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13  
14 **UNITED STATES DISTRICT COURT**  
15 **NORTHERN DISTRICT OF CALIFORNIA**  
16 **SAN FRANCISCO DIVISION**

17 NELSON SEQUIERA, ORSAY ALEGRIA,  
18 ISMAEL CORDERO, and RAUL LOPEZ,  
individually and on behalf of all others  
similarly situated,

19 *Plaintiffs,*

20 v.

21 U.S. DEPARTMENT OF HOMELAND  
22 SECURITY; U.S. IMMIGRATION &  
23 CUSTOMS ENFORCEMENT; THE  
24 WESTERN UNION COMPANY, a Delaware  
25 corporation; CONTINENTAL EXCHANGE  
26 SOLUTIONS, INC., a Kansas corporation,  
d/b/a RIA FINANCIAL SERVICES and  
27 AFEX MONEY EXPRESS; VIAMERICAS  
CORPORATION, a Delaware Corporation;  
and DOLEX DOLLAR EXPRESS, INC., a  
Texas corporation,

28 *Defendants.*

Case No. \_\_\_\_\_

**CLASS ACTION COMPLAINT**

**JURY DEMAND**



1 Washington, D.C. Homeland Security Investigations (“HSI”) is a sub-component of ICE  
2 responsible for conducting law enforcement investigations.

3 7. Defendant The Western Union Company (“Western Union”) is a multinational  
4 financial services company incorporated in the State of Delaware. Its headquarters are in  
5 Denver, Colorado. It regularly transacts business throughout California, including in this district,  
6 with over 20 locations in San Francisco alone. The consumer financial services it provides  
7 include money transfer and lending services.

8 8. Defendant Continental Exchange Solutions, Inc. is a Kansas corporation with its  
9 headquarters in Buena Park, California, and which regularly does business under fictitious  
10 names, including but not limited to Ria Financial Services and AFEX Money Express  
11 (“Continental,” “Ria,” or “AFEX”). It regularly transacts business throughout California,  
12 including in this district, with dozens of locations in the Bay Area and at least six in San  
13 Francisco alone. The consumer financial services it provides include money transfer and check  
14 cashing services.

15 9. Defendant Viamericas Corporation (“Viamericas”) is a Delaware corporation with  
16 its headquarters in Bethesda, Maryland, and which regularly does business under fictitious  
17 names, including but not limited to Vianex. It regularly transacts business throughout California,  
18 including in this district, with numerous locations in the Bay Area. The consumer financial  
19 services it provides include money transfer services.

20 10. Defendant DolEx Dollar Express, Inc. (“DolEx”) is a Texas corporation with its  
21 headquarters in Arlington, Texas. It regularly transacts business throughout California, including  
22 in this district, with dozens of locations in the Bay Area alone. The consumer financial services  
23 it provides include money transfer, personal lending, check cashing, money order, bill pay, and  
24 other services.

25 **II. JURISDICTION AND VENUE**

26 11. This Court has subject matter jurisdiction over Plaintiffs’ claims arising under the  
27 laws of the United States pursuant to 28 U.S.C. § 1331, and, as to all other claims, 28 U.S.C.  
28 § 1367. The Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)

1 because the amount in controversy exceeds \$5 million, there are over 100 members in the  
2 proposed Class, and at least one member of the proposed Class is a citizen of a state or country  
3 different from at least one Defendant.

4 12. This Court has personal jurisdiction over Defendants because Defendants  
5 regularly transact business in this District and have committed wrongful acts here.

6 13. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1391(e)(1)(B)  
7 because a substantial part of the events or omissions giving rise to Plaintiffs' claims occurred in  
8 and emanated from this District. In addition, with respect to the Federal Government  
9 Defendants, venue is proper in this District under 28 U.S.C. § 1391(e)(1)(C) because Plaintiffs  
10 reside within this District and no real property is involved in the action.

11 **III. DIVISIONAL ASSIGNMENT**

12 14. Pursuant to Civil Local Rule 3-2(d), this case should be assigned to the San  
13 Francisco Division because a substantial part of the events or omissions giving rise to the claim  
14 occurred within the County of San Francisco.

15 **IV. INTRODUCTION**

16 15. The Federal Government and Money Transfer Business Defendants have violated  
17 the financial privacy rights of hundreds of thousands of people, secretly collecting and sharing  
18 intimate details of millions of financial transactions for nearly a decade. This mass surveillance  
19 program was coordinated by the Transaction Record Analysis Center ("TRAC"), a collaboration  
20 of law enforcement agencies, including several federal government agencies like Defendant ICE.  
21 Until press reports exposed the program earlier this year, consumers had no idea that money  
22 transfer companies were indiscriminately sharing their private financial information with the  
23 federal government. Worse, public records obtained by Plaintiffs' counsel suggest that the  
24 program's primary purpose is to target immigrants and communities of color.

25 16. This type of surreptitious surveillance of financial records is precisely what  
26 Congress sought to protect against when it passed the Right to Financial Privacy Act ("RFPA")  
27 in 1978, 12 U.S.C. §§ 3401, *et seq.* The RFPA prohibits consumer finance institutions like the  
28 MTB Defendants from disclosing consumers' financial information to the federal government

1 without a valid court order or subpoena, and, even then, consumers must be notified and  
2 provided an opportunity to object before the information in question may be disclosed. The Act  
3 also prohibits the federal government from having access to such information unless these  
4 statutory protections are honored.

5 17. Yet Defendants ignored these requirements when they devised a program to  
6 regularly collect, scrutinize, and share millions of financial records from unknowing consumers  
7 in the Southwest border states. According to TRAC Board Meeting Minutes obtained by  
8 Plaintiffs' counsel, by 2021, the TRAC database contained over 145 million financial records  
9 from unsuspecting consumers. Beginning at least as early as 2014, TRAC began collecting and  
10 disseminating records from the MTB Defendants and other money transfer companies about  
11 money transfers over \$300 sent to or from the Southwest border region. And since as early as at  
12 least 2015, TRAC, with the participation of federal government agencies, has been gathering and  
13 accessing consumer financial records from the MTB Defendants and other money transfer  
14 companies about money transfers greater than \$500 sent to or from Arizona, California, New  
15 Mexico, Texas, or Mexico (hereinafter, "Watchlist States"). These financial records were  
16 obtained under the ostensible authority of various TRAC participants, including Arizona and  
17 New Mexico law enforcement officials and the federal government. All requests were intended  
18 to result in the production of responsive data to TRAC, so that TRAC could make it accessible to  
19 all participants, including the federal government. The scheme helped facilitate the creation of a  
20 mass database that federal government agencies and other TRAC participants would be able to  
21 access without limitation, sidestepping the protections of the RFPA.

22 18. Federal involvement in TRAC, including access to the private financial  
23 information gathered by TRAC, has a long history. Although TRAC was not formally  
24 incorporated as a stand-alone entity until 2014, its genesis appears to go back decades to 1996.  
25 Numerous federal agencies have had access to financial data gathered by TRAC, enabling them  
26 to comb through millions of financial records with no warrant or judicial oversight, and without  
27 compliance with RFPA's requirements.  
28



1           **B.     How Money Transfer Businesses Work**

2           24.     Money transfer businesses provide an important consumer financial service,  
3 enabling people to send and receive money across borders. Immigrants and other people with  
4 friends and relatives abroad are particularly reliant on money transfer businesses to facilitate the  
5 sending of remittances. A remittance is an international wire, often money sent by an immigrant  
6 or migrant worker to family members, friends, and close relations in their country of origin. The  
7 United States is the largest source of international remittances in the world. Approximately \$150  
8 billion in remittances are sent annually from the United States, with approximately \$30 billion  
9 being sent from the United States to Mexico. Money transfers can also be made domestically.

10          25.     To effectuate a money transfer, a sender typically brings cash to a money transfer  
11 business's brick and mortar location. A business representative will receive the cash and arrange  
12 for a transfer to the location specified by the sender. Once the transaction is processed, the  
13 beneficiary or recipient of the transfer need only visit the appropriate branch of a money transfer  
14 business, where the money is delivered to them.

15          26.     Money transfer businesses profit by setting exchange rates above market rates and  
16 by charging commission fees. The transaction costs of a money transfer can reach 10%, and tend  
17 to be higher when sending money to remote destinations. The vast majority of revenue at  
18 companies like the MTB Defendants comes from person-to-person transfers, with 90% of that  
19 business dealing with cash on both ends.

20          27.     Many money transfer consumers are unbanked and therefore unable to use  
21 cheaper transfer systems like electronic checking or bank wiring instead. These services are  
22 used overwhelmingly by lower-income minority and immigrant communities. Currently, there  
23 are 200 million migrant workers that use money transfer businesses to send financial support to  
24 dependent family members in their countries of origin. During 2020, remittances to Latin  
25 America and the Caribbean increased by 6.5% despite the economic downturn caused by the  
26 COVID-19 pandemic, indicating the extent to which many family members of immigrants rely  
27 on the income from remittances.

28

1           28.     At no point did the MTB Defendants inform consumers in the Watchlist States or  
2 elsewhere that their private financial records would be routinely divulged to Defendant ICE or  
3 other federal agencies.

4           **C.     The TRAC Program Has Collected Hundreds of Millions of Consumer**  
5           **Financial Records**

6           29.     TRAC, in its current iteration, has existed since 2014. However, attempts to  
7 monitor the activities of people who use money transfer services *en masse* began well before that  
8 time. A 1996 bulletin issued by the Arizona Attorney General’s Office, for example, states that  
9 TRAC was housed within that office’s Financial Remedies Unit. The bulletin explains that  
10 TRAC, at that time, had responsibilities to “input, computerize, and analyze the [financial data]  
11 in response to requests from local, state, and federal law enforcement,” and that “TRAC is the  
12 nucleus of a state/federal Suspicious Transaction Report Project, which coordinates money  
13 laundering investigation and prosecutions among [various Arizona agencies], the U.S. Customs  
14 Service, and the Drug Enforcement Administration.” In 2006, the Arizona Attorney General  
15 attempted to obtain bulk records from Western Union, serving Western Union with a warrant for  
16 data regarding every person-to-person money transfer transaction over \$500 in a three-year  
17 period sent from multiple states to Sonora, Mexico. The ensuing legal battle ended with the  
18 Arizona Supreme Court holding that the warrant for out-of-state Western Union transaction  
19 records was unconstitutional.

20           30.     Having previously failed to obtain bulk records through litigation, in February  
21 2010, the Arizona Attorney General and Western Union reached an agreement whereby Western  
22 Union would turn over bulk transaction data, particularly targeting the southwest border and  
23 immigrant populations. From the start, it was evident that the Arizona Attorney General  
24 intended to share the data produced by Western Union with other state and federal law  
25 enforcement officials, as reflected in the agreement.

26           31.     In January 2014, the Arizona Financial Crimes Task Force (“AZFCTF”)—which  
27 is composed of the Arizona Attorney General’s Office, the Phoenix Police Department, the  
28



1 Arizona Department of Public Safety, and participation by DHS—expanded the existing  
2 agreement with Western Union and founded the Transaction Record Analysis Center.

3 32. The TRAC surveillance program was designed to facilitate collaboration between  
4 state and federal government agencies, particularly DHS and its predecessors. Early policy  
5 documents touted TRAC’s goal of leveraging the analytical resources of federal law enforcement  
6 agencies. Similarly, Southwest Border Anti-Money Laundering Alliance (an entity TRAC  
7 contracted with) documents from as early as 2016 indicated that collaboration with DHS was a  
8 primary goal. By 2017, TRAC had cemented a close working relationship with ICE sub-  
9 component HSI.

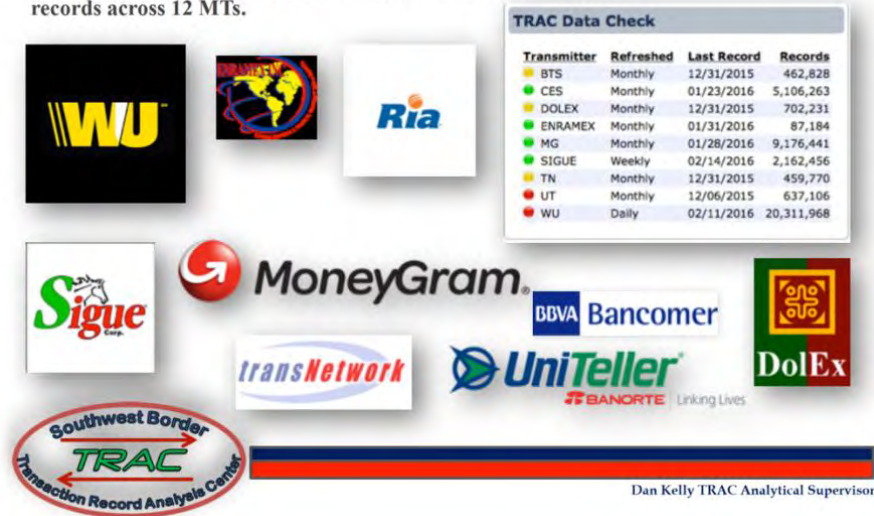
10 33. TRAC is staffed by analysts and law enforcement professionals and designed to  
11 facilitate law enforcement access to bulk data. It functions as a data analysis center with a web-  
12 accessible, searchable, centralized database of money transfer transactions concentrated in  
13 southwest border-states and Mexico. The data stored in TRAC include, at the very least,  
14 financial records of consumers from Arizona, California, New Mexico, and Texas, as well as  
15 Mexico.

16 34. Western Union was not the only money transfer business providing bulk  
17 transaction data to TRAC after its creation in 2014. The Arizona Attorney General’s office also  
18 requested that at least six other companies, including Defendants Continental, Viamericas, and  
19 DoEx, produce bulk transaction data to TRAC. Those requests continued through 2022 and  
20 have expanded to include at least ten other known companies. None of these requests complied  
21 with the RFPA, even though their purpose was to provide access to the financial records to the  
22 federal agencies participating in TRAC, including the Federal Government Defendants. At least  
23 20 money transfer businesses are implicated in the program, according to TRAC board meeting  
24 minutes.

35. An AZFCTF PowerPoint presentation dated January 19, 2017 conveys the immense scale of the program:

### TRANSACTION RECORD ANALYSIS CENTER

- TRAC currently contains approximately 50 million transaction records across 12 MTs.



36. In 2019, Western Union's data sharing agreement with the Arizona Attorney General expired. Despite the agreement lapsing, Western Union continued to hand over millions of financial records to TRAC without any legal process required by the RFP.

37. Defendant DHS stepped in to try to fill the void left by the expiration of the Arizona Attorney General's agreement with Western Union. According to minutes of a September 2019 TRAC board meeting, before the agreement expired, HSI committed to funding TRAC for one year, with the hope of finding permanent funding going forward. Additionally, the HSI Special Agent in charge of Phoenix began issuing a series of requests to Western Union every six months directing the company to continue transmitting records of money transfers to TRAC, so that all participants, including the federal agency participants, could continue to have access to the bulk financial records. Indeed, requests sent by HSI to Western Union and Maxi Transfers swept in over six million additional records over the next three years. HSI did not comply with the RFP's requirements before issuing the requests to Western Union or accessing the underlying data, such as providing notice to the affected consumers, issuing a valid administrative subpoena, or obtaining a court order. Nor did Western Union comply with the

1 RFPA’s requirements before divulging information to the federal agencies involved in TRAC in  
 2 response to HSI’s requests.

3 38. The information in TRAC’s database is extensive and intrusive. At the very least,  
 4 it contains information on all transactions in amounts over \$500 to or from Arizona, California,  
 5 New Mexico, Texas, and Mexico since as early as 2010. The data collected about each  
 6 transaction may include: sender’s name, sender’s address, sender’s phone number, sender’s date  
 7 of birth, sender’s occupation, sender’s social security number, payee’s name, payee’s address,  
 8 payee’s phone number, payee’s date of birth, payee’s occupation, payee’s social security  
 9 number, sender’s and payee’s identification numbers and types (passport or other ID numbers),  
 10 date and times of transactions, operators’ names, sending agent’s address, paying agent’s  
 11 address, and the sending and paying countries, currencies, and dollar amounts.

12 39. The mass information collection is intended to be a dragnet, and is not focused on  
 13 particular individuals suspected of criminal activity. An AZFCTF PowerPoint presentation  
 14 about TRAC’s capabilities, for example, emphasizes how federal and state law enforcement  
 15 participants can use highly general queries, such as “search[ing] a geographic area” for “persons  
 16 who are sending/receiving the highest volume/dollar amounts,” as depicted below:



27 40. Further, anxiety about immigration is a focus of the TRAC database. One slide in  
 28 a 2017 AZFCTF PowerPoint presentation, for example, focuses on “Middle Eastern Human

1 Smuggling (SI Aliens) along the Arizona Border.” The subsequent slides emphasize that certain  
2 transactions captured by TRAC were deemed suspicious because they involved money sent by  
3 people with “Middle Eastern names” or “Middle Eastern/Arabic names.” That raises another  
4 danger of mass surveillance tools: they may be weaponized against vulnerable groups based on  
5 improper criteria, such as race, religion, or national origin. The RFPA’s protections provide a  
6 potential safeguard against such activities, but the MTB Defendants and Federal Government  
7 Defendants ignored them.

8  
9 **D. DHS and Other Federal Agencies Have Had Years of Illegal Access to  
Consumer Financial Records**

10 41. Although the Arizona Attorney General created TRAC, dozens of federal  
11 agencies participate in TRAC and have full access to transaction data tracking millions of  
12 consumers’ financial activities.

13 42. TRAC was designed with the goal of collaboration with federal government  
14 agencies, especially DHS. HSI has been an active user of the database since at least 2017,  
15 according to internal TRAC documents, even before HSI began sending its own data requests.

16 43. According to TRAC board meeting minutes, an alphabet soup of federal agencies  
17 has actively participated in TRAC and has access to the financial data contained therein, in  
18 flagrant violation of the RFPA. The federal agencies with access to TRAC data include ICE,  
19 U.S. Customs & Border Protection, U.S. Citizenship and Immigration Services, the Bureau of  
20 Alcohol, Tobacco, Firearms and Explosives, the Bureau of Indian Affairs Office of Justice  
21 Services Law Enforcement Division, the Drug Enforcement Administration, the Internal  
22 Revenue Service, the U.S. Department of State, the U.S. Fish and Wildlife Service, the U.S.  
23 Postal Inspection Service, the U.S. Marshals Service, the U.S. Secret Service, and the U.S.  
24 Department of Agriculture—and this list is not exhaustive. As discussed above, HSI and its  
25 parent agency Defendant ICE not only accessed TRAC, but actively participated in obtaining  
26 records for the TRAC database.

27 44. HSI’s bulk data collection was continuous and extensive until 2022 when Senator  
28 Ron Wyden raised concerns about the program, ultimately resulting in a suspension of HSI’s role

1 in requesting the data in question from Western Union and Maxi. However, upon information  
2 and belief, HSI continues to be a member of TRAC with access to consumer financial records,  
3 and the MTB Defendants and other money transfer businesses have continued to provide the  
4 Federal Government Defendants with access to consumer financial records through TRAC  
5 without following the RFPAs requirements.

6 45. TRAC, with information provided by the MTB Defendants and other money  
7 transfer businesses, allows federal government agencies to conduct warrantless searches on the  
8 millions of financial records stored in its database. Customers making money transfers in the  
9 Watchlist States have no way of knowing their information will be taken and provided to the  
10 federal government without notice or due process. The over 145 million financial records stored  
11 in TRAC's databases and made available to the federal government break the promise of  
12 financial privacy laid out in the RFA.

13 **E. TRAC Poses Particular Harm to Immigrant and Vulnerable Communities**

14 46. TRAC's collection of sensitive personal information from MTB consumers and  
15 law enforcement agencies' unfettered access to those records cause particular harm to immigrant  
16 communities and others who disproportionately rely on money transfer services. Using the  
17 sensitive address information that is contained within money transfer records, ICE and other law  
18 enforcement agencies can track and locate people and conduct arrests or raids that lead to  
19 detention and deportations.

20 47. TRAC collects information that poses additional risk to noncitizens by revealing  
21 details relevant to their immigration status. For example, whether a person has a valid social  
22 security number can be used as a proxy for assessing a person's status as a citizen or visa holder.

23 48. Regardless of a money sender's immigration status, because TRAC collects data  
24 about both the sender and recipient of remittances, TRAC provides ICE with information about a  
25 person's network of family members and other associates living in other countries. This raises  
26 the additional fear of surveillance and targeting of the overseas recipients, especially if they  
27 decide to come to the United States in the future.

28 49. TRAC's collection of consumer financial information from the MTB Defendants

1 and other money transfer companies, and its sharing of these records with ICE and other federal  
2 agencies, causes harm because the underlying information is both private and sensitive.  
3 Immigrants have expressed specific fears related to TRAC surveillance and ICE targeting, noting  
4 that ICE’s tracking of their information from remittances is “scary to think about” given the  
5 threat of potential detention. TRAC’s data collection also poses a threat to First Amendment  
6 association rights and creates a chilling effect among immigrant communities who rely on these  
7 necessary services to support their families in Mexico and beyond. These remittance payments  
8 help provide for basic family needs, as people have planned their lives around working and  
9 sending money back to family as a means of consistent support. Such payments and the use of  
10 essential services should not be used by ICE as a basis to target immigrants and others. To  
11 minimize the risk of such abuses, the Federal Government Defendants and MTB Defendants  
12 must be required to comply with the RFPAs’ protections.

### 13 **FACTS SPECIFIC TO PLAINTIFFS**

14 50. Plaintiff Nelson Sequiera regularly used Western Union to send money from  
15 California (including from this District) to his family abroad, including in excess of \$500. Mr.  
16 Sequiera was never informed that records from these transactions would be shared with the  
17 federal government without a valid warrant, subpoena, or court order, and would remain in a  
18 mass database accessible by hundreds of government agencies indefinitely. If Mr. Sequiera had  
19 known about this invasion of his privacy, he would not have paid Western Union to process the  
20 transaction, and would instead have searched for alternative options for sending his money. Mr.  
21 Sequiera is disturbed that his personal financial information, along with information about his  
22 family abroad, was shared with the federal government without his knowledge.

23 51. Plaintiff Orsay Alegria regularly uses money transfer companies, including  
24 Continental, Viamericas, and DolEx, to send money from California (including from this  
25 District) to his family in Mexico, including in excess of \$500. His family has used this money  
26 for basic needs, such as food and medical costs. Mr. Alegria was never informed that records  
27 from these transactions would be shared with the federal government without a valid warrant,  
28 subpoena, or court order, and would remain in a mass database accessible by hundreds of



1 government agencies indefinitely. Mr. Alegria feels distress and that his privacy has been  
2 violated because of the companies' sharing of his personal information with law enforcement.

3 52. Plaintiff Ismael Cordero regularly used Western Union to send money from  
4 California to his family abroad, including in excess of \$500. Mr. Cordero was never informed  
5 that records from these transactions would be shared with the federal government without a valid  
6 warrant, subpoena, or court order, and would remain in a mass database accessible by hundreds  
7 of government agencies indefinitely. If Mr. Cordero had known about this invasion of his  
8 privacy, he would not have paid Western Union to process the transaction, and would instead  
9 have searched for alternative options for sending his money. Mr. Cordero is disturbed that his  
10 personal financial information, along with information about his family abroad, was shared with  
11 the federal government without his knowledge.

12 53. Plaintiff Raul Lopez regularly uses Continental to send money from California to  
13 his family in Guatemala, including in excess of \$500. His family has used this money for basic  
14 needs, such as food and medical costs. Mr. Lopez was never informed that records from these  
15 transactions would be shared with the federal government without a valid warrant, subpoena, or  
16 court order, and would remain in a mass database accessible by hundreds of government  
17 agencies indefinitely. If he had known about this invasion of his privacy, Mr. Lopez would not  
18 have paid Continental to process the transactions, and would instead have searched for  
19 alternative options for sending the money in question. Mr. Lopez feels distress and that his  
20 privacy has been violated because of the company's sharing of his personal information with law  
21 enforcement.

## 22 VI. CLASS ALLEGATIONS

23 54. **Class and Subclass Definitions:** Plaintiffs bring this action pursuant to Fed. R.  
24 Civ. P. 23(b)(2) and (b)(3) on behalf of themselves and a Class and Subclasses of similarly  
25 situated individuals, defined as follows:

26 **Federal Defendants Class (All Plaintiffs):** All persons who sent or received a  
27 money transfer via any money transfer business and whose transaction data a  
28 federal government agency had access to or obtained copies of through TRAC  
since 2010.

1 **Western Union Subclass (Plaintiffs Sequiera and Cordero):** All persons who  
2 sent or received a money transfer via Western Union or any of its subsidiaries,  
and whose transaction data a federal government agency had access to or obtained  
copies of through TRAC since 2010.

3 **Continental Subclass (Plaintiffs Lopez and Alegria):** All persons who sent or  
4 received a money transfer via Continental or any of its subsidiaries, and whose  
transaction data a federal government agency had access to or obtained copies of  
5 through TRAC since 2010.

6 **Viamericas Subclass (Plaintiff Alegria):** All persons who sent or received a  
7 money transfer via Viamericas or any of its subsidiaries, and whose transaction  
data a federal government agency had access to or obtained copies of through  
TRAC since 2010.

8 **DolEx Subclass (Plaintiff Alegria):** All persons who sent or received a money  
9 transfer via DolEx or any of its subsidiaries, and whose transaction data a federal  
government agency had access to or obtained copies of through TRAC since  
10 2010.

11 **California Subclass (All Plaintiffs):** All California residents who are a member  
of the Western Union, Continental, Viameriacs, or DolEx Subclasses.

12 People who sent money from outside the United States to within the United States are not  
13 included in the proposed Class or Subclasses. The following people are also excluded from the  
14 Class and Subclasses: (1) any Judge or Magistrate presiding over this action and members of  
15 their families; (2) Defendants, Defendants' subsidiaries, parents, successors, predecessors, and  
16 any entity in which the Defendants or their parents have a controlling interest, and their current  
17 or former officers and directors; (3) persons who properly execute and file a timely request for  
18 exclusion from the Class; (4) persons whose claims in this matter have been finally adjudicated  
19 on the merits or otherwise released; (5) Plaintiffs' counsel and Defendants' counsel; and (6) the  
20 legal representatives, successors, and assigns of any such excluded persons.

21 55. **Numerosity:** On information and belief, the proposed Class and Subclasses  
22 include hundreds of thousands, if not millions, of people. Members of the Class and Subclasses  
23 can be identified through Defendants' records.

24 56. **Commonality and Predominance:** There are many questions of law and fact  
25 common to Plaintiffs' and each Class and Subclass members' claims, and those questions  
26 predominate over any questions that may affect individual class members. Common questions  
27 include but are not limited to the following:  
28



- 1 a. Whether the MTB Defendants unlawfully provided access to or copies of the
- 2 information contained in Plaintiffs' and the proposed Class Members' financial
- 3 records to a government authority;
- 4 b. Whether the Federal Government Defendants unlawfully had access to, or
- 5 obtained copies of, the information contained in Plaintiffs' and the proposed
- 6 Class Members' financial records;
- 7 c. Whether Plaintiffs and the proposed Class and Subclass Members are entitled
- 8 to injunctive relief, statutory damages, actual damages, punitive damages, and
- 9 reasonable costs and attorney's fees from Defendants under the Right to
- 10 Financial Privacy Act; and,
- 11 d. Whether Plaintiffs and the proposed California Subclass Members are entitled
- 12 to restitution and injunctive relief under California's Unfair Competition Law.

13 57. **Typicality:** Plaintiffs' claims are typical of the claims of other members of the  
14 Class and Subclasses in that Plaintiffs and the members of the Class and Subclasses were  
15 harmed, and face ongoing harm, arising out of Defendants' wrongful conduct.

16 58. **Adequate Representation:** Plaintiffs will fairly and adequately represent and  
17 protect the interests of the Class and Subclasses, and have retained counsel competent and  
18 experienced in complex litigation and class actions. Plaintiffs' claims are representative of the  
19 claims of the other members of the Class and Subclasses, as Plaintiffs and each member of the  
20 Class and Subclasses suffered privacy violations because of Defendants' unlawful conduct.  
21 Plaintiffs also have no interests antagonistic to those of the Class or Subclasses, and Defendants  
22 have no defenses unique to Plaintiffs. Plaintiffs and their counsel are committed to vigorously  
23 prosecuting this action on behalf of the Class and Subclasses, and have the financial resources  
24 to do so. Neither Plaintiffs nor their counsel have any interest adverse to the Class or  
25 Subclasses.

26 59. **Policies Generally Applicable to the Class:** This class action is appropriate for  
27 certification because Defendants have acted on grounds generally applicable to the Class as a  
28 whole, thereby requiring the Court's imposition of uniform relief to ensure compatible



1           64.     Plaintiffs and the Class and Western Union, Continental, Viamericas, and DolEx  
2 Subclass Members are customers under 12 U.S.C. § 3401(5) because they utilize the services of  
3 the MTB Defendants and other money transfer companies.

4           65.     The MTB Defendants are financial institutions under 12 U.S.C. § 3401(1) because  
5 they are consumer finance institutions located in the United States.

6           66.     The Federal Government Defendants are a government authority under 12 U.S.C.  
7 § 3401(3).

8           67.     Plaintiffs and the Class and Subclass Members transacted with the MTB  
9 Defendants when using their money transfer services.

10          68.     When Plaintiffs and the Class and Western Union, Continental, Viamericas, and  
11 DolEx Subclass Members send money transfers through the MTB Defendants, they provide  
12 detailed personally identifiable information about themselves and the recipient of the money  
13 transfer.

14          69.     The transaction information that the MTB Defendants store are financial records  
15 under 12 U.S.C. § 3401(2) because it is information pertaining to a customer's relationship with  
16 the financial institution.

17          70.     The MTB Defendants acted willfully and intentionally each time they provided  
18 financial records to federal government agencies through TRAC because that information was  
19 shared with government authorities, including the Federal Government Defendants. 12 U.S.C. §  
20 3417(a)(3).

21          71.     The Federal Government Defendants violated the RFPA by gaining access to or  
22 obtaining copies of the financial information in the TRAC database. 12 U.S.C. § 3402.

23          72.     The Federal Government Defendants acted willfully and intentionally in having  
24 access to and obtaining copies of the information in Plaintiffs' and the Class and Western  
25 Union, Continental, Viamericas, and DolEx Subclass members' financial records through  
26 TRAC. 12 U.S.C. § 3417(a)(3).

27          73.     At no point did the Federal Government Defendants, or any government authority  
28 participating in TRAC, provide Plaintiffs or the Class or Western Union, Continental,

1 Viamericas, and DoIEx Subclass Members with notice and information about how to object to  
2 the disclosure of their financial records as required under the RFPA. 12 U.S.C. §§ 3405(2),  
3 3407(2).

4 74. Plaintiffs and the Class and Western Union, Continental, Viamericas, and DoIEx  
5 Subclass Members are entitled to statutory damages, punitive damages, and reasonable  
6 attorney's fees and costs for Defendants' violations of the RFPA. 12 U.S.C. § 3417(a).

7 75. Plaintiffs and the Class and Western Union, Continental, Viamericas, and DoIEx  
8 Subclass Members are also entitled to injunctive relief, including but not limited to barring the  
9 Federal Government Defendants from accessing financial records in violation of the RFPA,  
10 requiring the federal government to destroy all copies of such information obtained in violation  
11 of the RFPA, and prohibiting the MTB Defendants from providing access to or copies of  
12 information in the financial records to the federal government without complying with the  
13 RFPA. 12 U.S.C. § 3418.

## 14 COUNT II

### 15 **California Unfair Competition Law** 16 **Cal. Bus. & Prof. Code §§ 17200, *et seq.*** **(Plaintiffs, on behalf of themselves and the California Subclass, against the MTB** **Defendants)**

17 76. Plaintiffs incorporate by reference all previous paragraphs of this Complaint.

18 77. The MTB Defendants engage in unlawful business practices by violating the  
19 California Financial Information Privacy Act, Cal. Fin. Code §§ 4050, *et seq.* ("Cal. FIPA").

20 78. The Cal. FIPA prohibits financial institutions from sharing nonpublic personal  
21 information with any nonaffiliated third party, without the explicit prior consent of the consumer.  
22 Cal. Fin. Code § 4052.5.

23 79. The purpose of Cal. FIPA is to ensure that consumers have a meaningful choice  
24 about whether their private financial information is shared with third parties. Cal. Fin. Code  
25 § 4051. When consumers are not given notice and the ability to decline to have their information  
26 shared as required by Cal. FIPA, consumers' privacy rights are violated.

27 80. The MTB Defendants are financial institutions because they engage in money  
28 transfers. Cal. Fin. Code § 4052.



1 c) Declaring that the MTB Defendants' conduct, as set out above, is unlawful under  
2 the UCL, Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

3 d) Enjoining the MTB Defendants from continuing to provide access to or copies of  
4 Plaintiffs' or the Class and Subclass members' consumer financial information to a federal  
5 government agency through TRAC or otherwise without complying with RFPFA;

6 e) Enjoining the Federal Government Defendants from continuing to have access to  
7 or obtain copies of Plaintiffs' and the Class Members' consumer financial information through  
8 TRAC or otherwise without complying with RFPFA, and requiring them to destroy any copies of  
9 such information currently in their possession;

10 f) Awarding the Class and the Western Union, Continental, Viamericas, and DoEx  
11 Subclasses statutory damages for each violation of the RFPFA;

12 g) Awarding the Class and the Western Union, Continental, Viamericas, and DoEx  
13 Subclasses punitive damages for violations of the RFPFA;

14 h) Awarding the California Subclass monetary restitution for violations of the UCL  
15 and Cal. FIPA, not to exceed the amount paid by California Subclass Members to the MTB  
16 Defendants in transaction or service fees;

17 i) Awarding reasonable attorney's fees and expenses;

18 j) Awarding pre- and post-judgment interest, to the extent allowable;

19 k) Requiring injunctive and/or declaratory relief as necessary to protect the interests  
20 of Plaintiffs and the Class and Subclasses; and

21 l) Awarding such other and further relief as equity and justice require, including but  
22 not limited to all forms of relief provided for under the UCL.

23 **JURY DEMAND**

24 Plaintiffs request a trial by jury of all claims that can be so tried.  
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Respectfully Submitted,

**NELSON SEQUIERA, ORSAY ALEGRIA,  
ISMAEL CORDERO, and RAUL LOPEZ,**  
individually and on behalf of all others similarly  
situated,

Dated: December 12, 2022

By: /s/ Yaman Salahi

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