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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

FEDERAL TRADE COMMISSION, and UTAH
DIVISION OF CONSUMER PROTECTION,

Plaintiffs,

vs.

ZURIXX, LLC, et al.

Defendants.

**DEFENDANTS' ANSWER TO
PLAINTIFFS' SECOND AMENDED
COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF
and DEMAND FOR JURY TRIAL**

Case No.: 2:19-cv-00713-DAK-DAO

Judge Dale Kimball

Magistrate Judge Daphne A. Oberg

Defendants ZURIXX, LLC, a Utah limited liability company; BRAND MANAGEMENT HOLDINGS, LLC, a Delaware limited liability company; CAC INVESTMENT VENTURES, LLC, a Utah limited liability company; CAC INVESTMENT VENTURES, LLC, a Puerto Rico limited liability company; CARLSON DEVELOPMENT GROUP, LLC, a Utah limited liability company; CARLSON DEVELOPMENT GROUP, LLC, a Puerto Rico limited liability company; CJ SEMINAR HOLDINGS, LLC, a Utah limited liability company; DORADO MARKETING AND MANAGEMENT, LLC, f/k/a Zurixx, LLC, a Puerto Rico limited liability company; ZURIXX FINANCIAL, LLC, a Utah limited liability company; ZURIXX FINANCIAL, LLC, a Puerto Rico limited liability company; CRISTOPHER A. CANNON, individually and as an officer of Zurixx, LLC; JAMES M. CARLSON, individually and as an officer of Zurixx, LLC; and JEFFREY D. SPANGLER, individually and as an officer of Zurixx, LLC; (collectively “Defendants”), by and through their undersigned attorneys, hereby submit their Answer to Plaintiffs’ Second Amended Complaint for Permanent Injunction and Other Equitable Relief (“Second Amended Complaint”).

Defendants deny that they have violated any laws and further deny that Plaintiffs are entitled to any relief against any of them. Prior to this lawsuit, Zurixx provided real estate education to over 100,000 students since the company’s founding in 2012. Plaintiffs’ allegations against Defendants are based on 24 declarations from former Zurixx students and 239 unspecified complaints the FTC allegedly received about Zurixx. The complaints cited by the Plaintiffs amount to approximately one-quarter of one percent of all students who received real estate education and training from Zurixx. Put simply, contrary to the Plaintiffs’ assertions, there is no evidence of widespread consumer fraud or deception to justify the extraordinary relief

obtained by Plaintiffs in this action on an *ex parte* basis. To the contrary, the evidence in this case will demonstrate widespread satisfaction among Zurixx students. Specifically, over 99% of all prior Zurixx students rated their educational experience as insightful, valuable, worthwhile, understandable and helpful. This customer satisfaction data, yielded from detailed surveys of Zurixx's students, was audited and verified by an independent accounting firm (Squire & Company, PC).

Zurixx's commitment to providing high-quality educational experiences to its customers is also exemplified by the training and certification of its customer service and instructional teams. All members of Zurixx's customer service department not only underwent a detailed internal on-boarding and training process, but all members also completed an external training and certification program administered by an independent third-party company. After completion of the program, each employee was tested and all received certification. Zurixx's instructors, trainers, and coaches were also vetted to ensure that they had several years of experience in their field of instruction. Zurixx then required each of them to complete an internal training, after which, the individual was required to pass an examination. As with customer service, Zurixx supplemented its internal training with third-party training and certification as a quality assurance measure. Further, all of Zurixx's coaches attended a two-day training and certification course where they were trained in best practices for helping students, diagnosing problems, and creating success. The course was offered and administered through the Association for Talent Development, which is the world's largest association dedicated to talent development and training effectiveness. Instructors and presenters who violated Zurixx's

compliance policies were subject to discipline including, but not limited to, suspension without pay and termination.

Because of the value that Zurixx's educational training provided to its students, Zurixx received many awards from local and national business review organizations, including, by way of example, being inducted into the Salt Lake City Business Hall of Fame, being awarded the Best of Salt Lake City for Education award, as well as achieving a rank of forty-three (43) on Inc. 500's list of Fastest Growing Companies in 2016, and a rank of two (2) in the Top Education Company category. Zurixx has also donated millions of dollars and a significant amount of its officer's and staff's time to charitable organizations in Utah, the U.S., and around the world.

Defendants also participated in ERSP, an independent advertising review program administered by the Better Business Bureau. Defendants, through ERSP, affirmatively reached out to the FTC to meet with staff within the FTC's Bureau of Consumer Protection – the Bureau that brought this lawsuit – to discuss advertising and business practices affecting ERSP's members. Indeed, Defendants Jeffrey Spangler and James Carlson, two of the owners of Defendant Zurixx and individual defendants in this enforcement action, along with their counsel from Venable LLP, met in person at the FTC's headquarters in Washington, D.C. with Andrew Smith, the Director of the FTC's Bureau of Consumer Protection, several other high-ranking FTC staff members, as well as other industry participants to discuss advertising and marketing practices in the real estate education industry and to solicit the FTC's views on ERSP's efforts in industry self-regulation. During that meeting, ERSP participants discussed with the FTC what concerns the FTC had with advertising, marketing practices, or the educational training, and the participants also reaffirmed their continued commitment to make any changes the FTC requested

as they had in the past. Despite the fact that the FTC's investigation that led to the filing of this case was already well underway, albeit in secret, the FTC did not disclose the investigation to Zurixx. Nor did the FTC, at that meeting or subsequently, identify any specific concerns with respect to Zurixx, nor ask Zurixx to change any of its advertising practices or educational training.

Further, the Plaintiffs' claims in this case that Defendants' educational training provided little to no value to its students is unsupported and unsupportable. The expert on which Plaintiffs relied to obtain an *ex parte* TRO is not only unqualified to give opinions on Defendants' training, his opinions are also based on the wrong data and belied by the enormous evidence of success experienced by Zurixx's students and others who use the same flipping formula taught by Zurixx. Indeed, the educational training taught by Zurixx is widely accepted and used throughout the real estate investing industry by real estate investors.

Even though the real estate education taught by Defendant Zurixx is widely accepted and used by real estate investors and, more importantly, can work to generate profit, Zurixx's policy was always to make it clear to students before they paid for the initial level of training that their individual success was not guaranteed, that they may not succeed, and that their results would vary. The disclaimers used by Zurixx were reviewed and approved by ERSP through the industry self-regulatory process. When the cherry-picked statements upon which the Plaintiffs rely in bringing this action are viewed in context, the evidence will show that, while specific results of past students, real deals, or hypothetical deals were used by instructors to teach the real estate education, Zurixx did not represent that those results and numbers were what the student would achieve or should expect to achieve.

Defendants incorporate the above preliminary statements into its responses to the specific allegations in Plaintiffs' Second Amended Complaint and deny each and every allegation of Plaintiffs' Second Amended Complaint not specifically admitted, qualified or explained and, in response to each of the numbered allegations in the Second Amended Complaint state as follows:

1. Defendants admit that the FTC has brought his action pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act, 15 U.S.C. §§ 53(b) and 57b, the Consumer Review Fairness Act, 15 U.S.C. § 45b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act, and that it seeks the relief stated. Defendants deny that the FTC is entitled to any relief and otherwise deny the allegations contained in Paragraph 1 of the Second Amended Complaint.

2. Defendants admit that the Division has brought this action pursuant to Utah Code §§ 13-2-5(3), 13-11-17, 13-15-6, 13-26-8, the Telemarketing Act and 15 U.S.C. § 6101-6108, and that it seeks the relief stated. Defendants deny that the Division is entitled to any relief and otherwise deny the allegations contained in Paragraph 2 of the Second Amended Complaint.

JURISDICTION AND VENUE

3. Defendants deny the allegations contained in Paragraph 3 of the Second Amended Complaint.

4. Defendants deny the allegations contained in Paragraph 4 of the Second Amended Complaint.

5. Defendants admit the allegations contained in Paragraph 5 of the Second Amended Complaint.

SUMMARY OF THE CASE

6. Defendants admit that from 2013 until the Court's entry of the *ex parte* and stipulated relief in this matter that caused the Zurixx business to be shut down by the Court-appointed receiver that Defendant Zurixx, LLC marketed and sold real estate education training. Defendants deny the remaining allegations contained in Paragraph 6 of the Second Amended Complaint.

7. Defendants deny that Paragraph 7 of the Second Amended Complaint accurately or completely characterizes Zurixx's real estate education training and therefore deny the allegations in Paragraph 7.

8. Defendants admit that Defendant Zurixx has at times worked with persons from television programs. Defendants further admit that Defendant Zurixx has hosted free live events. Defendants deny that the remainder of Paragraph 8 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at these events and therefore deny the remaining allegations contained in Paragraph 8.

9. Defendants deny that Paragraph 9 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 9.

10. Defendants deny that Paragraph 10 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced event and therefore deny the allegations contained in Paragraph 10.

11. Defendants deny that Paragraph 11 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced event and therefore deny the allegations contained in Paragraph 11.

12. Defendants admit that Zurixx telemarketing employees called some students from prior events and deny the remaining allegations contained in Paragraph 12 of the Second Amended Complaint.

13. Defendants deny the allegations contained in Paragraph 13 of the Second Amended Complaint.

14. Defendants deny the allegations contained in Paragraph 14 of the Second Amended Complaint.

PLAINTIFFS

15. Defendants admit that the FTC is an independent agency created by statute. Defendants further admit that the FTC has limited powers to enforce the statutes and regulations referenced in Paragraph 15 of the Second Amended Complaint, and Defendants deny any characterization of those statutes and regulations inconsistent therewith.

16. Paragraph 16 of the Second Amended Complaint purports to characterize the statutes and regulations cited therein. Those statutes and regulation speak for themselves, and the Defendants deny any characterization of those statutes and regulations inconsistent with the express language of those statutes and regulations or case law interpreting those statutes and regulations. Defendants further deny that the FTC is entitled to the relief it seeks in this action and otherwise deny the allegations contained in Paragraph 16 of the Second Amended Complaint.

17. Defendants admit that the Division is an agency of the State of Utah created by statute. Defendants further admit that the Division has limited powers to enforce the statutes referenced in Paragraph 17 of the Second Amended Complaint, and Defendants deny any characterization of those statutes inconsistent therewith.

18. Paragraph 18 of the Second Amended Complaint purports to characterize the statutes cited therein. Those statutes speak for themselves, and Defendants deny any characterization of those statutes inconsistent with the express language of those statutes or case law interpreting those statutes. Defendants further deny that the Division is entitled to the relief it seeks in this action and otherwise deny the allegations contained in paragraph 18 of the Second Amended Complaint.

DEFENDANTS

19. Defendants admit the allegations contained in the first sentence of Paragraph 19 of the Second Amended Complaint. Defendants further admit that, in the past, Zurixx LLC has transacted business in this District and throughout the United States as Zurixx and under assumed names, but deny that Zurixx is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants also admit that Zurixx has advertised, marketed, distributed, or sold real estate education training to students in the United States. Defendants deny the remaining allegations contained in Paragraph 19 of the Second Amended Complaint.

20. Defendants admit the allegations in the first sentence of Paragraph 20 of the Second Amended Complaint. Defendants admit further that, in the past, Brand Management Holdings, LLC has transacted business in this District and in the United States, but deny that

Brand Management Holdings is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 20 of the Second Amended Complaint.

21. Defendants admit the allegations in the first and second sentences of Paragraph 21 of the Second Amended Complaint. Defendants admit further that, in the past, CAC Investment Ventures, LLC (Utah) has transacted business in this District and in the United States, but deny that CAC Investment Ventures, LLC (Utah) is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 21 of the Second Amended Complaint.

22. Defendants admit the allegations in the first and second sentences of Paragraph 22 of the Second Amended Complaint. Defendants admit further that, in the past, CAC Investment Ventures, LLC (Puerto Rico) has transacted business in the United States, but deny that CAC Investment Ventures, LLC (Puerto Rico) is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 22 of the Second Amended Complaint.

23. Defendants admit the allegations contained in the first and second sentences of Paragraph 23 of the Second Amended Complaint. Defendants admit further that, in the past, Carlson Development Group, LLC (Utah) has transacted business in this District and in the United States, but deny that Carlson Development Group, LLC (Utah) is currently transacting

any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 23 of the Second Amended Complaint.

24. Defendants admit the allegations contained in the first, second, and third sentences of Paragraph 24 of the Second Amended Complaint. Defendants admit further that, in the past, Carlson Development Group, LLC (Puerto Rico) has transacted business in this District and in the United States, but deny that Carlson Development Group, LLC (Puerto Rico) is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 24 of the Second Amended Complaint.

25. Defendants admit the allegations contained in the first and second sentences of Paragraph 25 of the Second Amended Complaint. Defendants admit further that, in the past, CJ Seminar Holdings, LLC has transacted business in this District and in the United States, but deny that CJ Seminar Holdings, LLC is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 25 of the Second Amended Complaint.

26. Defendants admit the allegations contained in the first sentence of Paragraph 26 of the Second Amended Complaint. Defendants admit further that, in the past, Dorado Marketing and Management, LLC has transacted business in this District and in the United States, but deny that Dorado Marketing and Management, LLC is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte*

TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 26 of the Second Amended Complaint.

27. Defendants admit the allegations contained in the first, second, and third sentences of Paragraph 27 of the Second Amended Complaint. Defendants are without sufficient knowledge or information as to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 27 of the Second Amended Complaint and therefore deny the same.

28. Defendants admit that the JSS Trust is a Utah trust for which Jeffrey D. Spangler was the grantor. Defendants are without sufficient knowledge or information as to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 28 of the Second Amended Complaint and therefore deny the same.

29. Defendants admit the allegations contained in the first sentence of Paragraph 29 of the Second Amended Complaint. Defendants deny the allegations contained in the second sentence of Paragraph 29 of the Second Amended Complaint. In responding to the remainder of Paragraph 29 of the Second Amended Complaint, Defendants admit further that, in the past, Zurixx Financial, LLC (Utah) has transacted business in this District and in the United States, but deny that Zurixx Financial, LLC (Utah) is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 29 of the Second Amended Complaint.

30. Defendants admit the allegations contained in the first and second sentences of Paragraph 30 of the Second Amended Complaint. Defendants admit further that, in the past, Zurixx Financial, LLC (Puerto Rico) has transacted business in this District and in the United

States, but deny that Zurixx Financial is currently transacting any business or that it will be able to transact any business in the future as a result of the *ex parte* TRO issued by the Court in this case. Defendants deny the remaining allegations contained in Paragraph 30 of the Second Amended Complaint.

31. Defendants admit the allegations contained in the first sentence of Paragraph 31 of the Second Amended Complaint. Defendants further admit that Defendant Cannon has, as a corporate officer, transacted business in this District and in the United States. Defendants deny the remaining allegations contained in Paragraph 31 of the Second Amended Complaint.

32. Defendants admit the allegations contained in the first sentence of Paragraph 32 of the Second Amended Complaint. Defendants further admit that Defendant Carlson has, as a corporate officer, transacted business in this District and in the United States. Defendants deny the remaining allegations contained in Paragraph 32 of the Second Amended Complaint.

33. Defendants admit that Mr. Spangler is an officer of Zurixx, LLC and Dorado, a manager of CJ Seminar, and the grantor of JSS Trust. Defendants further admit that Defendant Spangler has, as a corporate officer, transacted business in this District and in the United States. Defendants deny the remaining allegations contained in Paragraph 33 of the Second Amended Complaint.

34. Defendants are without sufficient knowledge or information as to form a belief as to the truth or falsity of the allegations contained in Paragraph 34 of the Second Amended Complaint and therefore deny the same.

35. Defendants admit that Jeffrey D. Spangler is the spouse of Stephenie J. Spangler. Defendants are without sufficient knowledge or information as to form a belief as to the truth or

falsity of the remaining allegations contained in Paragraph 35 of the Second Amended Complaint and therefore deny the same.

DEFENDANTS ARE A COMMON ENTERPRISE

36. Defendants deny the allegations contained in Paragraph 36 of the Second Amended Complaint.

37. Defendants deny the allegations contained in Paragraph 37 of the Second Amended Complaint.

38. Defendants admit the allegations in Paragraph 38 of the Second Amended Complaint.

39. Defendants admit the allegations in Paragraph 39 of the Second Amended Complaint.

40. Defendants admit the allegations contained in the first sentence of Paragraph 40 of the Second Amended Complaint. Defendants deny the remaining allegations contained in Paragraph 40 of the Second Amended Complaint.

41. Defendants deny the allegations contained in Paragraph 41 of the Second Amended Complaint.

42. Defendants deny the allegations contained in Paragraph 42 of the Second Amended Complaint.

43. Defendants deny the allegations contained in Paragraph 43 of the Second Amended Complaint.

44. Defendants admit the allegations contained in Paragraph 44 of the Second Amended Complaint.

45. Defendants admit the allegations contained in Paragraph 45 of the Second Amended Complaint.

46. Defendants admit the allegations contained in Paragraph 46 of the Second Amended Complaint.

COMMERCE

47. Paragraph 47 of the Second Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to either admit or deny the allegation and therefore deny it.

ZURIXX'S BUSINESS ACTIVITIES

48. Defendants admit that Zurixx has advertised, marketed, distributed, promoted and/or sold real estate education training to students in the United States and Canada. Defendants deny the remaining allegations contained in Paragraph 48 of the Second Amended Complaint.

49. Defendants admit that Zurixx has sold real estate education training to students as Zurixx and under assumed names. Defendants deny the remaining allegations contained in Paragraph 49 of the Second Amended Complaint.

50. Defendants deny that Paragraph 50 of the Second Amended Complaint accurately or completely characterizes the pricing structure for the real estate education training sold to students and therefore deny the allegations contained in Paragraph 50 of the Second Amended Complaint.

51. Defendants admit that Zurixx has sold real estate education training to more than 70,000 individuals. Defendants deny the remaining allegations contained in Paragraph 51 of the Second Amended Complaint.

52. Defendants deny the allegations contained in Paragraph 52 of the Second Amended Complaint.

53. Defendants deny the allegations contained in Paragraph 53 of the Second Amended Complaint.

54. Defendants deny the allegations contained in Paragraph 54 of the Second Amended Complaint.

55. Defendants deny the allegations contained in Paragraph 55 of the Second Amended Complaint.

Zurixx's Free Teaser Event

56. Defendants admit that Defendant Zurixx has conducted free live events in the United States. Defendants deny the remaining allegations contained in Paragraph 56 of the Second Amended Complaint.

57. Defendants admit the allegations contained in Paragraph 57 of the Second Amended Complaint.

58. Defendants admit that Defendant Zurixx has at times worked with the individuals from television programs identified in Paragraph 58 of the Second Amended Complaint. Defendants deny the remaining allegations contained in Paragraph 58 of the Second Amended Complaint.

59. Defendants deny the allegations contained in Paragraph 59 of the Second Amended Complaint.

60. Given the vague nature of the allegations in Paragraph 60 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

61. Defendants deny the allegations contained in Paragraph 61 of the Second Amended Complaint.

Misrepresentations At The Free Event That Consumers Are Likely To Earn Thousands Of Dollars In Profit Through Real Estate Investing

62. Defendants deny that Paragraph 62 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 62.

63. Defendants deny the allegations contained in Paragraph 63 of the Second Amended Complaint.

Misrepresentations At the Free Event That Consumers Will Receive 100% Funding For Their Real Estate Investments

64. Defendants deny that Paragraph 64 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 64 of the Second Amended Complaint.

65. Defendants deny that Paragraph 65 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 65 of the Second Amended Complaint.

66. Defendants deny the allegations contained in Paragraph 66 of the Second Amended Complaint.

Misrepresentations At The Free Event That Making Thousands of Dollars In Profit From Real Estate Investing Requires Little Time And Effort

67. Defendants deny that Paragraph 67 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 67 of the Second Amended Complaint.

68. Defendants deny that Paragraph 68 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 68 of the Second Amended Complaint.

69. Defendants deny the allegations contained in Paragraph 69 of the Second Amended Complaint.

Misrepresentations At The Free Event That Consumers Who Attend the 3-Day Workshop Will Learn Everything They Need To Know To Make Thousands of Dollars in Profit From Real Estate Investing

70. Defendants deny that Paragraph 70 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 70 of the Second Amended Complaint.

71. Defendants deny that Paragraph 71 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 71 of the Second Amended Complaint.

72. Defendants deny the allegations contained in the first sentence of Paragraph 72 of the Second Amended Complaint. Defendants further deny that the remainder of Paragraph 72 of the Second Amended Complaint accurately or completely characterizes what was said and

presented to students and therefore deny the allegations contained in the remainder of Paragraph 72 of the Second Amended Complaint.

Failure To Disclose Material Aspects Of Zurixx's Refund Policy At The Free Event

73. Defendants deny that Paragraph 73 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 73 of the Second Amended Complaint.

74. Defendants deny that Paragraph 74 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 74 of the Second Amended Complaint.

75. Defendants deny that Paragraph 75 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 75 of the Second Amended Complaint.

76. Defendants deny the allegations contained in Paragraph 76 of the Second Amended Complaint.

77. Defendants deny that Paragraph 77 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 77 of the Second Amended Complaint.

78. Defendants deny the allegations contained in Paragraph 78 of the Second Amended Complaint.

79. Defendants deny the allegations contained in Paragraph 79 of the Second Amended Complaint.

80. Defendants deny the allegations contained in Paragraph 80 of the Second Amended Complaint.

81. Defendants deny the allegations contained in Paragraph 81 of the Second Amended Complaint.

The 3-Day Workshop

82. Given the vague nature of the allegations in Paragraph 82 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

83. Defendants deny that Paragraph 83 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 83 of the Second Amended Complaint.

84. Defendants deny that Paragraph 84 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 84 of the Second Amended Complaint.

85. Defendants deny that Paragraph 85 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 85 of the Second Amended Complaint.

86. Defendants deny that Paragraph 86 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 86 of the Second Amended Complaint.

87. Defendants deny the allegations contained in Paragraph 87 of the Second Amended Complaint.

Misrepresentations At The 3-Day Workshop That Consumers Are Likely To Make Thousands Of Dollars In Profit Through Real Estate Investing

88. Defendants deny that Paragraph 88 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 88 of the Second Amended Complaint.

89. Defendants deny that Paragraph 89 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 89 of the Second Amended Complaint.

90. Defendants deny that Paragraph 90 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 90 of the Second Amended Complaint.

91. Defendants deny that Paragraph 91 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 91 of the Second Amended Complaint.

92. Defendants deny the allegations contained in Paragraph 92 of the Second Amended Complaint.

Zurixx Instructs Consumer At The 3-Day Workshop To Provide Speculative And Unsubstantiated Future Income On Credit Applications

93. Given the vague nature of the allegations in Paragraph 93 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

94. Defendants deny that Paragraph 94 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 94 of the Second Amended Complaint.

95. Defendants deny that Paragraph 95 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 95 of the Second Amended Complaint.

96. Defendants deny that Paragraph 96 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 96 of the Second Amended Complaint.

97. Defendants deny the allegations contained in Paragraph 97 of the Second Amended Complaint.

98. Defendants deny the allegations contained in Paragraph 98 of the Second Amended Complaint.

**Misrepresentations At The 3-Day Workshop That Profitable Real Estate Investing
Requires Little Time And Effort**

99. Defendants deny that Paragraph 99 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 99 of the Second Amended Complaint.

100. Defendants deny that Paragraph 100 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students at the referenced events and therefore deny the allegations contained in Paragraph 100 of the Second Amended Complaint.

101. Defendants deny the allegations contained in Paragraph 101 of the Second Amended Complaint.

102. Defendants deny that Paragraph 102 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 102 of the Second Amended Complaint.

Zurixx's Telemarketing Activities

103. Given the vague nature of the allegations in Paragraph 103 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

104. Given the vague nature of the allegations in Paragraph 104 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

105. Defendants deny that Paragraph 105 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 105 of the Second Amended Complaint.

106. Defendants deny that Paragraph 106 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 106 of the Second Amended Complaint.

107. Defendants deny that Paragraph 107 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 107 of the Second Amended Complaint.

108. Defendants deny that Paragraph 108 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 108 of the Second Amended Complaint.

109. Defendants admit the allegations contained in Paragraph 109 of the Second Amended Complaint.

110. Defendants deny the allegations contained in Paragraph 110 of the Second Amended Complaint.

111. Defendants deny that Paragraph 111 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 111 of the Second Amended Complaint.

112. Defendants deny that Paragraph 112 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 112 of the Second Amended Complaint.

113. Defendants deny that Paragraph 113 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 113 of the Second Amended Complaint.

114. Given the vague nature of the allegations in Paragraph 114 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

**Form Settlement Provisions That Prohibit Consumers From Pursuing Or Filing
Complaints With Regulators And Other Entities**

115. Defendants admit the allegations in the first sentence of Paragraph 115 of the Second Amended Complaint. The allegations contained in the remainder of Paragraph 115 of

the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the allegations contained in the remainder of Paragraph 115 of the Second Amended Complaint.

116. The allegations contained in Paragraph 116 of the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the allegations contained in Paragraph 116 of the Second Amended Complaint.

117. Defendants deny the allegations contained in Paragraph 117 of the Second Amended Complaint.

118. The allegations contained in Paragraph 118 of the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the allegations contained in Paragraph 118 of the Second Amended Complaint.

119. Given the vague nature of the allegations in the first sentence of Paragraph 119 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them. In response to the second sentence of Paragraph 119 of the Second Amended Complaint, Defendants state that the allegations therein refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the allegations contained in the second sentence of Paragraph 119 of the Second Amended Complaint. Defendants lack sufficient information to either admit or deny the allegations in the third sentence of Paragraph 119 of the Second Amended Complaint and therefore deny them.

120. Defendants deny the allegations contained in Paragraph 120 of the Second Amended Complaint.

ZURIXX'S TIES TO UTAH

121. Defendants deny the allegations contained in Paragraph 121 of the Second Amended Complaint.

Zurixx is Headquartered in Utah

122. Defendants deny the allegations contained in Paragraph 122 of the Second Amended Complaint.

123. Defendants deny the allegations contained in Paragraph 123 of the Second Amended Complaint.

124. Defendants admit that Zurixx had accounts at financial institutions in Utah and some payroll payments were made from Utah. Defendants deny the remaining allegations contained in Paragraph 124 of the Second Amended Complaint.

125. Defendants admit the allegations contained in Paragraph 125 of the Second Amended Complaint.

Zurixx's Fulfillment is Provided From Utah

126. Given the vague nature of the allegations in Paragraph 126 of the Second Amended Complaint, Defendants lack sufficient information to either admit or deny the allegations and therefore deny them.

127. Defendants admit the allegations contained in Paragraph 127 of the Second Amended Complaint.

128. Defendants admit that Zurixx sold the services of mentors to students and that Zurixx did not employ the mentors. Defendants lack sufficient information to either admit or deny the remaining allegations in Paragraph 128 of the Second Amended Complaint and therefore deny them.

Zurixx Conducts Telesales From Utah

129. Defendants admit the allegations contained in Paragraph 129 of the Second Amended Complaint.

130. Defendants admit that Zurixx submitted a registration to the Division. The remaining allegations contained in Paragraph 130 of the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the remaining allegations contained in Paragraph 130 of the Second Amended Complaint.

Zurixx's Customer Service is Provided Primarily From Utah

131. Defendants admit the allegations contained in Paragraph 131 of the Second Amended Complaint.

Zurixx Sues Consumers in Utah

132. The allegations contained in Paragraph 132 of the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is required, Defendants deny the allegations contained in Paragraph 132 of the Second Amended Complaint.

133. The allegations contained in Paragraph 133 of the Second Amended Complaint refer to documents and those documents speak for themselves. To the extent a response is

required, Defendants deny the allegations contained in Paragraph 133 of the Second Amended Complaint.

Utah Has a Valid Interest in Regulating Zurixx's Conduct

134. Defendants deny the allegations contained in Paragraph 134 of the Second Amended Complaint.

VIOLATIONS OF THE FTC ACT

135. Defendants admit that the allegation contained in Paragraph 135 of the Second Amended Complaint is an accurate recitation of part of the referenced statute. To the extent that any further responsive pleading is required, Defendants deny the allegation.

136. Paragraph 136 of the Second Amended Complaint states a legal conclusion to which no response is required. To the extent a response is required, Defendants lack sufficient information to either admit or deny the allegation and therefore deny it.

137. Defendants deny the allegations contained in Paragraph 137 of the Second Amended Complaint.

**COUNT I – MISREPRESENTATIONS REGARDING EARNINGS
(By Plaintiff Federal Trade Commission)**

138. Defendants deny the allegations contained in Paragraph 138 of the Second Amended Complaint.

139. Defendants deny the allegations contained in Paragraph 139 of the Second Amended Complaint.

140. Defendants deny the allegations contained in Paragraph 140 of the Second Amended Complaint.

**COUNT II – OTHER MISREPRESENTATIONS REGARDING ZURIXX’S PRODUCTS
OR SERVICES
(By Plaintiff Federal Trade Commission)**

141. Defendants deny the allegations contained in Paragraph 141 of the Second Amended Complaint.

142. Defendants deny the allegations contained in Paragraph 142 of the Second Amended Complaint.

143. Defendants deny the allegations contained in Paragraph 143 of the Second Amended Complaint.

**COUNT III – FAILURE TO DISCLOSE MATERIAL ASPECTS OF REFUND POLICY
(By Plaintiff Federal Trade Commission)**

144. Defendants deny the allegations contained in Paragraph 144 of the Second Amended Complaint.

145. Defendants deny the allegations contained in Paragraph 145 of the Second Amended Complaint.

146. Defendants deny the allegations contained in Paragraph 146 of the Second Amended Complaint.

**COUNT IV – MISREPRESENTATIONS REGARDIGN COACHING PACKAGES
(By Plaintiff Federal Trade Commission)**

147. Defendants deny the allegations contained in Paragraph 147 of the Second Amended Complaint.

148. Defendants deny the allegations contained in Paragraph 148 of the Second Amended Complaint.

149. Defendants deny the allegations contained in Paragraph 149 of the Second Amended Complaint.

VIOLATION OF THE CONSUMER REVIEW FAIRNESS ACT

150. Paragraph 150 of the Second Amended Complaint purports to characterize the statutes and regulations referenced therein. To the extent a response is required, Defendants deny the characterizations contained in Paragraph 150.

151. Defendants admit that Paragraph 151 of the Second Amended Complaint accurately characterizes portions of the cited statute. To the extent that any further responsive pleading is required, Defendants deny the allegations contained in Paragraph 151 of the Second Amended Complaint.

152. Paragraph 152 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 152 of the Second Amended Complaint.

153. Paragraph 153 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 153 of the Second Amended Complaint.

**COUNTY V – CRFA VIOLATION
(By Plaintiff Federal Trade Commission)**

154. Defendants deny the allegations contained in Paragraph 154 of the Second Amended Complaint.

155. Defendants deny the allegations contained in Paragraph 155 of the Second Amended Complaint.

VIOLATIONS OF THE TELEMARKETING SALES RULE

156. Paragraph 156 of the Second Amended Complaint purports to characterize the statutes and regulations referenced therein. To the extent a response is required, Defendants deny the characterizations contained in Paragraph 156.

157. Paragraph 157 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 157 of the Second Amended Complaint.

158. Paragraph 158 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 158 of the Second Amended Complaint.

159. Paragraph 159 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 159 of the Second Amended Complaint.

160. Paragraph 160 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 160 of the Second Amended Complaint.

**COUNT VI – DECEPTIVE TELEMARKETING
(By Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection)**

161. Defendants deny the allegations contained in Paragraph 161 of the Second Amended Complaint.

162. Defendants deny the allegations contained in Paragraph 162 of the Second Amended Complaint.

VIOLATIONS OF THE UCSPA

163. Paragraph 163 of the Second Amended Complaint purports to characterize provisions of the UCSPA. To the extent that any further response is required, Defendants deny the characterizations in Paragraph 163.

164. Defendants deny the allegations contained in Paragraph 164 of the Second Amended Complaint.

165. Defendants deny the allegations contained in Paragraph 165 of the Second Amended Complaint.

166. Defendants deny the allegations contained in Paragraph 166 of the Second Amended Complaint.

**COUNT VII – DECEPTIVE ACTS OR PRACTICES (EARNINGS CLAIMS)
(By Plaintiff Utah Division of Consumer Protection)**

167. Defendants deny the allegations contained in Paragraph 167 of the Second Amended Complaint.

168. Defendants deny the allegations contained in Paragraph 168 of the Second Amended Complaint.

169. Defendants deny the allegations contained in Paragraph 169 of the Second Complaint.

**COUNT VIII – DECEPTIVE ACTS OR PRACTICES (PRODUCTS AND SERVICES PROVIDED)
(By Plaintiff Utah Division of Consumer Protection)**

170. Defendants deny that Paragraph 170 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 170.

171. Defendants deny the allegations contained in Paragraph 171 of the Second Amended Complaint.

172. Defendants deny the allegation contained in Paragraph 172 of the Second Amended Complaint.

**COUNT IX – FAILURE TO DISCLOSE MATERIAL ASPECTS OF REFUND POLICY
(By Plaintiff Utah Division of Consumer Protection)**

173. Defendants deny that Paragraph 173 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 173.

174. Defendants deny that Paragraph 174 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 174.

175. Defendants deny the allegations contained in Paragraph 175 of the Second Amended Complaint.

**COUNT X – MISREPRESENTATIONS REGARDING COACHING PACKAGES
(By Plaintiff Utah Division of Consumer Protection)**

176. Defendants deny that Paragraph 176 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 176.

177. Defendants deny the allegations contained in Paragraph 177 of the Second Amended Complaint.

178. Defendants deny the allegations contained in Paragraph 178 of the Second Amended Complaint.

VIOLATIONS OF THE BODA

179. Paragraph 179 of the Second Amended Complaint purports to characterize provisions of the BODA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 179.

180. Paragraph 180 of the Second Amended Complaint purports to characterize provisions of the BODA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 180.

181. Paragraph 181 of the Second Amended Complaint purports to characterize provisions of the BODA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 181.

182. Paragraph 182 of the Second Amended Complaint purports to characterize provisions of the BODA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 182.

183. Defendants deny the allegations contained in Paragraph 183 of the Second Amended Complaint.

**COUNT XI – FAILURE TO FILE REQUIRED INFORMATION WITH THE DIVISION
(By Plaintiff Utah Division of Consumer Protection)**

184. Defendants deny the allegations contained in Paragraph 184 of the Second Amended Complaint.

185. Defendants deny the allegations contained in Paragraph 185 of the Second Amended Complaint.

186. Defendants deny the allegations contained in Paragraph 186 of the Second Amended Complaint.

**COUNT XII – FAILURE TO PROVIDE REQUIRED DISCLOSURES TO
PROSPECTIVE PURCHASERS
(By Plaintiff Utah Division of Consumer Protection)**

187. Defendants deny the allegations contained in Paragraph 187 of the Second Amended Complaint.

188. Defendants deny the allegations contained in Paragraph 188 of the Second Amended Complaint.

189. Defendants deny the allegations contained in Paragraph 189 of the Second Amended Complaint.

VIOLATIONS OF THE TFPA

190. Paragraph 190 of the Second Amended Complaint purports to characterize provisions of the TFPA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 190.

191. Paragraph 191 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 191 of the Second Amended Complaint.

192. Paragraph 192 of the Second Amended Complaint purports to characterize provisions of the TFPA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 192.

193. Paragraph 193 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 193 of the Second Amended Complaint.

194. Paragraph 194 of the Second Amended Complaint purports to characterize provisions of the TFPA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 194.

195. Paragraph 195 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 195 of the Second Amended Complaint.

196. Paragraph 196 of the Second Amended Complaint purports to characterize provisions of the TFPA. To the extent a response is required, Defendants deny the allegations contained in Paragraph 196.

197. Paragraph 197 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 197 of the Second Amended Complaint.

198. Defendants deny the allegations contained in Paragraph 198 of the Second Amended Complaint.

**COUNT XIII – MISREPRESENTATIONS REGARDING COACHING PACKAGES
(By Plaintiff Division of Consumer Protection)**

199. Defendants deny that Paragraph 199 of the Second Amended Complaint accurately or completely characterizes what was said and presented to students and therefore deny the allegations contained in Paragraph 199.

200. Defendants deny the allegations contained in Paragraph 200 of the Second Amended Complaint.

201. Paragraph 201 of the Second Amended Complaint states legal conclusions to which no response is required. To the extent any further responsive pleading is required, Defendants deny the allegations in Paragraph 201 of the Second Amended Complaint.

202. Defendants deny the allegations contained in Paragraph 202 of the Second Amended Complaint.

RELIEF DEFENDANT

**COUNT XIV – RELIEF DEFENDANT STEPHENIE J. SPANGLER
(By Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection)**

203. Defendants deny the allegations contained in Paragraph 203 of the Second Amended Complaint.

204. Defendants deny the allegations contained in Paragraph 204 of the Second Amended Complaint.

205. Defendants deny the allegations contained in Paragraph 205 of the Second Amended Complaint.

CONSUMER INJURY

206. Defendants deny the allegations contained in Paragraph 206 of the Second Amended Complaint.

COURT’S POWER TO GRANT RELIEF

207. Defendants deny the allegations contained in Paragraph 207 of the Second Amended Complaint.

208. Paragraph 208 purports to characterize the statutes and regulations referenced therein. To the extent a response is required, Defendants deny the allegations contained in Paragraph 208 of the Second Amended Complaint.

209. Paragraph 209 purports to characterize the statutes and regulations referenced therein. To the extent a response is required, Defendants deny the allegations contained in Paragraph 209 of the Second Amended Complaint.

210. Paragraph 210 purports to characterize the statutes referenced therein. To the extent a response is required, Defendants deny the allegations contained in Paragraph 210 of the Second Amended Complaint.

211. Paragraph 211 purports to characterize the statutes referenced therein. To the extent a response is required, Defendants deny the allegations contained in Paragraph 211 of the Second Amended Complaint.

212. Paragraph 212 purports to characterize the statutes referenced therein. To the extent a response is required, Defendants deny the allegations contained in Paragraph 212 of the Second Amended Complaint.

PRAYER FOR RELIEF

213. The allegations set forth on pages 53-54 of the Second Amended Complaint entitled Prayer for Relief are requests for relief and, as such, require no response. However, to the extent a response is required, Defendants deny that Plaintiffs are entitled to any relief from Defendants whatsoever, and ask that the Plaintiffs' Second Amended Complaint be dismissed in its entirety.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Second Amended Complaint fails to state a claim upon which relief can be granted.

SECOND DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of estoppel.

THIRD DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of waiver.

FOURTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, by the doctrine of laches.

FIFTH DEFENSE

This Court lacks subject matter jurisdiction to hear this action.

SIXTH DEFENSE

Any consumer injury resulting from the activities alleged in the Second Amended Complaint was legally and proximately caused by other persons, entities, or forces over which Defendants exerted no control and for which they had no responsibility.

SEVENTH DEFENSE

Plaintiffs lack authority to seek disgorgement from Defendants.

EIGHTH DEFENSE

To the extent the FTC is entitled to seek disgorgement from Defendants, the FTC's claim for disgorgement is subject to and barred by the five-year statute of limitations set forth in 28 U.S.C. § 2462.

NINTH DEFENSE

Defendants acted in good faith in reliance on FTC guidance for conducting a real estate education training—inasmuch as guidelines could be ascertained—and complied therewith.

TENTH DEFENSE

The Division is barred from seeking disgorgement, civil penalties, and fines from Defendants for alleged violations of the UCSPA, BODA and the TFPA based on allegedly wrongful conduct that occurred since July 2013. These remedies constitute a “penalty” under Utah law, and the one-year limitations period for actions “upon a statute . . . for a forfeiture or penalty to the state” set forth in Utah Code § 78B-2-302(3) applies to requests for such relief based on challenged conduct that occurred on or before May 8, 2017.

ELEVENTH DEFENSE

The FTC is not entitled to obtain monetary relief from Defendants for alleged violations of the FTC Act brought pursuant to 15 U.S.C. § 53(b).

TWELFTH DEFENSE

The FTC is not entitled to obtain relief from Defendants for alleged violations of the FTC Act brought pursuant to 15 U.S.C. § 53(b) because the FTC cannot demonstrate that it has a reason to believe that the Defendants are violating or are about to violate the FTC Act.

THIRTEENTH DEFENSE

The actions of the FTC deprived Defendants of the procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

FOURTEENTH DEFENSE

The actions of the Division deprived Defendants of the procedural due process guaranteed by the Fourteenth Amendment to the U.S. Constitution and Section 7 of the Utah Declaration of Rights.

FIFTEENTH DEFENSE

The filing requirements of the BODA, Utah Code § 13-15-4, compel speech in violation of the First Amendment to the U.S. Constitution.

SIXTEENTH DEFENSE

The disclosure requirements of the BODA, Utah Code § 13-15-5, compel speech in violation of the First Amendment to the U.S. Constitution.

SEVENTEENTH DEFENSE

Any actions taken against Defendants by the FTC under its present structure are invalid because the FTC's structure contravenes Article II of the U.S. Constitution. Article II requires that Executive principle officers exercising law-enforcement power be removable at will by the President. Although the FTC clearly exercises law-enforcement power, and its Commissioners are clearly principal officers, the FTC's Commissioners are shielded from at-will removal.

EIGHTEENTH DEFENSE

The Division's attempt to enforce Utah law extraterritorially by imposing Utah's UCSPA and BODA upon alleged conduct that occurred in the states other than Utah is unconstitutional because it violates Defendants' substantive due process rights under the Fourteenth Amendment to the U.S. Constitution and Section 7 of the Utah Declaration of Rights.

NINETEENTH DEFENSE

The Division's attempt to enforce Utah law extraterritorially by imposing Utah's UCSPA and BODA upon alleged conduct that occurred in states other than Utah is unconstitutional because it violates the constitutional sovereignty interests of other states.

TWENTIETH DEFENSE

The Division's attempt to enforce Utah law extraterritorially by imposing Utah's UCSPA and BODA upon alleged conduct that occurred in states other than Utah is unconstitutional because it violates the constitutional principle of comity.

TWENTY-FIRST DEFENSE

The Division's BODA claims are barred for failure to satisfy statutory conditions precedent prior to filing suit.

TWENTY-SECOND DEFENSE

The Plaintiffs' claims violate Defendants' right to communicate truthful commercial speech guaranteed by the First Amendment to the United States Constitution.

TWENTY-THIRD DEFENSE

The requested relief, if granted, would not be in the public interest.

TWENTY-FOURTH DEFENSE

Plaintiffs' monetary relief, if any, is barred, in whole or in part, because the relief sought is not reasonably or proportionally related to the alleged actionable conduct or the value of assets frozen pursuant to the Court's orders in this case.

TWENTY-FIFTH DEFENSE

Plaintiffs' monetary relief, if any, is subject to offset by the benefits received by students, costs associated with the education provided and other business expenses, and/or refunds paid to students. Moreover, any monetary relief awarded to the Plaintiffs' should be reduced by amounts paid by Defendants in taxes.

TWENTY-SIXTH DEFENSE

Plaintiffs' monetary relief, if any, is subject to offset by the damages caused to Defendants by the *Ex Parte* TRO and Stipulated Preliminary Injunction entered in this case.

TWENTY-SEVENTH DEFENSE

The FTC's misuse of Section 13(b) of the FTC Act acts as a general search warrant which violates the Fourth Amendment of the U.S. Constitution.

TWENTY-EIGHTH DEFENSE

The FTC's misuse of Section 13(b) of the FTC Act violates the Seventh Amendment right to a jury trial. The FTC improperly characterized this action as an emergency threat under Section 13(b) and improperly framed this action as one seeking equitable relief, rather than properly bringing the action under Sections 5 or 19 of the FTC Act, in order to deny Defendants' right to a jury trial.

TWENTY-NINTH DEFENSE

Plaintiffs' claims are barred, in whole or in part, because Defendants have not engaged in any acts or practices that violated the TSR or the Telemarketing Act.

THIRTIETH DEFENSE

Plaintiffs' claims and damages they seek in this action are barred, in whole or in part, by the applicable statutes of limitations.

RESERVATION

Defendants assert that they may have further and additional Affirmative Defenses to the Second Amended Complaint that are not yet known, but may become known through further

discovery. Defendants assert each and every defense as may be ascertained through future discovery.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38, Defendants hereby demand a trial by jury on all counts and issues so triable.

DATED this 12th day of March, 2021.

Respectfully Submitted,

By: /s/ Z. Ryan Pahnke
Z. Ryan Pahnke
RAY QUINNEY & NEBEKER P.C.

Eric G. Benson
POTTER HANDY, LLP

D. Loren Washburn
ARMSTRONG TEASDALE LLP

Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 12th day of March, 2021, I caused a true and correct copy of the foregoing **DEFENDANTS' ANSWER TO PLAINTIFFS' SECOND AMENDED COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF and DEMAND FOR JURY TRIAL** to be filed electronically with the Court, which provided notice of electronic filing to counsel of record in this matter.

/s/ Z. Ryan Pahnke _____