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

17 NELSON SEQUEIRA, ORSAY ALEGRIA,
18 and ISMAEL CORDERO, 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; WESTERN
24 UNION FINANCIAL SERVICES, INC., a
Colorado corporation; CONTINENTAL
25 EXCHANGE SOLUTIONS, INC., a Kansas
26 corporation, d/b/a RIA FINANCIAL
SERVICES and AFEX MONEY EXPRESS;
VIAMERICAS CORPORATION, a Delaware
Corporation; and DOLEX DOLLAR
EXPRESS, INC., a Texas corporation,

27 *Defendants.*

Case No. 4:22-cv-07996-HSG
Hon. Haywood S. Gilliam, Jr.

**FIRST AMENDED CLASS ACTION
COMPLAINT**

JURY DEMAND

1 6. Defendant Western Union Financial Services, Inc. (“Western Union”) is a
2 multinational financial services company incorporated in the State of Colorado. Its headquarters
3 are in Denver, Colorado. It regularly transacts business throughout California, including in this
4 district, with over 20 locations in San Francisco alone. The consumer financial services it
5 provides include money transfer and lending services. Western Union discloses that it is
6 “working to provide consumers and our business clients with access to an expanding portfolio of
7 payment and other financial services.”

8 7. 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 as well as
14 “bill payment, mobile top-ups, prepaid debit cards, check cashing, and money orders.”
15 Continental is a subsidiary of Euronet Worldwide, Inc. (“Euronet”), a multinational corporation
16 incorporated in Delaware with its headquarters in Kansas. According to Euronet’s public filings,
17 “[w]e provide global money transfer services primarily under the brand names Ria, IME, AFEX,
18 and xe.” Euronet acquired Ria in 2007, establishing its money transfer business segment, which
19 now generates approximately 47% of Euronet’s consolidated revenues.

20 8. Defendant Viamerica Corporation (“Viamerica”) is a Delaware corporation with
21 its headquarters in Bethesda, Maryland, and which regularly does business under fictitious
22 names, including but not limited to Vianex, a trade name used for Viamerica and its affiliates
23 and subsidiaries. It regularly transacts business throughout California, including in this district,
24 with numerous locations in the Bay Area. The consumer financial services it provides include
25 money transfer, bill payment, check processing, and top-up services, including cash payout and
26 direct deposits to bank accounts. Viamerica states that it “help[s] families achieve their
27 financial goals by providing international payment services at a great value so customers keep
28 more of their earnings for themselves.” Its website advertises that “Viamerica financial services

1 are all available through [its] point of sale system called ViaOne,” which can be used to “easily
2 implement remittance, bill pay, mobile top up, PINless long distance, and Amazon Cash,” as
3 well as “ViaCheck services.” Viamericas states that its ViaOne product “gives you access to all
4 of the Viamericas tools you need to provide your customers with financial services.”

5 9. Defendant DolEx Dollar Express, Inc. (“DolEx”) is a Texas corporation with its
6 headquarters in Arlington, Texas. It regularly transacts business throughout California, including
7 in this district, with dozens of locations in the Bay Area alone. The consumer financial services
8 it provides include money transfer, personal lending, check cashing, money order, bill pay, and
9 other services. It advertises its “quick and easy personal loans,” the ability to pay “all your
10 utility bills, cable, mortgage, phone service, internet, credit cards, auto loans, personal loans, and
11 much more,” as well as check cashing as “a simple and convenient way to get your check paid
12 quickly and your money in hand.”

13 II. JURISDICTION AND VENUE

14 10. This Court has subject matter jurisdiction over Plaintiffs’ claims arising under the
15 laws of the United States pursuant to 28 U.S.C. § 1331, and, as to all other claims, 28 U.S.C.
16 § 1367. The Court also has subject matter jurisdiction pursuant to 28 U.S.C. § 1332(d)(2)
17 because the amount in controversy exceeds \$5 million, there are over 100 members in the
18 proposed Class, and at least one member of the proposed Class is a citizen of a state or country
19 different from at least one Defendant.

20 11. This Court has personal jurisdiction over Defendants because Defendants
21 regularly transact business in this District and have committed wrongful acts here.

22 12. Venue is proper in this District under 28 U.S.C. §§ 1391(b) and 1391(e)(1)(B)
23 because a substantial part of the events or omissions giving rise to Plaintiffs’ claims occurred in
24 and emanated from this District. In addition, with respect to the Federal Government
25 Defendants, venue is proper in this District under 28 U.S.C. § 1391(e)(1)(C) because Plaintiffs
26 reside within this District and no real property is involved in the action.

III. INTRODUCTION

1
2 13. The Federal Government and Money Transfer Business Defendants have violated
3 the financial privacy rights of hundreds of thousands of people, secretly collecting and sharing
4 intimate details of millions of financial transactions for nearly a decade. This mass surveillance
5 program was coordinated by the Transaction Record Analysis Center (“TRAC”), a collaboration
6 of law enforcement agencies, including several federal government agencies like Defendant ICE.
7 Until press reports exposed the program earlier this year, consumers had no idea that money
8 transfer companies were indiscriminately sharing their private financial information with the
9 federal government. Worse, public records obtained by Plaintiffs’ counsel suggest that the
10 program’s primary purpose is to target immigrants and communities of color.

11 14. This type of surreptitious surveillance of financial records is precisely what
12 Congress sought to protect against when it passed the Right to Financial Privacy Act (“RFPA”)
13 in 1978, 12 U.S.C. §§ 3401, *et seq.* The RFPA prohibits consumer finance institutions like the
14 MTB Defendants from disclosing consumers’ financial information to the federal government
15 without a valid court order or subpoena, and, even then, consumers must be notified and
16 provided an opportunity to object before the information in question may be disclosed. The Act
17 also prohibits the federal government from having access to such information unless these
18 statutory protections are honored.

19 15. Yet Defendants ignored these requirements when they devised a program to
20 regularly collect, scrutinize, and share millions of financial records from unknowing consumers
21 in the Southwest border states. According to TRAC Board Meeting Minutes obtained by
22 Plaintiffs’ counsel, by 2021, the TRAC database contained over 145 million financial records
23 from unsuspecting consumers. Beginning at least as early as 2014, TRAC began collecting and
24 disseminating records from the MTB Defendants and other money transfer companies about
25 money transfers over \$300 sent to or from the Southwest border region. And since as early as at
26 least 2015, TRAC, with the participation of federal government agencies, has been gathering and
27 accessing consumer financial records from the MTB Defendants and other money transfer
28 companies about money transfers greater than \$500 sent to or from Arizona, California, New

1 Mexico, Texas, or Mexico (hereinafter, “Watchlist States”). These financial records were
2 obtained under the ostensible authority of various TRAC participants, including Arizona and
3 New Mexico law enforcement officials and the federal government. All requests were intended
4 to result in the production of responsive data to TRAC, so that TRAC could make it accessible to
5 all participants, including the federal government. The scheme helped facilitate the creation of a
6 mass database that federal government agencies and other TRAC participants would be able to
7 access without limitation, sidestepping the protections of the RFPA.

8 16. Federal involvement in TRAC, including access to the private financial
9 information gathered by TRAC, has a long history. Although TRAC was not formally
10 incorporated as a stand-alone entity until 2014, its genesis appears to go back decades to 1996.
11 Numerous federal agencies have had access to financial data gathered by TRAC, enabling them
12 to comb through millions of financial records with no warrant or judicial oversight, and without
13 compliance with RFPA’s requirements. TRAC also receives federal funding.

14 17. TRAC gathers, stores, and shares private financial records in its database even
15 when there is no link to any particularized suspicion of criminal activity. Instead, money transfer
16 companies like the MTB Defendants disclose, and the government and Federal Government
17 Defendants have access to, information about *any* transfer by any consumer of \$500 or more in
18 the Watchlist States, at the very least.

19 18. Plaintiffs bring this action to remedy these unlawful surveillance activities.

20 **IV. GENERAL ALLEGATIONS**

21 **A. The Federal RFPA Protects Consumers From Unwarranted Federal** 22 **Government Intrusion**

23 19. In 1978, Congress passed the RFPA to protect the confidentiality of financial
24 records. 12 U.S.C. §§ 3401, *et seq.* The RFPA was passed in response to the Supreme Court’s
25 ruling in *United States v. Miller*, 425 U.S. 435 (1976), in which the court held that, under the
26 Fourth Amendment, individuals do not have a reasonable expectation of privacy in information
27 that they disclose to a third-party like a bank. Congress, however, recognized that unchecked
28

1 government access to financial information is dangerous, and that individuals have a right of
2 privacy in their financial affairs.

3 20. The RFPA established specific procedures that federal government authorities
4 must follow to obtain an individual's financial records from consumer financial institutions. The
5 RFPA also guarantees consumers notice and an opportunity to challenge an attempt by the
6 government to access their financial records. For example, when obtaining a consumer's
7 financial records by way of an administrative summons or judicial subpoena, the government
8 must provide a copy of the subpoena or summons to the consumer's last known address. 12
9 U.S.C. §§ 3405(2), 3407(2). The government must also inform the consumer of the purpose for
10 which the records are being sought and inform the consumer of the procedures for challenging
11 the disclosure of their financial records.

12 21. By requiring that consumers be notified and given the opportunity to respond to
13 most federal government requests for financial records, the RFPA seeks to prevent unchecked
14 government surveillance of consumers' financial records.

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

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

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

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

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

14 26. At no point did the MTB Defendants inform consumers in the Watchlist States or
15 elsewhere that their private financial records would be routinely divulged to Defendant ICE or
16 other federal agencies.

17 **C. The TRAC Program Has Collected Hundreds of Millions of Consumer**
18 **Financial Records**

19 27. TRAC, in its current iteration, has existed since 2014. However, attempts to
20 monitor the activities of people who use money transfer services *en masse* began well before that
21 time. A 1996 bulletin issued by the Arizona Attorney General's Office, for example, states that
22 TRAC was housed within that office's Financial Remedies Unit. The bulletin explains that
23 TRAC, at that time, had responsibilities to "input, computerize, and analyze the [financial data]
24 in response to requests from local, state, and federal law enforcement," and that "TRAC is the
25 nucleus of a state/federal Suspicious Transaction Report Project, which coordinates money
26 laundering investigation and prosecutions among [various Arizona agencies], the U.S. Customs
27 Service, and the Drug Enforcement Administration." In 2006, the Arizona Attorney General
28 attempted to obtain bulk records from Western Union, serving Western Union with a warrant for

1 data regarding every person-to-person money transfer transaction over \$500 in a three-year
2 period sent from multiple states to Sonora, Mexico. The ensuing legal battle ended with the
3 Arizona Supreme Court holding that the warrant for out-of-state Western Union transaction
4 records was unconstitutional.

5 28. Having previously failed to obtain bulk records through litigation, in February
6 2010, the Arizona Attorney General and Western Union reached an agreement whereby Western
7 Union would turn over bulk transaction data, particularly targeting the southwest border and
8 immigrant populations. From the start, it was evident that the Arizona Attorney General
9 intended to share the data produced by Western Union with other state and federal law
10 enforcement officials, as reflected in the agreement.

11 29. In January 2014, the Arizona Financial Crimes Task Force (“AZFCTF”)—which
12 is composed of the Arizona Attorney General’s Office, the Phoenix Police Department, the
13 Arizona Department of Public Safety, and participation by DHS—expanded the existing
14 agreement with Western Union and founded the Transaction Record Analysis Center.

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

22 31. TRAC is staffed by analysts and law enforcement professionals and designed to
23 facilitate law enforcement access to bulk data. It functions as a data analysis center with a web-
24 accessible, searchable, centralized database of money transfer transactions concentrated in
25 southwest border-states and Mexico. The data stored in TRAC include, at the very least,
26 financial records of consumers from Arizona, California, New Mexico, and Texas, as well as
27 Mexico.
28

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

33. 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.

Transmitter	Refreshed	Last Record	Records
BTS	Monthly	12/31/2015	462,828
CES	Monthly	01/23/2016	5,106,263
DOLEX	Monthly	12/31/2015	702,231
ENRAMEX	Monthly	01/31/2016	87,184
MG	Monthly	01/28/2016	9,176,441
SIGUE	Weekly	02/14/2016	2,162,456
TN	Monthly	12/31/2015	459,770
UT	Monthly	12/06/2015	637,106
WU	Daily	02/11/2016	20,311,968

Dan Kelly TRAC Analytical Supervisor

34. 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.

35. 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

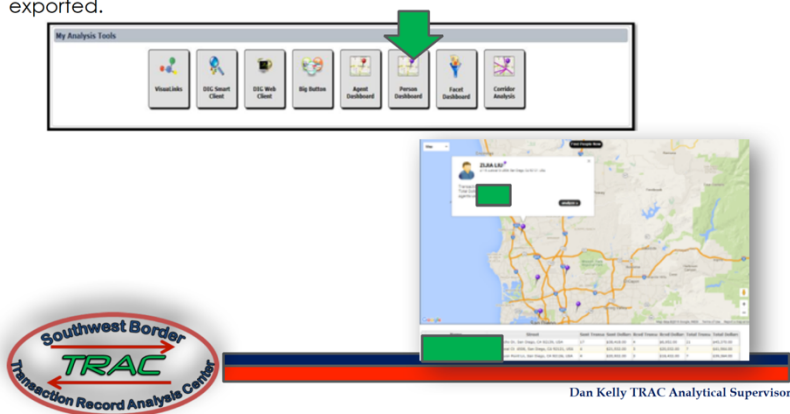
1 TRAC for one year, with the hope of finding permanent funding going forward. Additionally,
2 the HSI Special Agent in charge of Phoenix began issuing a series of requests to Western Union
3 every six months directing the company to continue transmitting records of money transfers to
4 TRAC, so that all participants, including the federal agency participants, could continue to have
5 access to the bulk financial records. Indeed, requests sent by HSI to Western Union and Maxi
6 Transfers swept in over six million additional records over the next three years. HSI did not
7 comply with the RFPA's requirements before issuing the requests to Western Union or accessing
8 the underlying data, such as providing notice to the affected consumers, issuing a valid
9 administrative subpoena, or obtaining a court order. Nor did Western Union comply with the
10 RFPA's requirements before divulging information to the federal agencies involved in TRAC in
11 response to HSI's requests.

12 36. The information in TRAC's database is extensive and intrusive. At the very least,
13 it contains information on all transactions in amounts over \$500 to or from Arizona, California,
14 New Mexico, Texas, and Mexico since as early as 2010. The data collected about each
15 transaction may include: sender's name, sender's address, sender's phone number, sender's date
16 of birth, sender's occupation, sender's social security number, payee's name, payee's address,
17 payee's phone number, payee's date of birth, payee's occupation, payee's social security
18 number, sender's and payee's identification numbers and types (passport or other ID numbers),
19 date and times of transactions, operators' names, sending agent's address, paying agent's
20 address, and the sending and paying countries, currencies, and dollar amounts.

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

PERSON DASHBOARD

Person Dashboard searches a geographic area based on your criteria for persons who are sending/receiving the highest volume/dollar amounts. The pin locations on the map can be selected for deeper analysis of the transactions. The results are also displayed below the map in spreadsheet form that can be exported.



16 38. Further, anxiety about immigration is a focus of the TRAC database. One slide in
17 a 2017 AZFCTF PowerPoint presentation, for example, focuses on “Middle Eastern Human
18 Smuggling (SI Aliens) along the Arizona Border.” The subsequent slides emphasize that certain
19 transactions captured by TRAC were deemed suspicious because they involved money sent by
20 people with “Middle Eastern names” or “Middle Eastern/Arabic names.” That raises another
21 danger of mass surveillance tools: they may be weaponized against vulnerable groups based on
22 improper criteria, such as race, religion, or national origin. The RFPA’s protections provide a
23 potential safeguard against such activities, but the MTB Defendants and Federal Government
24 Defendants ignored them.

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

27 39. Although the Arizona Attorney General created TRAC, dozens of federal
28 agencies participate in TRAC and have full access to transaction data tracking millions of

1 consumers' financial activities.

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

5 41. According to TRAC board meeting minutes, an alphabet soup of federal agencies
6 has actively participated in TRAC and has access to the financial data contained therein, in
7 flagrant violation of the RFPA. The federal agencies with access to TRAC data include ICE,
8 U.S. Customs & Border Protection, U.S. Citizenship and Immigration Services, the Bureau of
9 Alcohol, Tobacco, Firearms and Explosives, the Bureau of Indian Affairs Office of Justice
10 Services Law Enforcement Division, the Drug Enforcement Administration, the Internal
11 Revenue Service, the U.S. Department of State, the U.S. Fish and Wildlife Service, the U.S.
12 Postal Inspection Service, the U.S. Marshals Service, the U.S. Secret Service, and the U.S.
13 Department of Agriculture—and this list is not exhaustive. As discussed above, HSI and its
14 parent agency Defendant ICE not only accessed TRAC, but actively participated in obtaining
15 records for the TRAC database.

16 42. HSI's bulk data collection was continuous and extensive until 2022 when Senator
17 Ron Wyden raised concerns about the program, ultimately resulting in a suspension of HSI's role
18 in requesting the data in question from Western Union and Maxi. However, upon information
19 and belief, HSI continues to be a member of TRAC with access to consumer financial records,
20 and the MTB Defendants and other money transfer businesses have continued to provide the
21 Federal Government Defendants with access to consumer financial records through TRAC
22 without following the RFPA's requirements.

23 43. TRAC, with information provided by the MTB Defendants and other money
24 transfer businesses, allows federal government agencies to conduct warrantless searches on the
25 millions of financial records stored in its database. Customers making money transfers in the
26 Watchlist States have no way of knowing their information will be taken and provided to the
27 federal government without notice or due process. The over 145 million financial records stored
28 in TRAC's databases and made available to the federal government break the promise of

1 financial privacy laid out in the RFPA.

2 44. The MTB Defendants were well aware that, by disclosing financial records to
3 TRAC, they were also disclosing them to the federal government agencies participating in
4 TRAC—even when data requests did not come directly from a federal government agency.

5 45. According to a January 18, 2023 letter from Senator Ron Wyden to the United
6 States Department of Justice Inspector General, “[b]etween October and December of 2022, my
7 office received information from three other money transfer companies—Euronet (RIA Envia),
8 MoneyGram, and Viamericas—which confirmed that they also delivered customer data in bulk
9 to TRAC, in response to legal demands from HSI and other government entities.” In the letter,
10 Senator Wyden stated that “[o]utside counsel for Viamericas informed my office that in addition
11 to the requests from HSI San Juan, the company also received legal demands from the Arizona
12 AG, the DEA, and the FBI,” and “did not identify the transactions requested by each agency, but
13 did reveal that it had received a demand for data about transactions originating in North Carolina
14 and going to any other country.”

15 46. Viamericas, like other money transfer companies, has a long tradition of
16 providing bulk data to TRAC. On February 17, 2017, Viamericas’ Legal Counsel & Compliance
17 Officer, Joe Massie, e-mailed Dan Kelly, the TRAC Analytical Supervisor for the Arizona
18 Financial Crimes Task Force, stating: “You and I exchanged emails last summer regarding
19 TRAC. . . . I have attached sample SAR data and hope that you will once again consider
20 allowing Viamericas to start exchanging information with TRAC.” Mr. Kelly then coordinated
21 the issuance of a data request on TRAC’s behalf through the Arizona Attorney General’s office.
22 As the correspondence demonstrates, Viamericas knew that it was producing data to the multi-
23 agency task force TRAC, which included federal government agencies. Indeed, according to a
24 January 18, 2023 Wall Street Journal article, “Viamericas said data disclosures were ongoing” in
25 response to customs summonses issued by Defendant ICE. According to the same article, the
26 HSI custom summonses requested that the data at issue be delivered to TRAC.

27 47. DoIEx has similarly been providing bulk money transfer information to TRAC for
28 years, since at least 2014. As with Viamericas, although the formal data requests came from the

1 Arizona Attorney General's office, DoEx was well aware that the information was being
2 produced to TRAC, including the federal agencies who participate in TRAC. For example, in a
3 January 4, 2018 e-mail concerning one data request, Marco Naranjo, DoEx's Chief Compliance
4 Officer, stated the company would continue sending the money transfer data to the "TRAC
5 team."

6 48. Like Viamerica and DoEx, Western Union and Euronet's subsidiary Continental
7 (including Ria and AFEX) have also been providing mass transaction data to TRAC for years,
8 knowing that TRAC's membership included multiple federal government agencies who would
9 obtain the financial records produced to TRAC. They produced that data in response to requests
10 from federal agencies, as well as state law enforcement agencies acting on behalf of TRAC and
11 its membership. By disclosing the financial records to TRAC, the MTB Defendants were also
12 disclosing it, and knew they were disclosing it, to the federal government agencies who
13 participate in TRAC.

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

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

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

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

1 subpoena, or court order, and would remain in a mass database accessible by hundreds of
 2 government agencies indefinitely. Mr. Alegria feels distress and that his privacy has been
 3 violated because of the companies' sharing of his personal information with law enforcement.

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

13 14 V. CLASS ALLEGATIONS

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

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

21 **Western Union Subclass (Plaintiffs Sequeira and Cordero):** All persons who
 22 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.

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

26 **Viamericas Subclass (Plaintiff Alegria):** All persons who sent or received a
 27 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.

28 **DolEx Subclass (Plaintiff Alegria):** All persons who sent or received a money
 transfer via DolEx or any of its subsidiaries, and whose transaction data a federal

1 government agency had access to or obtained copies of through TRAC since
2 2010.

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

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

14 57. **Numerosity:** On information and belief, the proposed Class and Subclasses
15 include hundreds of thousands, if not millions, of people. Members of the Class and Subclasses
16 can be identified through Defendants' records.

17 58. **Commonality and Predominance:** There are many questions of law and fact
18 common to Plaintiffs' and each Class and Subclass members' claims, and those questions
19 predominate over any questions that may affect individual class members. Common questions
20 include but are not limited to the following:

- 21 a. Whether the MTB Defendants unlawfully provided access to or copies of the
22 information contained in Plaintiffs' and the proposed Class Members' financial
23 records to a government authority;
- 24 b. Whether the Federal Government Defendants unlawfully had access to, or
25 obtained copies of, the information contained in Plaintiffs' and the proposed
26 Class Members' financial records;
- 27 c. Whether Plaintiffs and the proposed Class and Subclass Members are entitled
28 to injunctive relief, statutory damages, actual damages, punitive damages, and
reasonable costs and attorney's fees from Defendants under the Right to
Financial Privacy Act; and,

1 d. Whether Plaintiffs and the proposed California Subclass Members are entitled
2 to restitution and injunctive relief under California's Unfair Competition Law.

3 59. **Typicality:** Plaintiffs' claims are typical of the claims of other members of the
4 Class and Subclasses in that Plaintiffs and the members of the Class and Subclasses were
5 harmed, and face ongoing harm, arising out of Defendants' wrongful conduct.

6 60. **Adequate Representation:** Plaintiffs will fairly and adequately represent and
7 protect the interests of the Class and Subclasses, and have retained counsel competent and
8 experienced in complex litigation and class actions. Plaintiffs' claims are representative of the
9 claims of the other members of the Class and Subclasses, as Plaintiffs and each member of the
10 Class and Subclasses suffered privacy violations because of Defendants' unlawful conduct.
11 Plaintiffs also have no interests antagonistic to those of the Class or Subclasses, and Defendants
12 have no defenses unique to Plaintiffs. Plaintiffs and their counsel are committed to vigorously
13 prosecuting this action on behalf of the Class and Subclasses, and have the financial resources
14 to do so. Neither Plaintiffs nor their counsel have any interest adverse to the Class or
15 Subclasses.

16 61. **Policies Generally Applicable to the Class:** This class action is appropriate for
17 certification because Defendants have acted on grounds generally applicable to the Class as a
18 whole, thereby requiring the Court's imposition of uniform relief to ensure compatible
19 standards of conduct toward the members of the Class and making final injunctive relief
20 appropriate with respect to the Class as a whole. The policies that Plaintiffs challenge apply to
21 and affect members of the Class uniformly, and Plaintiffs' challenge of these policies hinges on
22 Defendants' conduct with respect to the Class as a whole, not on facts or law applicable only to
23 Plaintiffs. The factual and legal bases of Defendants' liability to Plaintiffs and to the other
24 members of the Class are the same.

25 62. **Superiority:** This case is also appropriate for certification because class
26 proceedings are superior to all other available methods for the fair and efficient adjudication of
27 this controversy. The harm suffered by the individual members of the Class is likely to have
28 been relatively small compared to the burden and expense of prosecuting individual actions to

1 redress Defendants' wrongful conduct. Absent a class action, it would be difficult for the
2 individual members of the Class to obtain effective relief from Defendants. Even if members of
3 the Class themselves could sustain such individual litigation, it would not be preferable to a
4 class action because individual litigation would increase the delay and expense to all parties and
5 the Court and require duplicative consideration of the legal and factual issues presented. By
6 contrast, a class action presents far fewer management difficulties and provides the benefits of
7 single adjudication, economy of scale, and comprehensive supervision by a single Court.
8 Economies of time, effort, and expense will be fostered, and uniformity of decisions will be
9 ensured.

10 63. Plaintiffs reserve the right to revise each of the foregoing allegations based on
11 facts learned through additional investigation and in discovery.

12 COUNT I

13 **RIGHT TO FINANCIAL PRIVACY ACT**

14 **12 U.S.C. §§ 3401, et seq.**

15 **(Plaintiffs, on behalf of themselves, the Federal Defendant Class, the Western Union,
16 Continental, Viamericas, and DolEx Subclasses, against All Defendants)**

16 64. Plaintiffs incorporate by reference all previous paragraphs of this Complaint.

17 65. Plaintiffs and the Class and members of the Western Union, Continental,
18 Viamericas, and DolEx Subclasses are persons under 12 U.S.C. § 3401(4).

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

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

24 68. The Federal Government Defendants are a government authority under 12 U.S.C.
25 § 3401(3).

26 69. Plaintiffs and the Class and Subclass Members transacted with the MTB
27 Defendants when using their money transfer services.
28

1 70. When Plaintiffs and the Class and Western Union, Continental, Viamericas, and
2 DolEx Subclass Members send money transfers through the MTB Defendants, they provide
3 detailed personally identifiable information about themselves and the recipient of the money
4 transfer.

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

8 72. The MTB Defendants acted willfully and intentionally each time they provided
9 financial records to federal government agencies through TRAC because that information was
10 shared with government authorities, including the Federal Government Defendants. 12 U.S.C. §
11 3417(a)(3).

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

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

18 75. At no point did the Federal Government Defendants, or any government authority
19 participating in TRAC, provide Plaintiffs or the Class or Western Union, Continental,
20 Viamericas, and DolEx Subclass Members with notice and information about how to object to
21 the disclosure of their financial records as required under the RFPA. 12 U.S.C. §§ 3405(2),
22 3407(2).

23 76. Plaintiffs and the Class and Western Union, Continental, Viamericas, and DolEx
24 Subclass Members are entitled to statutory damages, punitive damages, and reasonable
25 attorney's fees and costs for Defendants' violations of the RFPA. 12 U.S.C. § 3417(a).

26 77. Plaintiffs and the Class and Western Union, Continental, Viamericas, and DolEx
27 Subclass Members are also entitled to injunctive relief, including but not limited to barring the
28 Federal Government Defendants from accessing financial records in violation of the RFPA,

1 requiring the federal government to destroy all copies of such information obtained in violation
2 of the RFPFA, and prohibiting the MTB Defendants from providing access to or copies of
3 information in the financial records to the federal government without complying with the
4 RFPFA. 12 U.S.C. § 3418.

5 COUNT II

6 **California Unfair Competition Law** 7 **Cal. Bus. & Prof. Code §§ 17200, *et seq.*** 8 **(Plaintiffs, on behalf of themselves and the California Subclass, against the MTB** 9 **Defendants)**

8 78. Plaintiffs incorporate by reference all previous paragraphs of this Complaint.

9 79. The MTB Defendants engage in unlawful business practices by violating the
10 California Financial Information Privacy Act, Cal. Fin. Code §§ 4050, *et seq.* (“Cal. FIPA”).

11 80. The Cal. FIPA prohibits financial institutions from sharing nonpublic personal
12 information with any nonaffiliated third party, without the explicit prior consent of the consumer.
13 Cal. Fin. Code § 4052.5.

14 81. The purpose of Cal. FIPA is to ensure that consumers have a meaningful choice
15 about whether their private financial information is shared with third parties. Cal. Fin. Code
16 § 4051. When consumers are not given notice and the ability to decline to have their information
17 shared as required by Cal. FIPA, consumers’ privacy rights are violated.

18 82. The MTB Defendants are financial institutions because they engage in money
19 transfers. Cal. Fin. Code § 4052.

20 83. Plaintiffs and the California Subclass are consumers because they are individuals
21 who reside in California and obtain financial services from the MTB Defendants.

22 84. Plaintiffs and the California Subclass were harmed when the MTB Defendants
23 shared their private financial data with TRAC, the Federal Government Defendants, and other
24 law enforcement agencies participating in TRAC because their privacy rights were violated.

25 85. Had Plaintiffs and the California Subclass members known that their private
26 financial records would be shared with state and federal law enforcement agencies around the
27 country through TRAC, they would not have chosen to use and pay for the MTB Defendants’
28 services. The fact that private financial records would be shared with TRAC and dozens of state

1 and federal law enforcement agencies would have been material to a reasonable consumer's
2 choice whether to use a particular money transfer service. Plaintiffs and the California Subclass
3 members were harmed because they paid for a service they would not have paid for had they
4 known the MTB Defendants would violate their privacy rights.

5 86. Plaintiffs and the California Subclass Members have all been harmed by MTB
6 Defendants' unlawful practices. Plaintiffs and the California Subclass seek restitution of the
7 transaction and service fees they paid to the MTB Defendants in connection with any transfers
8 that were shared with TRAC, a permanent injunction to stop the MTB Defendants from
9 continuing these policies and practices, and to require the MTB Defendants to request that
10 TRAC delete all transaction data pertaining to Plaintiffs and the California Subclass members
11 that was collected in violation of the UCL and Cal. FIPA.

12 **PRAYER FOR RELIEF**

13 Plaintiffs Sequeira, Alegria, and Cordero, individually and on behalf of all others
14 similarly situated, respectfully request that this Court enter an Order:

15 a) Certifying this case as a class action on behalf of the Class and Subclasses defined
16 above, appointing Plaintiffs Sequeira, Alegria, and Cordero, as representatives of the Class and
17 the respective Subclasses, and appointing their counsel as Class Counsel;

18 b) Declaring that Defendants' conduct, as set out above, is unlawful under the
19 RFPA, 12 U.S.C. §§ 3401, *et seq.*

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

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

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

1 f) Awarding the Class and the Western Union, Continental, Viamericas, and DolEx
2 Subclasses statutory damages for each violation of the RFPA;

3 g) Awarding the Class and the Western Union, Continental, Viamericas, and DolEx
4 Subclasses punitive damages for violations of the RFPA;

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

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

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

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

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

14 **JURY DEMAND**

15 Plaintiffs request a trial by jury of all claims that can be so tried.

16
17 Respectfully Submitted,

18 **NELSON SEQUEIRA, ORSAY ALEGRIA, and**
19 **ISMAEL CORDERO**, individually and on behalf
of all others similarly situated,

20 Dated: January 24, 2023

By: /s/ Yaman Salahi

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