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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

FEDERAL TRADE COMMISSION and
UTAH DIVISION OF CONSUMER
PROTECTION,

Plaintiffs,

v.

ZURIXX, LLC, *et al.*,

Defendants.

**PLAINTIFFS' MOTION TO APPROVE
STIPULATION AND SETTLEMENT
AGREEMENT WITH GARNISHEE UBS
FINANCIAL SERVICES INC.**

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

District Judge Dale A. Kimball
Magistrate Judge Daphne A. Oberg

Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection respectfully move the Court to enter an order approving their proposed Stipulation and Settlement Agreement with Garnishee UBS Financial Services Inc. ("UBS"), resolving

Plaintiffs' and UBS's respective claims regarding Defendants/Judgment Debtors Cristopher A. Cannon, CAC Investment Ventures, LLC (Utah), and CAC Investment Ventures LLC (Puerto Rico)'s brokerage and loan accounts at UBS. Counsel for UBS has authorized Plaintiffs to state that UBS joins in Plaintiffs' request.

In support of this request, Plaintiffs state:

1. On February 15, 2022, this Court entered a Stipulated Order for Permanent Injunction and Monetary Judgment [ECF No. 365] requiring Defendants Cristopher A. Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico) to pay Plaintiffs \$2,333,333.33 within 90 days. *See id.* at 10.

2. Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico) have failed to make the required payment. On August 19, 2022, Plaintiffs applied to this Court, in accordance with 28 U.S.C. § 3205, for writs of continuing garnishment to UBS regarding accounts held by Defendants/Judgment Debtors Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico). *See* ECF Nos. 383-85.

2. On August 22, 2022, this Court issued Writs of Continuing Garnishment to UBS regarding accounts held by Defendants/Judgment Debtors.¹ *See* ECF Nos. 392-94. The Writs require UBS to withhold and retain all of Defendants/Judgment Debtor's assets pending further Court order.

3. On September 1, UBS filed Answers [ECF Nos. 413-15] to those Writs, as well as a Motion to Modify and Limit [ECF No. 416] them under 28 U.S.C. § 3013. In its Motion, UBS

¹ The Court also issued Writs of Continuing Garnishment to UBS Bank USA. *See* ECF Nos. 388-90. UBS Bank USA has averred that it does not hold any funds or property belonging to Defendants/Judgment Debtors. *See* ECF No. 416 at 4, n.5.

states that Defendants/Judgment Debtors hold three UBS brokerage accounts, which had a collective market value of more than \$3.8 million as of July 31, 2022. *See id.* at 3. UBS further reports that those brokerage accounts served as collateral for a line of credit in CAC Investment Ventures' name, which had a balance of more than \$2.5 million as of July 31, 2022. *See id.* UBS contends that it holds a first priority lien and perfected security interest in Cannon's and CAC Investment Ventures' brokerage accounts. *See id.* at 9. Thus, UBS asks this Court to permit it to use funds from the brokerage accounts to repay CAC Investment Ventures' loan before remitting funds to satisfy Plaintiffs' Writs. *See id.* at 10.

4. In order to expeditiously obtain funds for consumer redress and avoid protracted ancillary litigation, Plaintiffs have agreed not to dispute UBS's claim to a first priority lien and perfected security interest.

5. Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico) have not yet filed their response, if any, to Plaintiffs' Writs or UBS's Motion to Modify and Limit. But Defendants/Judgment Debtors have no valid claim to the \$3.8 million in the UBS brokerage accounts. They owe Plaintiffs more than \$2.33 million, and they owe UBS more than \$2.5 million, for a total of more than \$4.83 million. UBS explains that its Credit Line Agreement with CAC Investment Ventures, and its Guaranty Agreement with Cannon, permit UBS to apply funds held in the brokerage accounts to any amounts due to UBS "whenever [UBS] deems it necessary or appropriate." ECF No. 416 at 8.

6. Therefore, Plaintiffs respectfully ask the Court to approve the Stipulation and Settlement Agreement filed as Attachment 1 and enter the proposed order filed as Attachment 2.

September 15, 2022

Respectfully submitted,

/s/ Joshua A. Doan

Roberto Anguizola

Joshua Doan

Lauren Rivard

(Each appearing per DUCivR 83-1.1(d)(1))

Federal Trade Commission

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Attorneys for Plaintiff

FEDERAL TRADE COMMISSION

/s/ Robert G. Wing

(Signed by Filing Attorney with
Permission of Plaintiff's Attorney)

/s/ Joshua A. Doan

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Attorneys for Plaintiff Utah Division of
Consumer Protection

Certificate of Service

I HEREBY CERTIFY that on September 15, 2022, a true and correct copy of the foregoing document was served on counsel for all parties via electronic filing with the Court's ECF service.

/s/Joshua A. Doan
Joshua Doan

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**PLAINTIFFS' STIPULATION AND
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Case No. 2:19-cv-00713-DAK-DAO

District Judge Dale A. Kimball
Magistrate Judge Daphne A. Oberg

Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection, and Garnishee UBS Financial Services Inc. ("UBS"), by their undersigned counsel, hereby stipulate and agree as follows to resolve their claims regarding brokerage and loan accounts held by Defendants/Judgment Debtors Cristopher A. Cannon, CAC Investment Ventures, LLC (Utah), and CAC Investment Ventures LLC (Puerto Rico) at UBS:

1. The Court has jurisdiction over this matter.
2. This Stipulation and Settlement Agreement is subject to the Court's approval.
3. On February 15, 2022, the Court entered a Stipulated Order for Permanent Injunction and Monetary Judgment [ECF No. 365] requiring Defendants Cristopher A. Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico) to pay Plaintiffs \$2,333,333.33 within 90 days. *See id.* at 10. The Court had previously entered an Amended Stipulated Preliminary Injunction [ECF No. 346], which contained an asset-freeze provision over certain Corporate Defendants, and an asset-preservation provision over Defendants/Judgment

Debtors Cannon and CAC Investment Ventures. *See* ECF No. 346 at 10. Section VII of the February 2022 Permanent Injunction and Monetary Judgment lifted the asset-preservation provision only to allow Cannon and CAC Investment Ventures to transfer funds to Plaintiffs to pay the monetary judgment. *See* ECF No. 365 at 12.

4. Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico) have failed to pay the monetary judgment against them. On August 19, 2022, Plaintiffs applied to this Court, in accordance with 28 U.S.C. § 3205, for writs of continuing garnishment to UBS regarding accounts held by Defendants/Judgment Debtors. *See* ECF Nos. 383-85.

5. On August 22, the Court issued Writs of Continuing Garnishment to UBS regarding Defendants/Judgment Debtors' accounts. *See* ECF Nos. 392-94. The Writs require UBS to withhold and retain all assets of Defendants/Judgment Debtors pending further order. On September 1, UBS filed Answers [ECF Nos. 413-15] to those Writs, as well as a Motion to Modify and Limit [ECF No. 416] the Writs under 28 U.S.C. § 3013.

6. Defendants/Judgment Debtors own three UBS brokerage accounts—Account No. IG XXX17, held in the name of CAC Investment Ventures LLC; Account No. 1G XXX18, held in the name of CAC Investment Ventures LLC; and Account No. 1X XXX91 (previously IG XXX86), held in the name of Cris A Cannon. These brokerage accounts had a collective market value of more than \$3.8 million as of July 31, 2022. They also serve as collateral for a line of credit issued to CAC Investment Ventures, which had a balance of more than \$2.5 million as of July 31, 2022.

7. UBS contends that it holds a first priority lien and perfected security interest in

Cannon's and CAC Investment Ventures' brokerage accounts.

8. In order to expeditiously obtain funds for consumer redress and avoid protracted ancillary litigation, Plaintiffs do not dispute UBS's claim to a first priority lien and perfected security interest in the above-referenced brokerage accounts.

9. Plaintiffs do not object to UBS's being permitted to liquidate Defendants/Judgment Debtors' brokerage accounts to allow UBS to repay the balance on Defendants/Judgment Debtors' loan account. UBS should be permitted to liquidate the brokerage account accounts identified in Paragraph 6 above and use the resulting funds first to satisfy the balance due on the loan account identified in Paragraph 6. UBS agrees to transfer to Plaintiffs all remaining proceeds from the above-referenced brokerage accounts in order to partially satisfy the monetary judgment against Defendants/Judgment Debtors. Counsel for the FTC will provide payment instructions to counsel for UBS.

10. Plaintiffs expressly reserve, and do not waive, all claims against Defendants/Judgment Debtors Cannon, CAC Investment Ventures (Utah), and CAC Investment Ventures (Puerto Rico).

11. Plaintiffs and UBS each shall bear their own costs, attorneys' fees, and expenses in connection with this matter.

12. This Stipulation and Settlement Agreement may be executed in one or more counterparts, each of which when executed and delivered shall be an original, and all of which when executed shall constitute one and the same instrument.

13. This Stipulation and Settlement Agreement contains the entire agreement between Plaintiffs and UBS.

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

9/15/22
Date

/s/ Joshua A. Doan
Joshua Doan
Attorney, Federal Trade Commission

FOR PLAINTIFF UTAH DIVISION OF CONSUMER PROTECTION:

9/15/22
Date

/s/ Robert Wing (by JAD w/ permission)
Robert Wing
Utah Attorney General's Office

FOR GARNISHEE UBS FINANCIAL SERVICES, INC.:

9/15/2022
Date



Craig Darwin
Executive Director, UBS Financial Services

9/15/2022
Date



Joshua Bratspies
Attorney for UBS Financial Services

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**[PROPOSED] ORDER APPROVING
PLAINTIFFS' STIPULATION AND
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GARNISHEE UBS FINANCIAL
SERVICES INC.**

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

District Judge Dale A. Kimball
Magistrate Judge Daphne A. Oberg

Before the Court is Plaintiffs Federal Trade Commission and Utah Division of Consumer Protection's Motion to Approve Stipulation and Settlement Agreement with Garnishee UBS Financial Services Inc. ("UBS"), regarding brokerage and loan accounts held by Defendants/Judgment Debtors Cristopher A. Cannon, CAC Investment Ventures, LLC (Utah) and CAC Investment Ventures, LLC (Puerto Rico) at UBS.

As the Plaintiffs and Garnishee UBS stipulate to the terms of this Order and its entry, and for good cause shown, the Court ORDERS as follows:

1. Plaintiffs' Motion is GRANTED.
2. The Stipulation and Settlement Agreement, filed as Attachment 1 to the Motion, is hereby APPROVED.
3. Garnishee UBS may liquidate any UBS brokerage accounts held by Defendants/Judgment Debtors Cristopher A. Cannon, CAC Investment Ventures, LLC (Utah), or CAC Investment Ventures, LLC (Puerto Rico), including without limitation: Account No. IG XXX17, held in the name of CAC Investment Ventures LLC; Account No. 1G XXX18, held in

the name of CAC Investment Ventures LLC; and Account No. 1X XXX91 (previously IG XXX86), held in the name of Cris A. Cannon. UBS may first use the funds from those brokerage accounts to satisfy the balance due on CAC Investment Ventures' Loan Account No. XH XXX85. UBS must then transfer to Plaintiffs all remaining funds, in accordance with instructions to be provided by counsel for the FTC.

4. Plaintiffs and UBS each shall bear their own attorneys' fees, costs, and expenses in connection with this matter.

5. The Court will retain jurisdiction over this matter, the Parties, and Garnishee to enter such further orders as may be necessary.

DATED this ___ day of September, 2022.

BY THE COURT:

DALE A. KIMBALL
United States District Judge