROMISSORY NOTE

Loan Amount: **$497,279.51**

Place: 665 Green Valley Circle unit 222

Culver City, CA 90230.

Maturity Date: 12/01/2046

Date: 09/20/2016

FOR VALUE RECEIVED, **James R. Marcus** whose address is**, 655 Green Valley Circle Unit 222, Culver City, CA 90230, ("Maker" or "Borrower**") promises to pay to the order of **Jeremy L. Marcus and/or Halfpay International, LLC**, or any subsequent holder of this Unsecured Promissory Note ("Lender" and/or "Holder"), whose address is of **1410 SW 3rd Street, Pompano Beach, FL 33069**, the principal sum of **Four Hundred Ninety Seven, Two Hundered Seventy Nine Dollars and Fifty One Cents ($497,279.51)** ("Principal Amount" and/or "Loan"), with interest on the principal balance, at the rate of interest as set forth herein and payable as follows:

a. **Interest.** The Principal Amount shall bear interest at a fixed rate per annum equal to **Three (3.500%)** ("Interest Rate"). Interest shall be computed on the basis of a daily amount of interest accruing on the daily outstanding principal balance during a 366-day year multiplied by the actual number of days the principal is outstanding during such applicable interest period.

b. **Payment of Principal and Interest.** This is a bullet, interest only, **240-month** term (the "Term"), Promissory Note (hereinafter, the "Promissory Note"), with pre-payment penalties as set forth herein, with all accrued and unpaid interest and the entire principal balance then outstanding due at the Maturity Date. Makers promises to pay interest on the unpaid Principal Amount at the Interest Rate, compounded monthly, if applicable, from the Date of this Note until payment in full, as hereinafter provided. Monthly payments, representing interest only, payable in arrears, but calculated on the daily outstanding unpaid principal balance of this Promissory Note shall be due and payable commencing **December 1st 2016** and on the same day of each and every month thereafter until the Maturity Date, as set forth herein, at which time the entire unpaid principal balance and any unpaid and accrued interest shall become due and payable in full without demand. The monthly interest only payment is **$1,350.00**. Payments of principal and interest shall be made in lawful currency of the United States of America which shall be legal tender in payment of all debts, public and private, at the time of payment. Each payment hereunder shall be credited first to Lender's collection expenses, next to late charges, next to unpaid interest, and the balance, if any, to the reduction of the Principal Amount. The interest on this Note shall be calculated on the basis of a 366-day year and on the actual number of days in each month.

c. **Maturity Date.** The then outstanding principal balance, plus all accrued but unpaid interest, shall be due and payable in full on **12/01/2036.**

d. **Recast Provision.** This Unsecured Note has the option to the Maker to lower the monthly payment through a one-time recast (or re-amortization) of the interest-bearing portion of

the loan. With a recast (or re-amortization), the scheduled interest rate(s) will not change, but the principal and interest payment will decrease based on the lower unpaid principal balance (after all earned incentives are applied) that will be paid over the remaining term of the loan. If the Maker chooses to recast the loan and make the recast payment, the Maker will not pay off the loan early. In addition, the Maker will pay more interest over the life of the loan than if he did not accept the recast and continued making your regularly scheduled payment.

e. **Pre-payment Penalty.** Provided this Promissory Note, as defined below, secured by this Note, or any other document executed in connection with the Note, the principal balance due hereunder may be prepaid, in whole or in part, at any time **without penalty** during the Term.

Each Makers, endorser and Guarantor, jointly and severally, waives demand, protest and notice of maturity, non-payment or protest and all requirements necessary to hold each of them liable as makers and endorsers and consents without notice to any and all extensions of time or changes in terms of payment by the holder of this Note.

Each Makers, Endorser and Guarantor, jointly and severally, agrees to pay all costs of collection, including reasonable attorney's fees, in the event it becomes necessary to protect the security hereof, whether suit be brought or not.

From and after the occurrence of an Event of Default, as such term is hereinafter defined, under this Promissory Note or the maturity thereof, whether normal maturity or accelerated maturity, the unpaid principal hereof shall bear interest at the greatest of 18% per annum or the highest legal rate permitted by Florida law. Notwithstanding anything herein to the contrary or consistent hereof, an event of default shall exist wherein a payment required herein is not made within ten (10) days of the due date.

This Unsecured Promissory Note is unsecured and is to be construed and enforced in accordance with the laws of the State of Florida. Upon default in the payment of any of the terms and conditions of the Note, and after the expiration of all applicable cure and grace periods, then, at the option of the Holder, the entire Principal Amount remaining unpaid, together with accrued interest, shall become immediately due and payable, without further notice.

It is agreed that the granting to the Makers of this Unsecured Promissory Note or any other party of an extension or extensions of time for the payment of any sum or sums due hereunder shall not in any way release or affect the liability of the Makers or any endorser or Guarantor for any sums due under this Promissory Note.

This Note may not be changed orally, but only by an agreement in writing, signed by the party against whom enforcement of any waiver, change, modification or discharge is sought.

Borrowers, and any endorsers, sureties, guarantors and all others who are, or who may become liable for the payment hereof, severally, irrevocably, and unconditionally (a) agree that

any suit, action, or other legal proceeding arising out of or relating to this Note may be brought, at the option of the Lender, in a court of record of the **State of Florida in Broward County, United States District Court for the Southern District of Florida,** or in any other court of competent jurisdiction; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding and (c) waive any objection which it or they may have to the venue of any such suit, action, or proceeding in any such court.

Upon the happening of any of the following events ("Event of Default"), each of which shall constitute a default hereunder, all sums due hereunder shall thereupon or thereafter, at Lender's option, without notice or demand, become immediately due and payable: (a) failure of any Obligor (which term shall mean and include each Makers, Endorser, Surety, Guarantor or other party liable for payment of or pledging collateral or security under this Note) to pay on or before expiration of any applicable grace period, any sum due hereunder or due by any Obligor to Lender under any other Promissory Note; (b) occurrence of default under any of the Loan Documents in effect which by its terms covers this Promissory Note or the indebtedness evidenced hereby; (c) filing of any petition under the Bankruptcy Code or any similar federal or state statute by or against any Obligor or the insolvency of any Obligor and not discharged and dismissed within 30 days from the filing thereof; (d) making of a general assignment by any Obligor for the benefit of creditors, appointment of or taking possession by a receiver, trustee or custodian or similar official for any Obligor or for any assets of any such Obligor or institution by or against any Obligor of any kind of insolvency proceedings or any proceeding for dissolution or liquidation of any Obligor which is not dismissed within thirty (30) days of the filing thereof;(e) entry of a final judgment against any Obligor which is not satisfied or transferred to bond within thirty(30) days of the date of entry or an appeal of such judgment timely filed and, in such event, not satisfied within thirty (30) days after such appeal is dismissed or the date of the appellate court entering a judgment upholding the trial court judgment in whole or in part; (f) material falsity in any certificate, statement, representation, warranty or audit at any time furnished to Lender by or on behalf of any Obligor pursuant to or in connection with this Promissory Note, the Loan Documents which by its terms covers this Promissory Note for the indebtedness evidenced hereby or otherwise including any omission to disclose any substantial contingent or liquidated liabilities or any material adverse change in any facts disclosed by any certificate, statement, representation, warranty or audit furnished to Lender; (g) cancellation of any guaranty with respect hereto without the prior written consent of Lender hereof; (h) the death of a guarantor, (i) if any interest in any Obligor is sold or transferred without Lender's prior written consent; or, (j) at Lender's option, any default in payment or performance of any obligation under any other loans, contracts or agreements of Obligor or Borrowers.

Without limiting the generality of the foregoing, upon the occurrence of an Event of Default hereunder, Lender may, at its option, and without notice or demand after the expiration of all applicable cure and grace periods (i) declare the entire unpaid principal and accrued interest accelerated and due and payable at once, together with any and all other liabilities of

Makers or any such liabilities selected by Lender; notice is, at the option of Lender, hand delivered, sent via expedited courier, or mailed, postage prepaid to Makers, at the address given to Lender by Makers.

Notwithstanding anything herein to the contrary or already stated, all parties to this Promissory Note, whether Makers, principal, surety, guarantor or endorser, hereby waive presentment for payment, demand, notice, protest, notice of protest and notice of dishonor and, under no circumstances shall the aggregate amount paid or agreed to be paid hereunder exceed the highest lawful rate permitted under applicable usury law (the "Maximum Rate") and the payment obligations of Makers under this Promissory Note are hereby limited accordingly. If under any circumstances, whether by reason of advancement or acceleration of the maturity of the unpaid principal balance hereof or otherwise, the aggregate amounts paid on this Promissory Note shall include amounts which by law are deemed interest and which would exceed the Maximum Rate, Makers stipulates that payment and collection of such excess amounts shall have been and will be deemed to have been the result of a mistake on the part of both Makers and the Holder of this Promissory Note, and the party receiving such excess payments shall promptly credit such excess (to the extent only of such payments in excess of the Maximum Rate) against the unpaid principal balance hereof and any portion of such excess payments not capable of being so credited shall be refunded to Makers.

The term "Makers" as used herein in every instance shall include the successors, legal representatives and assigns of the Makers, and shall denote the singular and/or plural, the masculine and/or feminine, and natural and/or artificial persons whenever and wherever the context so requires or admits. In addition to anything herein already stated, if the calculation of interest or the imposition of a change in the rate of interest after acceleration upon default or the payment of any fees or other charges which are construed to be interest under applicable law, rule, or regulation in effect from time to time, result in an effective rate of interest higher than that permitted to be paid under applicable law, rule, or regulation in effect from time to time, then such charges shall be reduced by a sum sufficient to result in an effective rate of interest no greater than the maximum effective rate of interest permitted to be paid under applicable law, rule or regulation in effect from time to time. The Lender may, in determining the maximum rate permitted under applicable law, rule or regulation in effect from time to time, take advantage of: (i) the rate of interest permitted by Florida Statutes Chapter 665 (Florida Savings Association Act), by reason of both Section 687.12 Florida Statutes ("interest rates: parity among licensed lenders or creditors") and 12 United States Code, Sections 85 and 86, and (ii) any other law, rule or regulation in effect from time to time, available to Lender which exempts Lender from any limit upon the rate of interest it may charge or grants to Lender the right to charge a higher rate of interest than that permitted by Florida Statutes, Chapter 687. Upon maturity of this Promissory Note, whether by acceleration or in due course, interest shall be recalculated over the actual life of the loan based upon the amounts outstanding, and if the total amount of interest

theretofore paid exceeds the amount permitted to be paid under applicable law, rule, or regulation in effect from time to time, the excess shall be credited to Principal Amount, or if such excess exceeds the Principal Amount due hereunder, refunded to the Borrowers.

Notwithstanding anything consistent or contrary herein, this unsecured Note shall not be cross defaulted or cross collateralized with all other loans which Borrowers shall have from or shall have guaranteed to Lender (or any assignee, successor, subsidiary or affiliated entity of Lender) during the Term, whether existing as of the closing date or subsequently made. A default under any of the above-described other loans shall not constitute a default under this Note. A default under this Note shall not constitute a default under the above-described other loans.

Borrowers represent and warrant that this Promissory Note evidences a loan for a consumer-type transaction.

This Promissory Note shall be construed without any regard to any presumption or rule requiring construction against the party causing such instrument or any portion thereof to be drafted. Notwithstanding anything contained herein to the contrary, if there is more than one Maker or borrower, each Maker or borrower shall be jointly and severally liable for a breach of any and all covenants, representations, warranties, obligations and liabilities under this Promissory Note.

MAKERS, HOLDERS AND/OR GUARANTORS HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE ANY AND ALL RIGHTS THEY MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY LITIGATION (INCLUDING BUT NOT LIMITED TO) ANY CLAIMS, CROSS CLAIMS OR THIRD PARTY CLAIMS ARISING OUT OF, UNDER OR IN CONNECTION WITH THIS NOTE, THE OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREIN. MAKERS HEREBY CERTIFIES THAT NO REPRESENTATIVE OR AGENT OF THE MAKER, HOLDER AND/OR GUARANTOR, NOR THEIR RESPECTIVE COUNSEL HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT THE MAKERS, HOLDERS AND/OR GUARANTORS WOULD NOT, IN THE EVENT OF SUCH LITIGATION; SEEK TO ENFORCE THIS WAIVER OF RIGHT TO JURY TRIAL PROVISION. MAKERS AND GUARANTORS ACKNOWLEDGE THAT THE HOLDER HAS NOT BEEN INDUCED TO ENTER INTO THIS LOAN, INCLUDING THIS PROMISSORY NOTE, BY, INTER ALIA, THE PROVISIONS OF THIS PARAGRAPH.

Maker:

JAMES R. MARCUS

STATE OF _____)

) ss.

_____ COUNTY)

The foregoing instrument was acknowledged this ___ day of **September, 2016,** by **James R. Marcus** Individually, who is personally known to me or who has produced his _____ State issued Driver's Licenses as identification on behalf of himself

_____

Notary Public

_____

(Printed Name of Notary)

Commission Expires: _____

Commission Number: _____

Maker:

JEREMY L. MARCUS

STATE OF FLORIDA)

) ss.

BROWARD COUNTY)

The foregoing instrument was acknowledged this **20th day of September 2016**, by **Jeremy L. Marcus** Individually who is personally known to me or who has produced his Florida State issued Driver's Licenses as identification on behalf of himself.

_____

Notary Public

_____

(Printed Name of Notary)

Commission Expires: _____

Commission Number: _____

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 17-60907-CIV-Moreno

FEDERAL TRADE COMMISSION, and

STATE OF FLORIDA,

Plaintiffs,

v.

JEREMY LEE MARCUS, *et al.*,

Defendants and Relief Defendants.

PLAINTIFFS' FIRST SET OF INTERROGATORIES, DOCUMENT REQUESTS AND REQUEST FOR ADMISSIONS DIRECTED TO RELIEF DEFENDANT JAMES MARCUS

Plaintiffs, the Federal Trade Commission ("FTC" or "Commission") and the Office of the Attorney General, State of Florida, Department of Legal Affairs ("State of Florida," and together, "Plaintiffs"), pursuant to Rules 26, 33, 34 and 36 of the Federal Rules of Civil Procedure and Local Rule 26.1(e), request Relief Defendant James Marcus provide the requested documents and answer fully the following interrogatories in writing and under oath within thirty (30) days after service. Plaintiffs further request Relief Defendant James Marcus admit, for the purposes of the pending action only, the truth of the matters in the following requests.

DEFINITIONS

For purposes of this First Set of Interrogatories, Document Requests and Request for Admissions, the following definitions shall apply:

1. "**All**" and "**any**" shall be interpreted inclusively and shall mean "any and all."

2. "**And**" and "**or**" shall be interpreted to encompass both "and" and "or."

3. "**Answer**" means Relief Defendant James Marcus' Answer and Affirmative Defenses to First Amended Complaint, filed at ECF Doc. 206.



4. "**Asset**" or "**assets**" means any legal or equitable interest in, right to, or claim to, any real or personal property, including but not limited to "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes" (as these terms are defined in the Uniform Commercial Code), lines of credit, chattels, leaseholds, contracts, mail or other deliverables, shares of stock, lists of consumer names, accounts, credits, receivables, real estate, premises, precious metals, funds, and all cash, wherever located.

5. "**Complaint**" means Plaintiffs' First Amended Complaint, filed at ECF Doc. 127.

6. "**Communication**" shall mean without limitation, the transmission of a word, statement, facts, thing, idea, document, instruction, demand, or question by any device or medium.

7. "**Corporate Defendants**" means Financial Freedom National, Inc., f/k/a Institute for Financial Freedom, Inc. and Marine Career Institute Sea Frontiers, Inc., also d/b/a 321 Loans, Instahelp America, Inc., Helping America Group, United Financial Support, Breeze Financial Solutions, 321Financial Education, Credit Health Plan, Credit Specialists of America, American Advocacy Alliance, and Associated Administrative Services; 321Loans, Inc., f/k/a 321 Loans, Inc., also d/b/a 321Financial, Inc.; Instahelp America, Inc., f/k/a Helping America Team, Inc., also d/b/a Helping America Group; Helping America Group, LLC, f/k/a Helping America Group, Inc.; Breeze Financial Solutions, Inc., also d/b/a Credit Health Plan and Credit Maximizing Program; US Legal Club, LLC; Active Debt Solutions, LLC, f/k/a Active Debt Solutions, Inc., also d/b/a Guardian Legal Center; Guardian LG, LLC, also d/b/a Guardian Legal Group; American Credit Security, LLC, f/k/a American Credit Shield, LLC; Paralegal Support Group LLC, f/k/a Paralegal Staff Support LLC; Associated Administrative Services, LLC, also d/b/a Jobfax; Viking management Services, LLC; Cockburn & Associate LLC; Omni Management Partners LLC; HP Media, Inc; White Light Media LLC; and Discount Marketing USA S.A., and their divisions, subsidiaries, affiliates, predecessors, successors, assigns, and any fictitious business entities or business names created or used by these entities.

8. "**Corporate Relief Defendants**" means JLMJP Pompano, LLC; 1609 Belmont Place LLC; 16 S H Street Lake Worth, LLC; 17866 Lake Azure Way Boca, LLC; 114 Southwest

2nd Street DBF, LLC; 110 Glouchester St., LLC; 72 SE 6th Ave., LLC; Fast Pace 69 LLC; Strategic Acquisitions Two, LLC; Halfpay International, LLC, also d/b/a 16 H.S. Street 12Plex LLC, 311 SE 3rd St., LLC, 412 Bayfront Drive, LLC, 110 Glouchester St., LLC, 72 SE 6th Ave., LLC, 114 SW 2nd Street JM, LLC, 8209 Desmond Drive, LLC, and HLFP, LLC; Halfpay NV LLC, also d/b/a Halfpay International LLC; Nantucket Cove of Illinois, LLC, as well as any successors, assigns, subsidiaries, fictitious business entities, or business names created or used by these entities.

9. The "**Culver City Property**" refers to the real property located at 6665 Green Valley Circle #222, Culver City, CA 90230.

10. "**Defendants**" means all of the Individual Defendants, Corporate Defendants, and Relief Defendants individually, collectively, or in any combination, and each of them by whatever names each might be known.

11. "**Document**" or "**Documents**" is synonymous in meaning and equal in scope to the usage of the term in the Federal Rules of Civil Procedure 34(a) and includes, but is not limited to, documents and electronically stored information such as writings, drawings, graphs, charts, Internet sites, Web pages, Web sites, electronic correspondence, including e-mail and instant messages, photographs, audio and video recordings, computer records, contracts, accounting data, advertisements (including, but not limited to, advertisements placed on the World Wide Web), FTP Logs, Server Access Logs, USENET Newsgroup postings, World Wide Web pages, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, computer records, and other data or data compilations stored in any medium from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

12. "**Individual Defendants**" means Jeremy Lee Marcus, Craig Davis Smith, and Yisbet Segrea, and by whatever other names each may be known.

13. "**Individual Relief Defendants**" means Jack Marcus, Teresa Duda, and James Marcus and by whatever other names each may be known.

14. "**Relief Defendants**" means the Corporate Relief Defendants and the Individual Relief Defendants.

15. "**You**" or "**your**" means James Marcus.

16. The words "**or**" and "**and**" shall be read in the conjunctive and not in the disjunctive wherever they appear, and neither of these words shall be interpreted to limit the scope of a request.

17. The use of a verb in any tense shall be construed as the use of the verb in all other tenses and the singular form shall be deemed to include the plural, and vice-versa.

18. The singular form of any noun shall be deemed to include the plural, and vice versa.

19. The use of any capitalized word shall include the same word uncapitalized, and the use of any uncapitalized word shall include the same word capitalized.

20. Notwithstanding the above definitions, each word, term, or phrase used in these requests is intended to have the broadest meaning permitted under the Federal Rules of Civil Procedure.

INSTRUCTIONS FOR INTERROGATORIES AND REQUEST FOR PRODUCTION

1. In responding to these requests, you are required to furnish all information that is available to you or subject to your reasonable inquiry, including information in the possession of your attorneys, accountants, advisors, representatives, agents, or other persons directly or indirectly employed by, or connected with, you or your attorneys, and anyone else otherwise subject to your control. All documents that respond, in whole or in part, to any portion of the requests below shall be produced in their entirety, including all attachments and enclosures.

2. The term "**identify**" or "**identity**" means:

   a. With respect to persons: (a) for a natural person, to state the full name, the residential and business address, and the residential and business telephone numbers; and (b) for a person other than a natural person, to state the name of

the entity, its address and telephone number, and the names of its managing agent(s) or director(s).

b. With respect to documents and communications: (a) for any document produced in the litigation, to state the precise production or bates number; (b) for any document not produced in the litigation, to state the date created and the name of the author, addressee, and recipients, and describe the general subject matter; (c) for any communication which is not identified as a document, to state the date made and the name of the originator and the recipient, and describe the general contents thereof.

c. With respect to facts and events, to state with particularity all facts known that bear upon or are related to the matter that is the subject of the inquiry, using the simplest and most factual statements of which you are capable, but including the identity of each (known) person or entity whose action, inaction, or reaction constitutes part of such facts, and the date(s) of events referenced in such facts.

3. If you object to the scope or breadth of any of these interrogatories, you are required, to the extent possible, to respond to these interrogatories notwithstanding the objection.

4. Where an objection is made to any discovery request or sub-part thereof, the objection should specifically state all grounds for the objection and whether otherwise responsive information, documents, or things are being withheld on the basis of the asserted objection. No part of a discovery request should be left unanswered merely because an objection is interposed to another part of that request.

5. If any of these interrogatories cannot be answered in full, you should answer to the extent possible, specifying the reasons for your inability to answer the remainder, and stating what information, knowledge, or belief you have concerning the unanswered portion.

6. If any meaning of any term in any request herein is unclear to you, without waiver of the Plaintiffs' rights to seek a full and complete response to the request, you shall assume a

reasonable meaning, state what the assumed meaning is, and respond to the request according to the assumed meaning.

7. These requests are continuing in character so as to require you to supplement your responses in accordance with Rule 26(e) of the Federal Rules of Civil Procedure within a reasonable time if you obtain or become aware of any further information responsive to these interrogatories.

8. Unless otherwise specified, these interrogatories are limited to the time period from January 1, 2013, to and including the date of service of these interrogatories.

INSTRUCTIONS FOR REQUEST FOR ADMISSIONS

1. Each matter is separately stated. If a matter is not admitted, your answer as to that matter must specifically deny it or state in detail why you cannot truthfully admit or deny it. **A denial must fairly respond to the substance of the matter; and when good faith requires that you qualify an answer or deny only a part of a matter, the answer must specify the part admitted and qualify or deny the rest.**

2. Signed responses to this Request for Admissions must be served upon Plaintiffs within thirty (30) days of service. **A matter is admitted unless, within thirty (30) days after being served, you serve the Plaintiffs a written answer or objection addressed to the matter and signed by you or your attorney.**

3. Grounds for objecting to a request to admit must be stated. You must not object solely on the ground that the request presents a genuine issue for trial.

4. You may assert lack of knowledge or information as a reason for failing to admit or deny only if you state that you have made reasonable inquiry and that the information you know or can readily obtain is insufficient to enable you to admit or deny.

5. Unless otherwise stated, the time period of the matters is the time period covered by the Complaint. Where a matter is true for one period of time, but not for the entire period covered by the Complaint, you must admit the statement with a qualification stating the applicable time period.

6. The Federal Trade Commission ("FTC" or "Commission") often makes its files available to other civil and federal, state, local, or foreign law enforcement agencies. The Commission may make information supplied by you available to such agencies where appropriate pursuant to the FTC Act and 16 C.F.R. §§ 4.11(c) and (j). Information you provide may be shared with other federal, state, or foreign civil or criminal agencies.

INTERROGATORIES

INTERROGATORY NO. 1:

Identify and describe in detail each asset you received, whether directly or through an entity you own or control, from any of the Defendants.

Response:

INTERROGATORY NO. 2:

For each asset identified in Interrogatory No. 1, identify the reason for your receipt of that asset, including any return consideration.

Response:

INTERROGATORY NO. 3:

For each asset identified in Interrogatory No. 1, identify and describe in detail all facts supporting your contention that you have a "legitimate claim" to the asset, as alleged in your Answer.

Response:

INTERROGATORY NO. 4:

Identify each business entity you have owned, controlled, or been an officer or director of since January 1, 2013.

Response:

INTERROGATORY NO. 5:

Identify and describe all sources of payment for the Culver City Property.

Response:

VERIFICATION

STATE OF _____)
)
COUNTY OF _____)

I, JAMES MARCUS, being first duly sworn in accordance with the law, do hereby depose and state:

1. I have read *Plaintiffs' First Set of Interrogatories, Document Requests, and Request for Admissions Directed to Defendant James Marcus* and the foregoing answers to those interrogatories are true and correct according to the best of my knowledge, information, and belief.

By:

_____
James Marcus, Relief Defendant

Sworn to or affirmed and signed before me on this _____ day of _____, 2018, by_____.

NOTARY PUBLIC

_____
Name

State of _____

____ Personally known

____ Produced Identification

___ Type of Identification Produced:_____

DOCUMENT REQUESTS

REQUEST FOR PRODUCTION NO. 1:

All documents supporting your responses to Plaintiffs' Interrogatories.

REQUEST FOR PRODUCTION NO. 2:

All documents in your possession, custody, or control related to the following:

a. Each asset you received directly or through an entity you own or control from any of the Defendants;

b. Any payments made on your behalf or for your benefit by any of the Defendants.

REQUESTS FOR ADMISSIONS

Admit that:

1. In or around September of 2016, one or more Defendants transferred approximately $496,518.25 to you or to a third party for your benefit.

2. In or around September of 2016, one or more Defendants transferred approximately $496,518.25 to you or to a third party for your benefit for no return consideration.

3. You have no legitimate claim to the approximately $496,518.25 received from or through one or more Defendants in September of 2016.

4. Your wife Jennifer Perez provided no consideration for the approximately $496,518.25 received from or through one or more Defendants in September of 2016.

5. Your wife Jennifer Perez has no legitimate claim to the approximately $496,518.25 received from or through one or more Defendants in September of 2016.

6. You used approximately $496,518.25 transferred by one or more Defendants to purchase the Culver City Property in September of 2016.

7. You have not returned the approximately $496,518.25 to Defendants.

8. On or about May 13, 2017, you obtained a cash out mortgage with Watermark Capital, Inc. with respect to the Culver City Property and received approximately $396,000.00 in cash ("Mortgage Proceeds").

9. You deposited the Mortgage Proceeds into a Bank of America account in the name of you and your wife Jennifer Perez.

10. You subsequently transferred the Mortgage Proceeds to various other accounts in your name.

11. You were aware of the asset freeze issued in this case at the time you entered the cash out mortgage with respect to the Culver City Property.

Dated: February 6, 2018

Respectfully submitted,

DAVID SHONKA
Acting General Counsel

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Attorneys for Plaintiff
STATE OF FLORIDA

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 6th day of February, 2018, a true and correct copy of the foregoing document was provided to the attorneys/individuals/entities listed on the Service List below by U.S. Mail and/or email as specified below.

/s/ Ryann Flack
Ryann Flack

SERVICE LIST

By U.S. Mail and Email:

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Relief Defendants Halfpay International, LLC; Halfpay NV LLC;
JLMJP Pompano, LLC; and Nantucket Cove of Illinois, LLC

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By U.S. Mail:

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6436 Grand Cypress Cir.
Lake Worth, FL 33463

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 17-60907-CIV-MORENO/TURNOFF

FEDERAL TRADE COMMISSION, and
STATE OF FLORIDA,

Plaintiffs,

v.

JEREMY LEE MARCUS, *et al.*,

Defendants and Relief Defendants
_____/

RELIEF DEFENDANT, JAMES MARCUS', NOTICE OF SERVING ANSWERS TO PLAINTIFFS' FIRST SET OF INTERROGATORIES, DOCUMENT REQUESTS AND REQUEST FOR ADMISSIONS

Relief Defendant, JAMES MARCUS, by and through his undersigned counsel, hereby files his Notice of Serving Answers to Plaintiffs' First Set of Interrogatories, Document Requests and Request for Admissions on March 8, 2018.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of March, 2018, I electronically filed the foregoing document with the Clerk of this Court by using the CM/ECF system. I also certify that the foregoing document is being served this date on the Plaintiffs' counsel via

transmission of Notices of Electronic Filing generated by the CM/ECF system.

/s/ Mark Wilensky
MARK WILENSKY
DUBINER & WILENSKY, L.L.C.
1200 Corporate Center Way, Suite 200
Wellington, FL 33414
Telephone (561) 655-0150
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Fla. Bar No. 290221
E-Service: dubiner_wilensky@bellsouth.net

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 17-60907-CIV-MORENO/TURNOFF

FEDERAL TRADE COMMISSION, and
STATE OF FLORIDA,

Plaintiffs,

v.

JEREMY LEE MARCUS, *et al.*,

Defendants and Relief Defendants
_____/

RELIEF DEFENDANT, JAMES MARCUS', ANSWERS TO INTERROGATORIES

1. My brother gave me $400,000, as a loan to buy a house. He later gave me the balance of the cost to buy my home, located ta 6665 Green Valley Circle, Unit 222. When I told him that I was concerned that I would not be able to pay back any additional amounts, he told me that the balance was a combination wedding gift/gift upon the birth of my child.

2. The home I lived in was run down and unfit to live in, and my brother knew that I had a need to move, he loaned me $400,000, and gave me a gift of the rest of the money that I paid for the home, when I could not find an appropriate home for the amount of the original loan. My brother explained that he wanted to repay me for past acts on his behalf that I had provided, including, but not limited to providing him with a place to live and a job during college.

3. See answers to interrogatories 1 and 2, above.

4. I have never owned a business, nor have I controlled one. At one point, at my brother's request, I agreed to be listed as "on the board" of one of his companies, because he said it would help him out, and that I would not have to do anything.

5. I have made all payments on the mortgage on the home through my income. The original money with which the home was secured is described in my answer to interrogatories 1and 2, above.

RESPONSE TO REQUEST TO PRODUCE

1. None.

2. The Deed to my home is recorded in the public records, and is equally available therein to the Plaintiffs.

RESPONSE TO REQUEST FOR ADMISSIONS

1. Admit.

2. Denied, in that I was advised by my brother that the transfer was in consideration of past actions taken by me on his behalf, and for his benefit. There was no act, action or consideration given at the time of the transfer.

3. Admitted that I have no legitimate claim to approximately $496, 518.25, which I do not possess. Denied, in that I have ownership of the property purchased with funds in that amount, and then mortgaged, and I make the mortgage payments regularly. I have that legitimate claim to the Culver City Property, which no longer exists as a cash entity.

4. Admitted that other than taking title to the property of the property as my wife, and being part of the marriage for which a portion of the funds was given as a gift, my wife has no connection to and provided no consideration.

5. Denied. See answers to interrogatories, above.

6. Admitted.

7. Admitted.

8. Admitted.

9. Admitted.

10. Admitted, for reasons unrelated to anything involved in this case.

11. Denied.