

1 Philip A. Toomey (Bar No. 89598)  
 2 ptoomey@leechtishman.com  
 3 Eric J. Wu (Bar No. 270228)  
 4 ewu@leechtishman.com  
 5 Ryan O. Hemminger (*Admitted Pro Hac Vice*)  
 6 rhemminger@leechtishman.com  
 7 Jessica K. Albert (*Admitted Pro Hac Vice*)  
 8 jalbert@leechtishman.com  
 9 **LEECH TISHMAN FUSCALDO & LAMPL**  
 10 841 Apollo Street, Suite 325  
 11 El Segundo, CA 90245  
 12 Telephone: 424.738.4400  
 13 Facsimile: 424.738.5080  
 14 Attorneys for Defendant, Patrick Joseph Soria

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

17 NATIONSTAR MORTGAGE LLC,  
 18 Plaintiff,  
 19 vs.  
 20 PATRICK JOSEPH SORIA, an  
 21 individual, et al.  
 22 Defendants.

23 CASE NO. 2:18-cv-3041-DSF-RAOx  
 24 Hon. Dale S. Fischer

25 **DEFENDANT PATRICK JOSEPH**  
 26 **SORIA'S NOTICE OF MOTION AND**  
 27 **MOTION FOR RELEASE FROM**  
 28 **CONTEMPT INCARCERATION**

Judge: Hon. Dale S. Fischer  
 Hearing Date: December 10, 2018  
 Time: 1:30 p.m.  
 Courtroom: 7D

1 **TO THE HONORABLE COURT, ALL PARTIES, AND THEIR**  
2 **ATTORNEYS OF RECORD:**

3 **PLEASE TAKE NOTICE** that Defendant Patrick Joseph Soria will and  
4 hereby does move this Court to issue an order to release him from contempt  
5 incarceration. This motion is brought on the grounds that Mr. Soria has complied  
6 with the Court's orders to the extent he can, and further compliance is factually  
7 impossible. Thus, the Court's contempt order has lost its coercive effect, and Mr.  
8 Soria must be released from custody.

9 Pursuant to Local Rule 7-2, this Motion is based on this Notice, the  
10 Memorandum of Points and Authorities filed herewith, the Declaration of Eric J.  
11 Wu, and upon such other argument, evidence, and law as may be presented to or  
12 considered by the Court prior to its ruling.

13 This Motion is made following the conference of counsel pursuant to Local  
14 Rule 7-3. See Declaration of Eric J. Wu at ¶ 4.

15 Dated: November 8, 2018

Respectfully Submitted,

16 LEECH TISHMAN FUSCALDO & LAMPL

17

18

By:                     /s/ Eric J. Wu                    

19

Philip A. Toomey

20

Eric J. Wu

21

Attorneys for Defendant,

22

Patrick Joseph Soria

23

24

25

26

27

28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**TABLE OF CONTENTS**

I. INTRODUCTION..... 1

II. PROCEDURAL BACKGROUND ..... 1

III. LEGAL ARGUMENT ..... 3

    A. Civil Contempt is Purged Once a Civil Contemnor Complies  
    with the Underlying Order. .... 3

    B. The Court’s Civil Contempt Loses its Coercive Effect if the  
    Individual Cannot Comply with the Court’s Coercive Order. .... 3

    C. Mr. Soria has Purged Contempt by Complying with All Items  
    that He is Able from the Contempt Order. .... 4

IV. CONCLUSION ..... 13

**TABLE OF AUTHORITIES**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**Page(s)**

**Cases**

*Badgley v. Santacroce*,  
800 F.2d 33 (2d Cir. 1986) ..... 3, 4

*Falstaff Brewing Corp. v. Miller Brewing Co.*,  
702 F.2d 770 (9th Cir. 1983) ..... 3, 4

*Hicks v. Feiock*,  
485 U.S. 624 (1988) ..... 3

*In re Nolan W.*,  
45 Cal. 4th 1217 (Cal. 2009)..... 3

*Lam v. City & County of San Francisco*,  
868 F. Supp. 2d 928 (N.D. Cal. 2012)..... 3

*Maggio v. Zeitz*,  
333 U.S. 56 (1948) ..... 3, 4

*Shell Offshore Inc. v. Greenpeace, Inc.*,  
815 F.3d 623 (9th Cir. 2016) ..... 2

*Shillitani v. United States*,  
384 U.S. 364 (1966) ..... 3

*Turner v. Rogers*,  
564 U.S. 431 (2011) ..... 3

*United States v. Rylander*,  
460 U.S. 752 (1983) ..... 4

**Rules and Regulations**

C.D. Cal. L.R. 7-2..... 1

C.D. Cal. L.R. 7-3..... 1

1                                    **MEMORANDUM OF POINTS AND AUTHORITIES**  
2                                    **IN SUPPORT OF DEFENDANT PATRICK JOSEPH SORIA’S MOTION**  
3                                    **FOR RELEASE FROM CONTEMPT INCARCERATION**

4 **I. INTRODUCTION**

5            Defendant Patrick Joseph Soria has been incarcerated for over five months  
6 after being remanded into custody for civil contempt on June 6, 2018. Prior to his  
7 incarceration, the Court entered an order setting forth a list of twenty items required  
8 to purge contempt (Doc. No. 107). While in custody, Mr. Soria has made all efforts  
9 to purge his contempt while preserving his Fifth Amendment privilege. To be clear,  
10 Mr. Soria continues to assert his right to remain silent, as guaranteed to him by the  
11 Fifth Amendment to the United States Constitution, as well as Article I, Section 15  
12 of the California Constitution. On August 27, 2018, the Court issued an order on  
13 recognizing Mr. Soria’s Fifth Amendment rights.

14            Mr. Soria has now complied with each of the items set forth by the Court, to  
15 the extent required by the Court. Therefore, he should be immediately released from  
16 custody.

17 **II. PROCEDURAL BACKGROUND**

18            Plaintiff filed its Complaint on April 11, 2018, alleging various federal and  
19 state causes of action against Mr. Soria and twenty-three other individuals and  
20 entities. On April 12, 2018, Plaintiff filed its Ex Parte Application for Temporary  
21 Restraining Order as to Preventing Defendants from Furthering Illegal Schemes.  
22 (Doc. No. 9). On April 23, 2018, the Court entered its Order Granting Plaintiff’s Ex  
23 Parte Application for a Temporary Restraining Order with Asset Freeze, Order to  
24 Show Cause Why Preliminary Injunction Should Not Be Issued, Order Granting  
25 Plaintiff’s Ex Parte Application for Temporary Receiver, and Order to Show Cause  
26 Why a Permanent Receiver Should Not Be Appointed. (Doc. No. 20).

27            On May 4, 2018, the temporary receiver appointed by the Court filed an Initial  
28 Report, alleging that Mr. Soria violated the temporary restraining order (“TRO”).

1 (Doc. No. 31). Later that day, Plaintiff filed an Application for Order to Show Cause  
2 as to Why Defendants Should Not be Held in Contempt for alleged violations of the  
3 TRO. (Doc. No. 42). On May 7, 2018, the Court held a hearing on the Order to  
4 Show Cause regarding the preliminary injunction and also set a briefing schedule for  
5 the Order to Show Cause regarding contempt. On May 16, 2018, Plaintiff filed its  
6 Ex Parte Application of Plaintiff for Order to Show Cause regarding Contempt of  
7 Mr. Soria and other non-parties. (Doc. No. 56).

8 On May 21, 2018, Mr. Soria, acting *pro se*, filed his Points and Authorities in  
9 Opposition to OSC regarding Contempt and Request for Stay Pending Appeal.  
10 (Doc. No. 73). On May 29, 2018, Mr. Soria filed *pro se* his Opposition to Order to  
11 Show Cause regarding Contempt and a Motion for Continuance. (Doc. No. 104).

12 On May 30, 2018, the Court held a hearing on Orders to Show Cause  
13 regarding Contempt, and the Court entered its Order on May 31, 2018 finding Mr.  
14 Soria, among other Defendants, in contempt and listing approximately twenty (20)  
15 items for the Defendants to comply with in order to purge the contempt. (Doc. No.  
16 107) (“Contempt Order”). On June 6, 2018, the Court held a hearing on Orders to  
17 Show Cause regarding Contempt and finding that Mr. Soria had not complied with  
18 the May 31, 2018 Order, detained Mr. Soria for contempt of court. (Doc. No. 117).  
19 Mr. Soria has remained incarcerated since June 6, 2018.

20 On August 27, 2018, the Court held a status conference regarding Mr. Soria’s  
21 compliance with the Contempt Order. On September 26, 2018, the Permanent  
22 Receiver, Robb Evans & Associates LLC (the “Receiver”) filed a written status  
23 report providing an update as to Mr. Soria’s compliance with the Court’s order. Mr.  
24 Soria has taken all efforts to comply, while preserving his Fifth Amendment  
25 privilege, and he is now purged of contempt.

26 ///  
27 ///  
28 ///

1 **III. LEGAL ARGUMENT**

2 **A. Civil Contempt is Purged Once a Civil Contemnor Complies with the**  
3 **Underlying Order.**

4 “The ability to purge is perhaps the most definitive characteristic of coercive  
5 civil contempt.” Shell Offshore Inc. v. Greenpeace, Inc., 815 F.3d 623, 629 (9th Cir.  
6 2016). “Given the remedial purpose of the sanction, a finding of contempt must be  
7 accompanied by conditions by which the contempt may be purged, spelled out in  
8 either the original order or the contempt order.” Lam v. City & Cty. of San  
9 Francisco, 868 F. Supp. 2d 928, 939 (N.D. Cal. 2012). “Civil contemnors hold the  
10 key to the jail cell in their own pocket, and can secure their release at any time by  
11 following the court's order.” In re Nolan W., 45 Cal. 4th 1217, 1236 (Cal. 2009).  
12 “[O]nce a civil contemnor complies with the underlying order, he is purged of the  
13 contempt and is free.” Turner v. Rogers, 564 U.S. 431, 442 (2011) (quoting Hicks v.  
14 Feiock, 485 U.S. 624, 633 (1988)).

15 As set forth in detail herein, Mr. Soria has complied with all items that he is  
16 able to comply with from the Court’s May 31, 2018 Order. Therefore, he is purged  
17 of contempt and must be released from civil contempt incarceration.

18 **B. The Court’s Civil Contempt Loses its Coercive Effect if the Individual**  
19 **Cannot Comply with the Court’s Coercive Order.**

20 “Civil contempt is characterized by the court's desire to compel obedience to a  
21 court order[.]” Falstaff Brewing Corp. v. Miller Brewing Co., 702 F.2d 770, 778  
22 (9th Cir. 1983) (citing Shillitani v. U.S., 384 U.S. 364 (1966)). “A Court’s power to  
23 impose coercive civil contempt depends upon the ability of the contemnor to comply  
24 with the court’s coercive order.” Id. “Because compliance with a court's directive is  
25 the goal, an order of civil contempt is appropriate ‘only when it appears that  
26 obedience is within the power of the party being coerced by the order.’” Badgley v.  
27 Santacroce, 800 F.2d 33, 36 (2d Cir. 1986) (citing Maggio v. Zeitz, 333 U.S. 56, 69  
28 (1948)).

1           “A party may defend against a contempt by showing that his compliance is  
2 factually impossible.” Id. (citation omitted). “No matter how reprehensible the  
3 conduct is it does not ‘warrant issuance of an order which creates a duty impossible  
4 of performance, so that punishment can follow.’” Falstaff, 702 F.2d at 781. “Where  
5 compliance is impossible, neither the moving party nor the court has any reason to  
6 proceed with the civil contempt action. It is settled, however, that in raising this  
7 defense, the defendant has a burden of production.” United States v. Rylander, 460  
8 U.S. 752, 757 (1983). “A classic application of the factual impossibility defense  
9 arises when a court orders an individual to produce documents that are not in his  
10 possession or control.” Badgley, 800 F.2d at 37. “If the record establishes that there  
11 in fact is a present inability to comply with a production order, the ‘civil [contempt]  
12 inquiry is at an end’ insofar as the court may coerce compliance because obedience  
13 to the order is no longer within the contemnor’s power.” Falstaff, 702 F.2d at 781  
14 (citing Maggio, 333 U.S. at 74).

15           Mr. Soria has complied with all items that he is able to comply with from the  
16 Contempt Order. There are a number of items that Mr. Soria is unable to comply  
17 with because the documents requested are not in his possession and/or control, he  
18 asserts his right to remain silent pursuant to the Fifth Amendment, and/or he is  
19 unable to comply while incarcerated. As to those items, the Court’s Order is no  
20 longer coercive.

21           **C. Mr. Soria has Purged Contempt by Complying with All Items that He**  
22           **is Able from the Contempt Order.**

23           The Contempt Order contained twenty (20) items required to be disclosed to  
24 or provided to the Receiver in order to purge contempt. Mr. Soria has complied with  
25 all items that he is able to comply with. For any remaining items, Mr. Soria can  
26 establish that compliance is factually impossible

27           **1. Disclose to and provide the Receiver the location of and access to all**  
28           **electronic and paper accounting records for the Receivership Defendants**



1 **(Receivership Defendants is used throughout this Order to include all entities**  
2 **defined as such in the Preliminary Injunction and also specifically includes**  
3 **without limitation Soria individually), including without limitation QuickBooks.**

4 Mr. Soria has complied with Item 1 of the Contempt Order. All Quickbooks  
5 accounts, usernames, and passwords were provided to the Receiver. Declaration of  
6 Eric J. Wu (“Wu Decl.”) at ¶ 5. Documents may also be accessed through  
7 www.theloanpost.com. Undersigned counsel also provided Mr. Soria’s Google  
8 Chrome password, which may be used to unlock all of Mr. Soria’s saved passwords.  
9 *Id.* Paper accounting records may be obtained from Mr. Soria’s CPA. His name and  
10 contact information were also provided to the Receiver. Wu Decl. at ¶ 6.

11 **2. Disclose to and provide to the Receiver all locations of and access to**  
12 **all business operations for the Receivership Defendants.**

13 Mr. Soria has complied with Item 2 of the Contempt Order. The Receiver’s  
14 Status Report (Doc. No. 259) (“Receiver’s Report”) acknowledged that Mr. Soria’s  
15 undersigned counsel provided a list of locations for the business operations and  
16 stated that there was another property located at 10809 Wellworth Avenue, Los  
17 Angeles, California (“Wellworth Property”) which was used to store documents  
18 and/or assets of the Receivership Defendants. On November 1, 2018, the Receiver  
19 and Nationstar’s counsel were granted unfettered access to the Wellworth Property.  
20 Wu Decl. at ¶ 7. There are no remaining business locations.

21 **3. Disclose to and provide to the Receiver the location of and access to**  
22 **all electronic and paper consumer records for the Receivership Defendants.**

23 Mr. Soria has complied with Item 3 of the Contempt Order to the extent he is  
24 able. Mr. Soria’s undersigned counsel provided a list of websites where electronic  
25 consumer records could be found, as well as usernames and passwords. Wu Decl. at  
26 ¶ 8. Paper documents were seized from the Wellworth Property. Any remaining  
27 electronic and paper documents are in the Los Angeles Sheriff’s Department’s  
28 (“Sheriff”) possession.

1 On May 11, 2018, the Court ordered the Sheriff to cooperate with the Receiver  
2 and provide copies of all seized hard drives and documents **no later than June 12,**  
3 **2018.** See Order to Show Cause as to Why Defendants Patrick J. Soria, West H&A  
4 LLC, Westwood Legal, and HBSC US in its Capacity as Legal Title Holder  
5 Incorporated, Should Not Be Held in Contempt and Briefing Schedule (Doc. No. 50,  
6 at 2:15-23). Upon information and belief, the Sheriff has not provided any such  
7 copies to the Receiver, and the Receiver has taken no court action against the Sheriff  
8 to compel compliance.

9 **4. Provide the Receiver with a list of all tax identification numbers for**  
10 **the Receivership Defendants.**

11 The Receiver's Report acknowledged Mr. Soria's compliance with Item 4.

12 **5. Provide the Receiver with a list of all bank accounts, by name and**  
13 **account number, for the Receivership Defendants.**

14 Mr. Soria has complied with Item 5 of the Contempt Order to the extent he is  
15 able. The Sheriff has possession of Mr. Soria's financial files, including bank  
16 statements and checks containing bank account numbers. Such information might  
17 also be obtained from Mr. Soria's CPA. Mr. Soria's undersigned counsel have  
18 disclosed all accounts that they are aware of and have no further information as to  
19 bank accounts. Wu Decl. at ¶ 9. Any further disclosure is excused by the Court's  
20 Order re Patrick Soria's Claim of Fifth Amendment Privilege (Doc. No. 206)  
21 ("Court's Order re Privilege"), which expressly states that Mr. Soria is excused from  
22 complying with any items requiring Mr. Soria to "create a document that does not  
23 already exist or tell the Receiver something," pursuant to his Fifth Amendment  
24 privilege.

25 **6. Provide the Receiver full and complete copies of the 2015, 2016 and**  
26 **2017 tax returns for the Receivership Defendants.**

27 Mr. Soria is unable to comply with Item 6. The Receiver's Report stated it  
28 was attempting to obtain information and documents from Mr. Soria's CPA. Hard

1 copies of the tax returns were seized by the Sheriff in February 2018. Upon  
2 information and belief, the Sheriff has not provided any documents to the  
3 Receiver—despite the Court’s express order—and the Receiver has not taken any  
4 court action to compel compliance.

5 **7. Provide the Receiver full and complete written financial disclosures**  
6 **for the Receivership Defendants, executed under penalty of perjury, including**  
7 **without limitation detail concerning all assets, liabilities and income.**

8 Mr. Soria has complied with Item 7 of the Contempt Order to the extent  
9 required by the Court. Mr. Soria’s undersigned counsel provided a list of Mr.  
10 Soria’s assets, most of which were seized by the Sheriff. On November 1, 2018, the  
11 Receiver gained access to the Wellworth Property and any remaining assets located  
12 therein. Wu Decl. at ¶ 7. Financial statements were seized by the Sheriff and may  
13 also be obtained from Mr. Soria’s CPA. As to execution under penalty of perjury,  
14 the Court’s Order re Privilege expressly states that Mr. Soria is excused from  
15 complying with any items requiring Mr. Soria to “create a document that does not  
16 already exist or tell the Receiver something,” pursuant to his Fifth Amendment  
17 privilege.

18 **8. Provide the Receiver a list of all business activities the Receivership**  
19 **Defendants have been involved in since January 23, 2018 including a detailed**  
20 **status of each activity, including, but not limited to, a full and complete detailed**  
21 **disclosure of all transactions, wires, or money sent to/from the “Law Offices of**  
22 **Joseph F. Hart Client Trust Account,” and to any other trust account**  
23 **maintained by attorney Joseph Hart in any way relating to such activities.**

24 Mr. Soria has complied with Item 8 of the Contempt Order to the extent  
25 required by the Court. Mr. Soria’s undersigned counsel disclosed activity, and any  
26 further disclosure by Mr. Soria is excused by the Court’s Order re Privilege.  
27 Information regarding the Law Offices of Joseph F. Hart Client Trust Account must  
28 be obtained from Joseph Hart.

1           **9. Provide the Receiver a detailed disclosure as to all payments to any**  
2 **Receivership Defendant or for their benefit, since January 23, 2018.**

3 **“Payments” include, without limitation, transfers of any money or real or**  
4 **personal property or other thing of value, and whether or not value was**  
5 **exchanged for the payment. This includes, but is not limited to, a full and**  
6 **complete detailed disclosure of all payments made to/from the “Law Offices of**  
7 **Joseph F. Hart Client Trust Account,” and to any other trust account**  
8 **maintained by attorney Joseph Hart, and the disposition of each such payment**  
9 **(i.e., to whom the payment was released, who remains in possession of such**  
10 **payment, if the payment has been transferred, if so a disclosure as to who**  
11 **transferred it and the transferee of such payment), including without limitation**  
12 **the payment of approximately \$513,000 for the benefit of Defendant Deutsche**  
13 **Mellon National Asset, LLC on or about March 22, 2018 in connection with the**  
14 **purported sale of real estate in Frisco, Texas.**

15           Mr. Soria has complied with Item 9 of the Contempt Order to the extent  
16 required by the Court. Mr. Soria’s undersigned counsel provided disclosures  
17 pertaining to payments since January 23, 2018. Wu Decl. at ¶ 10. The Court’s  
18 Order re Privilege excuses Mr. Soria from complying with any items requiring Mr.  
19 Soria to “create a document that does not already exist or tell the Receiver  
20 something,” pursuant to his Fifth Amendment privilege.

21           **10. Turn over all funds received by the Receivership Defendants since**  
22 **January 23, 2018, to the Receiver.**

23           Mr. Soria is unable to comply with Item 10 of the Contempt Order. The  
24 Court’s Order re Privilege clearly defines “possession” to include anything that Mr.  
25 Soria “owns, controls, or has the right to control” and that “he could arrange to have  
26 turned over.” Nevertheless, Mr. Soria has no funds to turn over.

27           The Receiver’s Report states that Mr. Soria must make every possible effort to  
28 have funds turned over to the Receiver which were generated since January 23,

1 2018. The Receiver states it has obtained funds from Mr. Soria’s attorneys. On  
2 November 5, 2018, the Court held a hearing regarding turnover of funds paid to  
3 Leech Tishman Fuscaldo & Lampl, and on November 8, 2018 ordered Leech  
4 Tishman Fuscaldo & Lampl to turn over those funds. Mr. Soria is unable to take any  
5 further steps while incarcerated.

6 **11. Provide the Receiver a detailed disclosure as to all payments made**  
7 **by any Receivership Defendant or for its benefit, since January 23, 2018.**  
8 **“Payments” has the same meaning as set forth in paragraph 2(i) herein.**

9 Mr. Soria has complied with Item 11 of the Contempt Order to the extent  
10 required by the Court. Mr. Soria’s undersigned counsel provided disclosures  
11 pertaining to payments since January 23, 2018. Wu Decl. at ¶ 10. The Court’s  
12 Order re Privilege excuses Mr. Soria from complying with any items requiring Mr.  
13 Soria to “create a document that does not already exist or tell the Receiver  
14 something,” pursuant to his Fifth Amendment privilege.

15 **12. Provide the Receiver written confirmation under penalty of perjury**  
16 **that the Receivership Defendants and CreativeNote have complied with the**  
17 **Receiver’s repeated requests to lock the Receivership Defendants out of all**  
18 **business email accounts and to provide the Receiver unlimited access to all**  
19 **business email accounts. Soria, West H&A, Westwood and HUCLTH are to**  
20 **provide the Receiver with a list of and immediate access to and exclusive control**  
21 **of every email used by any Receivership Defendant or any of its employees or**  
22 **agents, including but not limited to “soria.patrick@gmail.com” and**  
23 **“patrick.joseph.soria@gmail.com.” Nothing in this Order shall constitute a**  
24 **waiver of any attorney-client privilege that may exist. Furthermore, Soria,**  
25 **West H&A, Westwood and HUCLTH are to provide the Receiver with a list of**  
26 **and immediate access to and exclusive control over every website used by any**  
27 **Receivership Defendant.**

28

1 Mr. Soria has complied with Item 12 of the Contempt Order to the extent he is  
2 able. The Receiver acknowledges in the Receiver's Report that Mr. Soria is excused  
3 from complying with the first sentence of this category.

4 As to the second sentence, the Receiver has subsequently received unfettered  
5 access to Mr. Soria's "new cell phone" and now has the ability to verify whether it  
6 has access to all of Mr. Soria's email accounts. Mr. Soria's undersigned counsel  
7 provided a list of websites accessed by Mr. Soria, along with usernames and  
8 passwords. Wu Decl. at ¶ 11. On September 26, 2018, after reviewing the data on  
9 Mr. Soria's "new cell phone," Mr. Soria's counsel discovered and provided an  
10 additional email address to the Receiver's counsel and Nationstar's counsel. Wu  
11 Decl. at ¶ 12.

12 All websites accessed by Mr. Soria can be found by accessing his cell phone  
13 or computers that were seized by the Sheriff.

14 **13. Provide the Receiver full and complete disclosure as to all recorded**  
15 **real property documents recorded by or on behalf of the Receivership**  
16 **Defendants, in connection with any asserted ownership interest in a secured**  
17 **promissory note, mortgage, deed of trust, or other real property-related**  
18 **security instrument, or in connection with any asserted real property ownership**  
19 **interest obtained following the purported acquisition of an ownership interest**  
20 **in a secured promissory note, mortgage, deed of trust or other real property-**  
21 **related security instrument.**

22 Mr. Soria has complied with Item 13 of the Contempt Order to the extent he is  
23 able. The Receiver's Report acknowledges that records responsive to category 13  
24 were seized by the Sheriff in February 2018. Any additional documents, if any, may  
25 be obtained by accessing Mr. Soria's Google Chrome account, including his Gmail  
26 account.

27 **14. Immediately cancel any open escrow/transaction purporting to sell**  
28 **any property, receive any payoff, or otherwise through which the Receivership**



1 **Defendants may receive some benefit, and provide the Receiver with a list of all**  
2 **such escrows/transactions.**

3 Mr. Soria has complied with Item 14 of the Contempt Order. The Receiver's  
4 Report alleges that in July 2018, money was routed to an account in the name of  
5 Zeons Inc., wholly owned by Garson Silvers. Mr. Soria does not possess any  
6 responsive documents, and the Court's Order re Privilege excuses him from  
7 providing testimonial evidence.

8 **15. Provide a full and complete disclosure to the Receiver of each**  
9 **payment (including amount and source of payment) to any attorney since**  
10 **January 23, 2018, whether paid as a retainer or for services rendered or**  
11 **otherwise, by the Receivership Defendants including but not limited to any**  
12 **retainer paid to Leech Tishman Fuscaldo & Lampl, Inc.**

13 The Receiver's Report states that the Receiver is uncertain if it has all the  
14 information under this category. Mr. Soria has complied with each category to the  
15 extent he is able or required. His liberty should not be further deprived because of  
16 the Receiver's uncertainty.

17 **16. Close any open PayPal accounts, provide the Receiver with any**  
18 **balance remaining in such accounts, and provide the Receiver with a closing**  
19 **statement for such accounts or other satisfactory proof of closure.**

20 Mr. Soria is unable to comply with Item 16 of the Contempt Order while  
21 incarcerated. The Receiver's Report states that it is still attempting to close the  
22 PayPal account and needed access to Mr. Soria's "new cell phone." The Receiver  
23 obtained possession and access to the phone on or about September 21, 2018. Wu  
24 Decl. at ¶ 12. If the account has not yet been closed, it is not due to delay caused by  
25 Mr. Soria.

26 **17. Provide the Receiver with all debit, credit, and bank cards owned**  
27 **or used by the Receivership Defendants (no new cards are to be issued) and**  
28

1 **immediate access to any safe deposit box(es) used by or containing assets of the**  
2 **Receivership Defendants.**

3 Mr. Soria has complied with Item 17 of the Contempt Order. The Receiver's  
4 Report states that there is another debit card or credit card in existence which has not  
5 yet been turned over to the Receiver. On October 16, 2018, Mr. Soria's counsel sent  
6 additional pieces of mail to Receiver's counsel, including two credit cards that do  
7 not appear to be activated. Wu Decl. at ¶ 13. One was an American Express Card,  
8 accompanied by instructions on how to activate the card. The other was a NetSpend  
9 Small Business Visa Prepaid Card, which was also accompanied by a letter with  
10 instructions on how to activate the card. Id.

11 **18. Immediately return to the Receiver any mail received by the**  
12 **Receivership Defendants since April 23, 2018.**

13 Mr. Soria has complied—and continues to comply—with Item 18 of the  
14 Contempt Order. Undersigned counsel turned over Mr. Soria's mail to the Receiver  
15 on September 20, October 16, and November 5, 2018. Wu Decl. at ¶ 13.

16 **19. Provide the Receiver with a list (with contact information) of all**  
17 **employees, agents, associates or anyone working for or with the Receivership**  
18 **Defendants or on their behalf, and immediately instruct the same to**  
19 **immediately cease doing business for or with the Receivership Defendants**  
20 **except only as is necessary to comply with this Order.**

21 The Receiver's Report concedes that Mr. Soria is not compelled to create such  
22 a list. Any existing documents with names of employees, agents, associates, and  
23 others working for or with the Receivership Defendants may be found in the  
24 Sheriff's possession, on Mr. Soria's cell phone, in Mr. Soria's email accounts, or on  
25 other documents and devices in the Receiver's possession and control.

26 **20. Provide the Receiver with Soria's cell phone(s) and the requisite**  
27 **usernames/passwords required to access data on the phone(s) by no later than**  
28



1 **midnight, May 30, 2018 (Soria was ordered not to delete or destroy anything**  
2 **from the phone(s) prior to turnover).**

3 Mr. Soria has complied with Item 20 of the Contempt Order. The Receiver  
4 obtained possession and access to Mr. Soria’s “new cell phone” on or about  
5 September 21, 2018. Wu Decl. at ¶ 12. Mr. Soria’s undersigned counsel disclosed  
6 usernames and passwords, including Mr. Soria’s Google Chrome account which can  
7 be used to autofill usernames and passwords. Wu Decl. at ¶¶ 5, 13.

8 **IV. CONCLUSION**

9 Based on the foregoing reasons, Defendant Patrick Joseph Soria respectfully  
10 requests that he be released from the contempt incarceration entered on June 6, 2018  
11 because Mr. Soria has complied with all items that he is able to comply with and it is  
12 factually impossible for Mr. Soria to comply with the remainder of the Court’s May  
13 31, 2018 Order. As such, Mr. Soria’s civil contempt is purged, and he should be  
14 released from incarceration.

15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Dated: November 8, 2018

Respectfully Submitted,  
LEECH TISHMAN FUSCALDO & LAMPL

By:           /s/ Eric J. Wu            
Philip A. Toomey  
Eric J. Wu  
Attorneys for Defendant,  
Patrick Joseph Soria

1 Philip A. Toomey (Bar No. 89598)  
2 ptoomey@leechtishman.com  
3 Eric J. Wu (Bar No. 270228)  
4 ewu@leechtishman.com  
5 Ryan O. Hemminger (*Admitted Pro Hac Vice*)  
6 rhemminger@leechtishman.com  
7 Jessica K. Albert (*Admitted Pro Hac Vice*)  
8 jalbert@leechtishman.com  
9 **LEECH TISHMAN FUSCALDO & LAMPL**  
10 841 Apollo Street, Suite 325  
11 El Segundo, CA 90245  
12 Telephone: 424.738.4400  
13 Facsimile: 424.738.5080  
14 Attorneys for Defendant, Patrick Joseph Soria

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

15 NATIONSTAR MORTGAGE LLC,  
16 Plaintiff,  
17 vs.  
18 PATRICK JOSEPH SORIA, an  
19 individual, et al.  
20 Defendants.

) CASE NO. 2:18-cv-3041-DSF-RAOx  
Hon. Dale S. Fischer

) **DECLARATION OF ERIC J. WU IN**  
) **SUPPORT OF DEFENDANT’S**  
) **MOTION FOR RELEASE FROM**  
) **CONTEMPT INCARCERATION**

) Judge: Hon. Dale S. Fischer  
) Hearing Date: December 10, 2018  
) Time: 1:30 p.m.  
) Courtroom: 7D

**DECLARATION OF ERIC J. WU**

I, Eric J. Wu, declare as follows:

1. I am an attorney admitted to practice in this federal district court and I am an associate at the law firm of Leech Tishman Fuscaldo & Lampl, Inc. (“Leech Tishman”).

2. I have personal knowledge of the facts stated herein and, if called upon as a witness, I could and would competently testify thereto.

3. This declaration is submitted in support of Defendant’s Motion for Release from Contempt Incarceration (“Motion”).

4. I fulfilled my meet and confer obligations regarding this Motion, pursuant to Local Rule 7-3. On November 1, 2018, I sent an email to Plaintiff’s counsel (Jered T. Ede, Esq., Jane M. Kutepova, Esq.) and Receiver’s counsel (Gary O. Caris, Esq.) to meet and confer regarding the Motion and the parties’ willingness to stipulate to Mr. Soria’s release from contempt incarceration. On November 7, 2018, I sent a letter to Mr. Caris, Mr. Ede, Ms. Kutepova, and Timothy Burnett. The letter set forth the reasons why Mr. Soria has purged his contempt. On November 7, 2018, I spoke with Mr. Caris to discuss the substance of the Motion and potential resolution. The parties were not able to resolve the underlying issues.

5. I provided all of Mr. Soria’s Quickbooks accounts, usernames, and passwords to the Receiver, including Mr. Soria’s Google Chrome password.

6. I provided the Receiver with the contact information for Mr. Soria’s Certified Public Accountant.

7. On November 1, 2018, I accompanied the Receiver and Plaintiff’s counsel to 10809 Wellworth Avenue, Los Angeles, California. The Receiver was granted unfettered access to the property and any of Mr. Soria’s assets contained therein.

8. I provided the Receiver with a list of websites where electronic consumer records may be found, including Mr. Soria’s usernames and passwords.

1           9.     I have disclosed to the Receiver all of Mr. Soria's accounts that we are  
2 aware of and have no further information as to additional bank accounts.

3           10.    I provided the Receiver with disclosures pertaining to payments to Mr.  
4 Soria since January 23, 2018.

5           11.    I provided the Receiver with a list of websites accessed by Mr. Soria,  
6 along with usernames and passwords.

7           12.    After reviewing the data on Mr. Soria's "new cell phone," I provided  
8 the Receiver with an additional email address for Mr. Soria. The "new cell phone"  
9 was turned over to the Receiver on or about September 21, 2018

10          13.    On September 20, October 16, and November 6, 2018, I turned over to  
11 the Receiver pieces of mail addressed to Mr. Soria. On October 16, 2018, I caused  
12 to be mailed to the Receiver additional pieces of mail addressed to Mr. Soria,  
13 including two letters with credit cards. One credit card was an American Express  
14 Card, and the other was a NetSpend Small Business Visa Prepaid Card. The credit  
15 cards did not appear to be activated because they were accompanied by instructions  
16 to activate the cards.

17          I declare under penalty of perjury under the laws of the United States of  
18 America that the foregoing is true and correct and that this declaration was executed  
19 on November 8, 2018 in El Segundo, California.

20  
21  
22  
23  
24  
25  
26  
27  
28

\_\_\_\_\_  
/s/ Eric J. Wu  
Eric J. Wu