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goods and services. The Plaintiff and Defendant Brian Hessler<sup>1</sup> (“Defendant Hessler”) have agreed to settlement of this case upon the following terms and conditions<sup>2</sup> without adjudication of any issue of fact or law;

THEREFORE, on the joint motion of Plaintiff and Defendant Hessler, ~~IT IS~~  
THEREFORE STIPULATED, AGREED, AND ORDERED as follows:

1. This Court has jurisdiction over the ~~sub~~ matter of this case and jurisdiction over all parties pursuant to 28 U.S.C. §§. 1331, 1337(a), 1345 and 1355, and 15

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6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6105 and the Federal Trade Commission’s Telemarketing Sales Rule (the “TSR” or the “Rule”), 16 C.F.R. Part 310, as amended, and the Plaintiff has the authority to seek the relief it has requested;

5. Defendant Hessler has entered into this Order freely and without coercion, and Defendant Hessler acknowledges that he has read the provisions of this Order and is prepared to abide by them;

6. Plaintiff and Defendant Hessler stipulate and agree that the entry of this Order shall constitute a full, complete, and final settlement of this action;

7. Defendant Hessler waives all rights to seek judicial review or otherwise challenge or contest the validity of this Order;

8. Defendant Hessler has agreed that this Order does not entitle Defendant Hessler to seek or to obtain attorneys’ fees as a prevailing party under the Equal Access to Justice Act, 28 U.S.C. § 2412, and Defendant Hessler further waives any rights to attorneys’ fees that may arise under said provision of law;

9. This Order is remedial in nature and shall not be treated or construed as a fine, damages, penalty, or punitive assessment; and

10. Entry of this Order is in the public interest.

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ORDER

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

- A. "And" and "or" shall be understood to h9r.r6(mn-.0008sTT4 1 Tf 13.02 0 sand3,"



1 PERMANENT BAN ON THE SALE OF RECOVERY GOODS AND SERVICES

2 I. IT IS THEREFORE ORDERED that Defendant Hessler, whether acting directly  
3 or through any person, business entity, trust, corporation, partnership, limited liability  
4 company, subsidiary, division, website, or other device, is hereby permanently restrained  
5 and enjoined from selling recovery goods and services, or assisting others engaged in the  
6 sale of recovery goods and services.  
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9 PROHIBITION AGAINST MAKING MISREPRESENTATIONS  
10 RELATING TO ANY GOOD OR SERVICE

11  
12 II. IT IS FURTHER ORDERED that Defendant Hessler and his agents, servants,  
13 employees, attorneys, and other persons or entities in active concert or participation  
14 with him who receive actual notice of this Order by personal service or otherwise,  
15 whether acting directly or indirectly, in connection with the advertising, promoting,  
16 marketing, offering for sale, selling, or distributing of any good or service are hereby  
17 permanently restrained and enjoined from misrepresenting, or assisting others in  
18 misrepresenting, expressly or by implication, any material fact, including but not limited  
19 to:  
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22 A. Any material aspect of the performance, efficacy, nature, or central characteristics  
23 of the good or service;  
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- 1 B. Any material aspect of the nature or terms of any refund, cancellation, exchange,  
2 or repurchase policy for the goods and services;  
3  
4 C. That Defendants or any other person is affiliated with, endorsed or approved by, or  
5 otherwise connected to any other person, government entity; public; non-profit, or  
6 other non-commercial program, or any other program;  
7  
8 D. The total cost to purchase, receive or use the goods or services;  
9  
10 E. Falsely representing, in any manner, directly or by implication, any fact material  
11 to a consumer's decision (1) to purchase any item, product, good, service, or  
12 interest of any kind; (2) to donate to charity; or (3) to enter a contest for a prize;  
13 and  
14 F. Making a false or misleading statement to induce any person to pay for goods or  
15 services.  
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18 CUSTOMER INFORMATION

19 III. IT IS FURTHER ORDERED that Defendant Hessler and his agents, servants,  
20 employees, attorneys, and all other persons or entities in active concert or participation  
21 with him who receive actual notice of this Order by personal service or otherwise, are  
22 permanently restrained and enjoined from directly or indirectly:  
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1 A. Failing to provide sufficient customer information to enable the Commission to  
2 efficiently administer consumer redress if a representative of the Commission requests  
3 in writing any information related to redress. Defendant Hessler must provide it, in the  
4 form prescribed by the Commission, within 14 days.

6 B. Disclosing, using, or benefitting from customer information, including the name,  
7 address, telephone number, email address, social security number, or other identifying  
8 information, or any data that enables access to a customer's account (including a credit  
9 card, bank account, or other financial account), that either Defendant Hessler or the  
10 Corporate Defendant obtained prior to entry of this Order; and

13 C. Failing to dispose of such customer information in all forms in their possession,  
14 custody, or control upon receipt of written notification to do so from a representative of the  
15 Commission. Disposal must be by means that protect against unauthorized access to the  
16 customer information, such as by burning, pulping, or shredding any papers, and by  
17 erasing or destroying any electronic media, to ensure that the customer information  
18 cannot practicably be read or reconstructed.

21 Provided, however, that customer information need not be disposed of, and may  
22 be disclosed, to the extent requested by a government agency as required by law,  
23 regulation, or court order.



MONETARY JUDGMENT AND PARTIAL SUSPENSION

IV. IT IS FURTHER ORDERED that:

A. Judgment is hereby entered in favor of Plaintiff and against Defendant Hessler, for equitable monetary relief, pursuant to Sections 13(b) and 10 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the amount of five million, two hundred and eighty three thousand, six hundred and fifty eight dollars (\$5,283,658). The payment of these sums shall be suspended except for ninety thousand dollars, (\$90,000), subject to the provisions of the Section of this Order entitled "RIGHT TO REOPEN."

B. Prior to or concurrently with Defendant Hessler's execution of this Order, Defendant Hessler shall turn over the sum of ninety thousand dollars (\$90,000); in the form of a wire transfer in accordance with directions provided by counsel for Plaintiff. The funds shall be held in a non-interest-bearing account pending approval of the settlement by the Federal Trade Commission and the entry of the consent decree by the U.S. District Court before being disbursed in accordance with procedures specified by the Consumer Protection Branch, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.

C. Defendant Hessler relinquishes all dominion, control, and title to the assets surrendered or paid to the fullest extent permitted by law. Defendant Hessler shall

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make no claim to or demand for return of these assets, directly or indirectly,  
through counsel or otherwise.

D. The facts alleged in the

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1 together with any interest Defendants have earned in connection with any such  
2 credit or refund.

3  
4 RIGHT TO REOPEN

5 V. IT IS FURTHER ORDERED that:

6  
7 A. Plaintiff's agreement to this Order is expressly premised on the truthfulness,  
8 accuracy, and completeness of Defendants' financial statements and related  
9 documents (collectively, "financial presentations") submitted to Plaintiff,  
10 namely:

- 11  
12 1. The Financial Statement of Debtor Brian Hessler, signed on November 6,  
13 2012, including the attachments;
- 14  
15 2. The Financial Statement of Corporate Debtor Business Recovery Services,  
16 signed by Brian Hessler on November 27, 2012, including the attachments;
- 17  
18 3. The additional documentation Defendant Hessler submitted to Plaintiff by  
19 email and facsimile between October 9, 2012 and November 8, 2012,  
20 attaching bank statements, trust documents, tax records, and additional  
21 supporting documents; and
- 22  
23 4. The email Defendant Hessler sent Plaintiff on May 9, 2013, responding  
24 to questions from the Federal Trade Commission.

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B. The suspension of the judgment will be lifted if, upon motion by Plaintiff, the Court finds that Defendant Hessler failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial representations identified above.

C. If the suspension of the judgment is lifted, the judgment becomes immediately due in the amount specified above (which the parties stipulate only for purposes of this Section represents the consumer injury, less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order).

ORDER ACKNOWLEDGMENTS

VI. IT IS FURTHER ORDERED that Defendant Hessler obtain acknowledgments of receipt of this Order:

A. Defendant Hessler, within seven (7) days of the entry of this Order, must submit to the Federal Trade Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 5 years after entry of this Order, Defendant Hessler, for any business that Defendant Hessler is the majority owner or directly or indirectly controls, must deliver a copy of this Order to: (1) all principals, officers, directors, managers,

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and members; (2) all employees, agents, representatives who participate in marketing or advertising any product or service on websites or through telemarketing; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. To all others, assume/7 entry responsibility

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A. 180 days after entry of this Order Defendant Hessler must submit a compliance report, sworn under penalty of perjury.

1. Defendant Hessler must: (a) provide at least one telephone number and an email, physical, and postal address as points of contact, which representatives of Plaintiff and the Federal Trade Commission may use to communicate with Defendant Hessler; (b) identify all of Defendant Hessler's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet

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Defendant Hessler performs services, whether as an employee or otherwise and any entity in which Defendant Hessler has any ownership interest, and identify its name, physical address, and Internet address, if any.

C. Defendant Hessler must submit to Federal Trade Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against Defendant within 14 days of its filing.

D. Any submission to the Federal Trade Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: \_\_\_\_\_" and supply the declaratory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Federal Trade Commission representative in writing, all submissions to the Federal Trade Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or by overnight courier (not the U.S. Postal Service) to:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission



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1 interview any employee or other person affiliated with any Defendant who has  
2 agreed to such an interview. The person interviewed may have counsel present.

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4 C. Plaintiff and the Federal Trade Commission may use all other lawful means,  
5 including posing, through its representatives, as consumers, suppliers, or other  
6 individuals or entities, to Defendants or any individual or entity affiliated with  
7 Defendants, without the necessity of identification or prior notice. Nothing in this  
8 Order limits the Plaintiff and the Federal Trade Commission's lawful use of  
9 compulsory process, pursuant to Sections 19 and 20 of the FTC Act, 15 U.S.C. §§  
10 49, 57b-1.  
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14 CONCLUSION

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

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18 IT IS FURTHER ORDERED that as a result of its judgment, the motion for  
19 summary judgment (Doc. 207) is denied as moot.

20 IT IS FURTHER ORDERED that the joint motion for stipulated final judgment  
21 (Doc. 223) is granted.

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IT IS FINALLY ORDERED that because this Judgment resolves all remaining  
claims against all remaining

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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
BUSINESS RECOVERY SERVICES, LLC  
a limited liability company, and,  
  
BRIAN HESSLER,  
Individually and as owner, officer, or  
manager of Business Recovery  
Services, LLC,  
  
Defendants.

No. CV 11-0390-PHX-JAT

ACKNOWLEDGMENT BY  
AFFIDAVIT OF RECEIPT  
OF ORDER BY  
DEFENDANT BRIAN HESSLER

1. My name is Brian Hessler am a U.S. citizen over the age of eighteen,  
and I have personal knowledge of the facts set forth in this Acknowledgment.

2. I was a Defendant in United States v. Business Recovery Services, LLC and  
Brian Hessler, which is the court case listed near the top of this page.

3. On \_\_\_\_\_, 2013, the Honorable District Court  
Judge James A. Teilborg signed the Stipulated Final Judgment and Order for Permanent

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Injunction and Other Equitable Relief. I received a copy of the Stipulated Final Judgment and Order for Permanent Injunction and Other Equitable Relief on \_\_\_\_\_, 2013, and a true and correct copy of the Order that I received is attached to this Acknowledgment.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: \_\_\_\_\_  
Brian Hessler

State of \_\_\_\_\_ City of \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
Notary Public

My commission expires:  
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UNITED STATES DISTRICT COURT  
DISTRICT OF ARIZONA

UNITED STATES OF AMERICA,  
  
Plaintiff,  
  
v.  
  
BUSINESS RECOVERY SERVICES, LLC  
a limited liability company, and,  
  
BRIAN HESSLER,  
Individually and as owner, officer, or  
manager of Business Recovery  
Services, LLC,  
  
Defendants.

No. CV 11-0390-PHX-JAT

ACKNOWLEDGMENT BY  
AFFIDAVIT OF RECEIPT  
OF ORDER

I, \_\_\_\_\_, received a copy of



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I was not a Defendant in that court case. My title or relationship with Defendant  
Brian Hessler is \_\_\_\_\_.