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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

**ASSET & CAPITAL
MANAGEMENT GROUP, et al.,**

Defendants.

Case No. 8:13-cv-01107-DSF-JC

**STIPULATED FINAL ORDER FOR
PERMANENT INJUNCTION AND
SETTLEMENT OF CLAIMS AS TO
DEFENDANTS JAMES NOVELLA
AND GREEN FIDELITY
ALLEGIANCE, LLC**

Plaintiff, Federal Trade Commission (“FTC”), commenced this civil action on July 23, 2013, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and Section 814(a) of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692l(a). On motion by the FTC, on July 24, 2013, this Court entered an *ex parte* temporary restraining order (“TRO”) with asset freeze, appointment of receiver, and other equitable relief against Defendants Green Fidelity Allegiance, Inc. and James Novella. On August 19, 2013, the Court entered a Stipulated Preliminary Injunction against defendants

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 and agreed to entry of this Final Order for
4 Permanent Injunction and Settlement of Claims (“Order”) to resolve all matters in
5 dispute in this action between them.
6

7 **FINDINGS**

8
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 FDCPA, 15 U.S.C. § 1692l(a).
12
13 The Complaint seeks both permanent injunctive relief and equitable
14 monetary relief for the Stipulating Defendants’ alleged deceptive acts or
15 practices as alleged therein.
16
17 2. The FTC has the authority under Section 13(b) of the FTC Act and
18 Section 814(a) of the FDCPA to seek the relief it has requested, and the
19 Complaint states a claim upon which relief can be granted against the
20 Stipulating Defendants.
21
22 3. This Court has jurisdiction over the subject matter of this case and has
23 jurisdiction over the Stipulating Defendants. Venue in the Central District
24 of California is proper.
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1 4. The activities of the Stipulating Defendants, as alleged in the Complaint, are
2 in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C.
3 § 44.

4
5 5. The Stipulating Defendants neither admit nor deny any of the allegations in
6 the Complaint, except as specifically stated in this Order. Only for purposes
7 of this action, the Stipulating Defendants admit the facts necessary to
8 establish jurisdiction.

9
10 6. The Stipulating Defendants waive all rights to seek judicial review or
11 otherwise challenge or contest the validity of this Order. The Stipulating
12 Defendants also waive any claim that they may have held under the Equal
13 Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this
14 action to the date of this Order. The FTC and the Stipulating Defendants
15 each shall bear its own costs and attorneys' fees.

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

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23 8. Entry of this Order is in the public interest.

24 **DEFINITIONS**

25
26 1. **“Consumer”** means any person.

1 2. **“Credit repair services”** means using any instrumentality of interstate
2 commerce or the mails to sell, provide, or perform any service, in return for
3 the payment of money or other valuable consideration, for the express or
4 implied purpose of (i) improving any consumer’s credit record, credit
5 history, or credit rating, or (ii) providing advice or assistance to any
6 consumer with regard to any activity or service described in clause (i).
7

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9 3. **“Debt”** means any obligation or alleged obligation to pay money arising out
10 of a transaction, whether or not such obligation has been reduced to
11 judgment.
12

13 4. **“Debt collection activities”** means any activities of a debt collector to
14 collect or attempt to collect, directly or indirectly, a debt owed or due, or
15 asserted to be owed or due, another.
16

17 5. **“Debt collector”** means any person who uses any instrumentality of
18 interstate commerce or the mails in any business the principal purpose of
19 which is the collection of any debts, or who regularly collects or attempts to
20 collect, directly or indirectly, debts owed or due or asserted to be owed or
21 collect, directly or indirectly, debts owed or due or asserted to be owed or
22 due another. The term also includes any creditor who, in the process of
23 collecting its own debts, uses any name other than its own which would
24 indicate that a third person is collecting or attempting to collect such debts.
25
26 The term also include any person to the extent such person receives an
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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:
5

6 A. provide to any consumer, arrange for any consumer to receive, or
7 assist any consumer in receiving, an extension of consumer credit;
8

9 B. provide to any consumer, arrange for any consumer to receive, or
10 assist any consumer in receiving, credit repair services;
11

12 C. provide to any consumer, arrange for any consumer to receive, or
13 assist any consumer in receiving, any secured or unsecured debt relief
14 product or service;
15

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.
19

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 the 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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1 9. **“Regulated depository institution”** means a national bank, a member bank
2 of the Federal Reserve System, a bank insured by the Federal Deposit
3 Insurance Corporation, a branch or agency of a foreign bank or commercial
4 lending company owned or controlled by a foreign bank, a Federal or State
5 savings association, a Federal credit union, or any other institution otherwise
6 regulated by the Federal Reserve Board, the Office of the Comptroller of the
7 Currency, the Federal Deposit Insurance Corporation, or the National Credit
8 Union Administration.
9

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12 10. **“Secured or unsecured debt relief product or service”** means, with
13 respect to any mortgage, loan, debt, or obligation between a person and one
14 or more secured or unsecured creditors or debt collectors, any product,
15 service, plan, or program represented, expressly or by implication, to
16
17 (A) negotiate, settle, or in any way alter the terms of payment or other terms
18 of the mortgage, loan, debt, or obligation, including but not limited to, a
19 reduction in the amount of interest, principal balance, monthly payments, or
20 fees owed by a person to a secured or unsecured creditor or debt collector;
21
22 (B) stop, prevent, or postpone any mortgage or deed of foreclosure sale for a
23 person’s dwelling, any other sale of collateral, any repossession of a
24 person’s dwelling or other collateral, or otherwise save a person’s dwelling
25 or other collateral from foreclosure or repossession; (C) obtain any
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1 forbearance or modification in the timing of payments from any secured or
2 unsecured holder of any mortgage, loan, debt, or obligation; (D) negotiate,
3 obtain, or arrange any extension of the period of time within which the
4 person may (i) cure his or her default on the mortgage, loan, debt, or
5 obligation, (ii) reinstate his or her mortgage, loan, debt, or obligation,
6 (iii) redeem a dwelling or other collateral, or (iv) exercise any right to
7 reinstate the mortgage, loan, debt, or obligation or redeem a dwelling or
8 other collateral; (E) obtain any waiver of an acceleration clause or balloon
9 payment contained in any promissory note or contract secured by any
10 dwelling or other collateral; or (F) negotiate, obtain, or arrange (i) a short
11 sale of a dwelling or other collateral, (ii) a deed-in-lieu of foreclosure, or
12 (iii) any other disposition of a mortgage, loan, debt, or obligation other than
13 a sale to a third party that is not the secured or unsecured loan holder. The
14 foregoing shall include any manner of claimed assistance, including, but not
15 limited to, auditing or examining a person's application for the mortgage,
16 loan, debt, or obligation.
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23 11. **“Stipulating Individual Defendant”** means James Novella.

24 12. **“Stipulating Corporate Defendant”** means Green Fidelity Allegiance, Inc.,
25 and its successors, assigns, affiliates, or subsidiaries, and each of them by
26 whatever names each might be known.
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1 13. **“Stipulating Defendants”** means the Stipulating Individual Defendant and
2 the Stipulating Corporate Defendant, individually, collectively, or in any
3 combination, and each of them by whatever names each might be known.
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9 **ORDER**

10 **BAN ON DEBT COLLECTION ACTIVITIES**

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12 **I. IT IS THEREFORE ORDERED** that the Stipulating Defendants, whether
13 acting directly or through any other person, are permanently restrained and
14 enjoined from:
15

- 16 A. Engaging in debt collection activities;
17 B. Assisting others engaged in debt collection activities; and
18 C. Advertising, marketing, promoting, offering for sale, or selling, or
19 assisting others engaged in the advertising, marketing, promoting,
20 offering for sale, or selling, of any portfolio of consumer or
21 commercial debt or any program that gathers, organizes, or stores
22 consumer information relating to a debt or debt collection activities.
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25
26 *Provided*, that Section I.C. shall not prohibit the Stipulating Individual
27 Defendant from engaging in any activity involving or related to advertising,
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1 marketing, promoting, offering for sale, or selling of any portfolio of
2 consumer or commercial debt, if the Stipulating Individual Defendant is the
3 employee of a regulated depository institution and engages in the activity in
4 the context of such employment. This proviso shall not be construed to limit
5 the licensing or regulatory powers of any federal, state, or local government
6 agency or other entity regulating depository institutions.
7
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9 **PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL**
10 **RELATED PRODUCTS OR SERVICES**

11 **II. IT IS FURTHER ORDERED** that the Stipulating Defendants and their
12 officers, agents, servants, employees, and attorneys, and those persons or
13 entities in active concert or participation with any of them who receive
14 actual notice of this Order by personal service, facsimile transmission, email,
15 or otherwise, whether acting directly or through any corporation, subsidiary,
16 division, or other device, in connection with the advertising, marketing,
17 promotion, offering for sale or sale of any financial-related product or
18 service, are hereby permanently restrained and enjoined from:
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22 A. Misrepresenting or assisting others in misrepresenting, expressly or by
23 implication, any material fact, including but not limited to:

- 24 1. The terms or rates that are available for any loan or other
25 extension of credit;
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- 1 2. Any person's ability to improve or otherwise affect a
2 consumer's credit record, credit history, or credit rating or
3 ability to obtain credit;
- 4 3. That any person can improve any consumer's credit record,
5 credit history, or credit rating by permanently removing
6 negative information from the consumer's credit record, credit
7 history, or credit rating, even where such information is
8 accurate and not obsolete;
- 9 4. Any aspect of any secured or unsecured debt relief product or
10 service, including but not limited to, the amount of savings a
11 consumer will receive from purchasing, using, or enrolling in
12 such secured or unsecured debt relief product or service; the
13 amount of time before which a consumer will receive
14 settlement of that consumer's debts; or the reduction or
15 cessation of collection calls;
- 16 5. That a consumer will receive legal representation;
- 17 6. That any particular outcome or result from a financial-related
18 product or service is guaranteed, assured, highly likely or
19 probable, or very likely or probable;
- 20 21 22 23 24 25 26 27 28

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

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

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

17 **CONSUMER INFORMATION**

18
19 **III. IT IS FURTHER ORDERED** that the Stipulating Defendants and their
20 successors, assigns, officers, agents, servants, employees, and attorneys, and
21 those persons or entities in active concert or participation with any of them
22 who receive actual notice of this Order by personal service, facsimile
23 transmission, email, or otherwise, whether acting directly or through any
24 corporation, subsidiary, division, or other device, are permanently restrained
25 and enjoined from directly or indirectly:
26 and enjoined from directly or indirectly:
27 and enjoined from directly or indirectly:
28 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.
- 6
- 7 B. Disclosing, using, or benefitting 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) of 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
- 14
- 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.
- 18
- 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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26 **MONETARY JUDGMENT AND PARTIAL SUSPENSION**

27 **IV. IT IS FURTHER ORDERED** that:

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1 A. Judgment in the amount of FOUR HUNDRED TWENTY ONE
2 THOUSAND FOUR HUNDRED AND NINETY FIVE DOLLARS
3 (\$421,495) is entered in favor of the FTC against the Stipulating
4 Defendants, jointly and severally, as equitable monetary relief.
5

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

5
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.

9
10 D. The asset freeze is modified to permit the transfers identified in this
11 Section. Upon completion of those transfers, the asset freeze is
12 dissolved.

13
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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1 F. The suspension of the judgment will be lifted as to the Stipulating
2 Individual Defendant if, upon motion by the FTC, the Court finds that
3 the Stipulating Individual Defendant failed to disclose any material
4 asset, materially misstated the value of any asset, or made any other
5 material misstatement or omission in the financial statements
6 identified above.
7

8
9 G. If the suspension of the judgment is lifted, the judgment shall become
10 immediately due as to the Stipulating Individual Defendant in the
11 amount specified Subsection A above (which the parties stipulate only
12 for purposes of this Section represents the consumer injury alleged in
13 the Complaint), less any payment previously made pursuant to this
14 Section, plus interest computed from the date of entry of this Order.
15

16
17 H. All money paid to the FTC pursuant to this Order may be deposited
18 into a fund administered by the FTC or its designee to be used for
19 equitable relief, including but not limited to consumer redress and any
20 attendant expenses for the administration of any redress funds. If a
21 representative of the FTC decides that direct redress to consumers is
22 wholly or partially impracticable or money remains after redress is
23 completed, the FTC may apply any remaining money for such other
24 equitable relief, including but not limited to consumer information
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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.
7

8
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.
12

13 J. The facts alleged in the Complaint will be taken as true, without
14 further proof, in any subsequent civil 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.
18

19
20 K. The facts alleged in the Complaint establish all elements necessary to
21 sustain an action by the FTC pursuant to Section 523(a)(2)(A) of the
22 Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have
23 collateral estoppel effect for such purposes.
24

25
26 L. The Stipulating Defendants acknowledge that their Taxpayer
27 Identification Numbers (Social Security Numbers or Employer
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1 Identification Numbers), which the Stipulating Defendants previously
2 submitted to the FTC, may be used for collecting and reporting on any
3 delinquent amount arising out of this Order, in accordance with
4
5 31 U.S.C. § 7701.

6 M. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act,
7
8 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish
9
10 a consumer report concerning the Stipulating Defendants to the FTC,
11
12 which shall be used for purposes of collecting and reporting on any
delinquent amount arising out of this Order.

13 CONTINUATION OF RECEIVERSHIP

14 V. **IT IS FURTHER ORDERED** that Thomas W. McNamara, Esq. shall
15
16 continue as a permanent receiver over the Stipulating Corporate Defendant
17
18 with full powers of a permanent receiver, including but not limited to those
19
20 powers set forth in the Stipulated Preliminary Injunction entered by the
21
22 Court in this matter on August 19, 2013, and including full liquidation
23
24 powers. The Receiver is directed to wind up the Stipulating Corporate
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26 Defendant and liquidate all assets within 365 days after entry of this Order,
27
28 but any party or the Receiver may request that the Court extend the
Receiver's term for good cause. Upon termination of the receivership and
final payment to the Receiver of all approved fees, costs, and expenses, the

1 Receiver shall turn over to the FTC or its designated agent all remaining
2 assets in the receivership estate.

3
4 **COOPERATION**

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 must cause its officers, employees,
12 representatives, or agents to appear for interviews, discovery, hearings,
13 trials, and any other proceedings that an FTC representative may reasonably
14 request upon 5 days written notice, or other reasonable notice, at such places
15 and times as an FTC representative may designate, without the service of a
16 subpoena.
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21 **ORDER ACKNOWLEDGMENTS**

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23 **VII. IT IS FURTHER ORDERED** that the Stipulating Defendants obtain
24 acknowledgments of receipt of this Order:
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- 1 A. Each Stipulating Defendant, within 7 days of entry of this Order, must
2 submit to the FTC an acknowledgment of receipt of this Order sworn
3 under penalty of perjury.
4
- 5 B. For 5 years after entry of this Order, the Stipulating Individual
6 Defendant for any business that the Stipulating Individual Defendant,
7 individually or collectively with any other Defendant, is the majority
8 owner or directly or indirectly controls, and the Stipulating Corporate
9 Defendant, must deliver a copy of this Order to: (1) all principals,
10 officers, directors, and LLC managers and members; (2) all
11 employees, agents, and representatives who participate in conduct
12 related to the subject matter of the Order; and (3) any business entity
13 resulting from any change in structure as set forth in the Section titled
14 Compliance Reporting. Delivery must occur within 7 days of entry of
15 this Order for current personnel. To all others, delivery must occur
16 before they assume their responsibilities.
17
- 18 C. From each individual or entity to which a Stipulating Defendant
19 delivered a copy of this Order, that Stipulating Defendant must obtain,
20 within 30 days, a signed and dated acknowledgment of receipt of this
21 Order.
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COMPLIANCE REPORTING

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2 **VIII. IT IS FURTHER ORDERED** that the Stipulating Defendants make timely
3 submissions to the FTC:
4

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

7
8 1. Each Stipulating Defendant must: (a) identify the primary
9 physical, postal, and email and telephone number, as designated
10 points of contact, which representatives of the FTC may use to
11 communicate with such Stipulating Defendant; (b) identify all
12 of that Stipulating Defendant's businesses by all of their names,
13 telephone numbers, and physical, postal, email, and Internet
14 addresses; (c) describe the activities of each business, including
15 the products and services offered, the means of advertising,
16 marketing, and sales, and the involvement of any other
17 Defendant (which the Stipulating Individual Defendant must
18 describe if he knows or should know due to his own
19 involvement); (d) describe in detail whether and how that
20 Stipulating Defendant is in compliance with each Section of
21 this Order; and (e) provide a copy of each Order
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1 Acknowledgment obtained pursuant to this Order, unless
2 previously submitted to the FTC;

3 2. Additionally, the Stipulating Individual Defendant must:

4 (a) identify all telephone numbers and physical, postal, email,
5 and Internet addresses, including all residences; (b) identify all
6 business activities, including any business for which the
7 Stipulating Individual Defendant performs services whether as
8 an employee or otherwise and any entity in which the
9 Stipulating Individual Defendant has any ownership interest;
10 and (c) describe in detail the Stipulating Individual Defendant's
11 involvement in each such business, including title, role,
12 responsibilities, participation, authority, control, and any
13 ownership.
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19 B. For 20 years following entry of this Order, each Stipulating Defendant
20 must submit a compliance notice, sworn under penalty of perjury,
21 within 14 days of any change in the following:
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23 1. Each Stipulating Defendant must report any change in: (a) any
24 designated point of contact; or (b) the structure of the
25 Stipulating Corporate Defendant or any entity that such
26 Stipulating Defendant has any ownership interest in or directly
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1 or indirectly controls that may affect compliance obligations
2 arising under this Order, including: creation, merger, sale, or
3 dissolution of the entity or any subsidiary, parent, or affiliate
4 that engages in any acts or practices subject to this Order.
5

6 2. Additionally, the Stipulating Individual Defendant must report
7 any change in: (a) name, including aliases or fictitious name, or
8 residence address; or (b) title or role in any business activity,
9 including any business for which the Stipulating Individual
10 Defendant performs services whether as an employee or
11 otherwise and any entity in which the Stipulating Individual
12 Defendant has any ownership interest, and identify its name,
13 physical address, and Internet address, if any.
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17 C. Each Stipulating Defendant must submit to the FTC notice of the
18 filing of any bankruptcy petition, insolvency proceeding, or any
19 similar proceeding by or against such Stipulating Defendant within 14
20 days of its filing.
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1 D. Any submission to the FTC required by this Order to be sworn under
2 penalty of perjury must be true and accurate and comply with 28
3 U.S.C. § 1746, such as by concluding: “I declare under penalty of
4 perjury under the laws of the United States of America that the
5 foregoing is true and correct. Executed on:_____” and supplying the
6 date, signatory’s full name, title (if applicable), and signature.
7

8
9 E. Unless otherwise directed by a FTC representative in writing, all
10 submissions to the FTC pursuant to this Order must be emailed to
11 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal
12 Service) to: Associate Director for Enforcement, Bureau of Consumer
13 Protection, Federal Trade Commission, 600 Pennsylvania Avenue
14 NW, Washington, DC 20580. The subject line must begin: *FTC v.*
15 *Asset & Capital Management Group, et al.*, Matter Number X130055.
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20 RECORDKEEPING

21 **IX. IT IS FURTHER ORDERED** that the Stipulating Defendants must create
22 certain records for 20 years after entry of the Order, and retain each such
23 record for 5 years. Specifically, the Stipulating Corporate Defendant and the
24 Stipulating Individual Defendant for any business in which the Stipulating
25 Individual Defendant, individually or collectively with any other
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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;
6
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;
11
12 C. Complaints and refund requests, whether received directly or
13 indirectly, such as through a third party, and any response;
14
15 D. All records necessary to demonstrate full compliance with each
16 provision of this Order, including all submissions to the FTC; and
17
18 E. A copy of each advertisement or other marketing material.
19

20 **COMPLIANCE MONITORING**

- 21 **X. IT IS FURTHER ORDERED** that, for the purpose of monitoring the
22 Stipulating Defendants' compliance with this Order, including the financial
23 representations upon which part of the judgment was suspended and any
24 failure to transfer any assets as required by this Order:
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- 1 A. Within 14 days of receipt of a 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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12 B. For matters concerning this Order, the FTC is authorized to
13 communicate directly with each Stipulating Defendant. The
14 Stipulating Defendants must permit representatives of the FTC to
15 interview any employee or other person affiliated with any Stipulating
16 Defendant who has agreed to such an interview. The person
17 interviewed may have counsel present.
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20 C. The FTC may use all other lawful means, including posing, through
21 its representatives, as consumers, suppliers, or other individuals or
22 entities, to the Stipulating Defendants or any individual or entity
23 affiliated with the Stipulating Defendants, without the necessity of
24 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.

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4 **ENTRY OF JUDGMENT**

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 Green Fidelity Allegiance, Inc.
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10 **RETENTION OF JURISDICTION**

11 **XII. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this
12 matter for purposes of construction, modification, and enforcement of this
13 Order.
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16 **IT IS SO ORDERED**, May 19, 2014.

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DALE S. FISCHER
United States District Judge