

1 **MICHAEL JAY BERGER (State Bar # 100291)**
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8 Attorneys for Debtor and Debtor-in-possession
9 **Vitargo Global Sciences, Inc.**

10 **UNITED STATES BANKRUPTCY COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**
12 **SANTA ANA DIVISION**

13 **In re**

14 **Vitargo Global Sciences, Inc.,**

15 **Debtor.**

16 **CASE NO.: 8:17-bk-10988-TA**

17 **Chapter 11**

18 **NOTICE OF MOTION AND MOTION**
19 **FOR ORDER AUTHORIZING POST-**
20 **PETITION FINANCING UNDER 11**
21 **U.S.C. § 364; DECLARATION OF**
22 **ANTHONY ALMADA IN SUPPORT**
23 **THEREOF**

24 **Date: TBD**

25 **Time: TBD**

26 **Place: Courtroom 5B**
27 **411 West Fourth Street,**
28 **Santa Ana, CA 92701**

29 **TO THE HONORABLE THEODOR C. ALBERT, UNITED STATES BANKRUPTCY**
30 **JUDGE, OFFICE OF THE UNITED STATES TRUSTEE, SECURED CREDITORS,**
31 **TWENTY LARGESTED UNSECURED CREDITORS AND ALL PARTIES IN**
32 **INTEREST:**

33 **PLEASE TAKE NOTICE** that Vitargo Global Sciences, Inc., Debtor and Debtor-
34 in-possession (the "**Debtor**"), in the above captioned case, on an emergency basis,
35 hereby moves for the entry of an order under 11 U.S.C. § 364(c) authorizing the Debtor,

1 after notice and hearing, to enter into the premium finance agreement attached herein
2 as Exhibit "1" (the "Agreement"), and grant PREMIUM ASSIGNMENT CORPORATION
3 ("PAC"), or its successor or assignee, a first priority lien on and security interests in
4 unearned premiums as described in the Agreement (the "Motion"). This Motion is
5 based on the attached memorandum of points and authorities, the declaration of
6 Anthony Almada attached hereto, the pleadings and records on file in this Chapter 11
7 bankruptcy case, and such other evidence as may be presented at the hearing.
8

9 **PLEASE TAKE FURTHER NOTICE** that pursuant to Local Bankruptcy Rule
10 9075-1(b) this Motion is being made on shortened notice. The date and time of the
11 hearing on the Motion shall be set forth by the Court should the Court grant Debtor's
12 application for shortened notice.
13

14 **WHEREFORE**, the Debtor respectfully requests this Court enter an order:

- 15 1. Authorizing the Debtor to enter into the Agreement;
- 16 2. Granting PAC, or its successor, a first priority lien on and security interest
17 in unearned premiums as described in the Agreement;
- 18 3. Authorizing Debtor to pay PAC, or its successors or assignees, all sums
19 due under the Agreement;
- 20 4. Granting such other and further relief as the Court deems just and proper.
21

22
23 Dated: May 16, 2017

LAW OFFICES OF MICHAEL JAY BERGER

24
25
26 By: 

MICHAEL JAY BERGER
Attorney for Debtor,
Vitargo Global Sciences, Inc.

MEMORANDUM OF POINTS AND AUTHORITIES

I. SUMMARY OF MOTION

The Debtor hereby moves this Court for the entry of an order under 11 U.S.C. § 364(c) authorizing the Debtor to (1) enter into the premium finance agreement attached herein as Exhibit “1” (the “Agreement”); (2) grant PREMIUM ASSIGNMENT CORPORATION (“PAC”), or its successors or assignees, a first priority lien on and security interests in unearned premiums as described in the Agreement; and (3) pay PAC, or its successors or assignees, all sums due under the Agreement (the “Motion”).

II. FACTUAL BACKGROUND

On March 15, 2016 (the “Petition Date”), Debtor commenced this bankruptcy case by filing a voluntary petition under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. § 101 *et seq.*. Debtor is managing its financial affairs as a debtor-in-possession pursuant to 11 U.S.C. §§ 1107 and 1108. This is the Debtor’s first bankruptcy filing.

A. Assets and Liabilities

The Debtor’s business is the Debtor’s primary asset. The asset is well managed and is generating positive cash flow. Moreover, the Debtor’s recent operating results and future projections indicate that this trend will continue and improve over the next year. Debtor owes approximately \$960,556.00 to secured creditors and owes approximately \$4.7 million to unsecured creditors.

B. Debtor’s Need for Financing

Debtor requires post-petition financing in order to pay its business and liability insurance premiums. Prior to filing for bankruptcy, the Debtor financed its insurance

1 premiums through PAC, and wishes to continue financing its insurance obligations
2 through PAC based on its business judgment and prior business dealings with PAC.

3 **C. Proposed Financing**

4 PAC has agreed to loan Debtor the total amount of \$34,830.40 to pay its insurance
5 premiums. Debtor has agreed to provide PAC with an initial down payment of
6 \$11,464.00. The remaining balance of \$23,366.00 shall be paid in eight equal monthly
7 payments at 6.52 percent per annum (\$2,992.62 per month). A true and correct copy of
8 the Agreement is attached herein as Exhibit "1".
9

10 In exchange for the financing, Debtor has agreed to provide PAC, or its
11 successors or assignees, a first priority lien on and security interest in any unearned
12 premiums. Without limitation, the liens, security interest and rights in any unearned
13 premiums granted under the Agreement are senior to any liens of the Debtor and are
14 senior to any claims under 11 U.S.C. §§ 503, 506(b) or 507(b).
15

16 Additionally, PAC has requested that Debtor include certain provisions in the
17 proposed order to the Motion. Attached as Exhibit "2" is a true and correct copy of a
18 proposed order to the Motion provided by PAC. Specifically, PAC requests the following
19 language in the proposed order:
20

- 21 1. The Motion is granted and any objections thereto are overruled.
- 22 2. The Debtor is authorized and directed to: (a) enter into the premium
23 finance agreement attached to the Motion as Exhibit "A" (the
24 "Agreement"), which is made a part hereof by reference; (b) grant
25 PREMIUM ASSIGNMENT CORPORATION ("PAC"), or its successor or
26 assigns a first priority lien on and security interest in unearned premiums
27 as described in the Agreement; and (c) pay PAC or its successor or
28 assigns all sums due under the Agreement.
3. Without limitation, the liens, security interests and rights in unearned
premiums granted under the Agreement are senior to the lien of any DIP
Lender in this Case and are senior to any claims under 11U.S.C. §§ 503,
506(b) or 507(b).

- 1 4. If additional premiums become due to insurance companies under the
2 policies financed under the Agreement, the Debtor and PAC or its
3 successor or assigns are authorized to modify the Agreement as
4 necessary to pay the additional premiums without the necessity of further
5 hearing or order of this Court.
- 6 5. In the event PAC or its assigns fail to receive any payment due under the
7 Agreement within fifteen (15) days of the due date, the automatic stay
8 provided by 11 U.S.C. § 362 shall thereupon be terminated without the
9 necessity of a motion, further hearing or order of this Court to permit PAC
10 or its successor or assigns to exercise its rights and remedies under the
11 Agreement, including without limitation the rights to: (a) cancel the
12 financed insurance policy(ies), and (b) collect and apply unearned
13 premiums payable under the financed policy(ies) to the balance owed
14 under the Agreement.
- 15 6. If the collection and application of unearned premiums is insufficient to pay
16 the balance owed under the Agreement, PAC or its successor or assigns
17 may within 21 days after the collection and application of such unearned
18 premiums file a proof of claim for the unsatisfied amount of any
19 indebtedness under the Agreement notwithstanding the passage of any
20 bar date for the filing of proofs of claim.
- 21 7. The rights of PAC or its successor or assigns under the Agreement are
22 fully preserved and protected and shall remain unimpaired by this
23 Bankruptcy proceeding, and shall remain in full force and effect,
24 notwithstanding the subsequent conversion of this proceeding to one
25 under Chapter 7 or any other provision of the United States Bankruptcy
26 Code.
- 27 8. In order to enable the Debtor to have immediate insurance coverage, the
28 ten day stay of this order pursuant to Bankruptcy Rule 6004(h) shall not
apply, and the relief herein granted is effective immediately upon entry.
9. The Court retains jurisdiction to construe and enforce this Order.

III. LEGAL ARGUMENT

Bankruptcy Code Section 364(c)(3) provides:

If the Trustee is unable to obtain unsecured credit allowable under section 503(b)(1) of this title as an administrative expense, the court, after notice and a hearing, may authorize the obtaining of credit or the incurring of debt - ... (3) secured by a junior lien on property of the estate that is subject to a lien.

1 After a showing that unsecured financing is unavailable, courts generally look to
2 ensure the terms of the post-petition financing agreement are fair and reasonable, and
3 that the agreement benefits the estate. See e.g., *In re Crouse Group, Inc.*, 71 B.R. 544
4 (Bankr. E.D. Pa 1987). The Ninth Circuit has interpreted this to mean that the terms are
5 fair, reasonable and adequate, after having been negotiated at arm's length and in good
6 faith pursuant to sound business judgment; also, that the financing is in the interest of
7 the estate, with "the credit transaction is necessary to preserve the assets of the estate,
8 and is necessary, essential, and appropriate for the continued operation of the Debtor's
9 business." *In re Sterling Mining Co.*, 2009 BL 171156 (Bankr. D. Idaho 2009).

11 Courts are often deferential to the exercise of debtor's business judgment as
12 well. See *In re Ames Department Stores*, 115 B.R. 34, 40 (S.D.N.Y. 1990) ("cases
13 consistently reflect that the court's discretion under section 364 is to be utilized on
14 grounds that permit reasonable business judgment to be exercised so long as the
15 financing agreement does not contain terms that leverage the bankruptcy process and
16 powers or its purpose is not so much to benefit the estate as it is to benefit a party-in-
17 interest"). Courts will evaluate the facts and circumstances of a debtor's case and will
18 accord significant weight to the necessity for obtaining financing so long as it does not
19 run afoul of the provisions and policies underlying the Bankruptcy Code. See, e.g. *Bray*
20 *v. Shenadoah Fed. Sav. & Loan Ass'n. (In re Snow Shoe Co.)*, 789 F.2d 1085, 1088
21 (4th Cir. 1986) (approving debtor-in-possession financing necessary to sustain seasonal
22 business); *Ames*, 115 B.R. at 40.

26 **A. Debtor's Need for Post-Petition Secured Financing**

27 A common test for evaluating requests under Bankruptcy Code 364(c) is: (1) the
28 debtor cannot obtain unsecured administrative credit; (2) the credit is necessary to

1 preserve the assets of the estate; and (3) the terms of the credit are fair and
2 reasonable. *In re Crouse Group, Inc.* 71 B.R. 544 Bankr. E.D. Pa. 1987).

3 1. *Debtor Unable to Obtain Unsecured Financing*

4 In the case at hand, Debtor has attempted to obtain unsecured financing to cover
5 the costs of its insurance premiums. Additionally, industry practice dictates that finance
6 companies which loan funds to pay insurance premiums typically do so on a secured
7 basis.

9 Having determined that a secured debt was the only option to finance its monthly
10 insurance premiums, Debtor engaged in arms-length negotiations in good faith and
11 pursuant to Debtor's business judgment resulting in the Agreement with PAC. Hence,
12 Debtor satisfies the first requirement to obtain financing under section 364(c) because
13 Debtor cannot obtain unsecured administrative credit. Given that the Debtor is currently
14 in an active chapter 11 bankruptcy case, it is unlikely that Debtor will be approved for
15 financing on an unsecured basis.

17 2. *Financing is Necessary to Preserve the Assets of the Estate*

18 Likewise, Debtor satisfies the second requirement listed above because Debtor
19 needs the financing in order to pay its insurance premiums and maintain adequate
20 insurance coverage. The financing from PAC is necessary to preserve the assets of the
21 estate because insurance coverage will protect the Debtor's business and assets from
22 liability claims that may arise. Business insurance is an essential necessity for
23 businesses such as Debtor and is needed in order to protect the assets of estate.

24 3. *Terms of the Loan are Fair and Reasonable*

25 In regards to the third requirement, Debtor believes that the terms of the
26 Agreement are fair and reasonable, and that the post-petition financing is to the benefit of
27
28

1 the estate and all creditors. This benefit stems from the necessary nature of maintaining
2 adequate insurance coverage to protect the business. PAC is charging the Debtor
3 annual interest rate of 6.52 percent, which is both fair and reasonable when compared to
4 industry standards and current interest rates.

5 **B. Statements Regarding the Agreement**

6 Pursuant to Local Bankruptcy Rule 4001-2(b), attached as Exhibit "3" herein is a
7 true and correct copy of mandatory court-approved form F 4001-2.STMT.FINANCE,
8 which outlines certain provisions contained in the Agreement.
9

10 **IV. CONCLUSION**

11 **WHEREFORE**, the Debtor respectfully requests that the Court enter an Order

- 12
- 13 1. Authorizing the Debtor to enter into the Agreement;
 - 14 2. Granting PAC, or its successor, a first priority lien on and security interest
15 in unearned premiums as described in the Agreement;
 - 16 3. Authorizing Debtor to pay PAC, or its successors or assignees, all sums
17 due under the Agreement;
 - 18 4. Granting such other and further relief as the Court deems just and proper.
19

20
21 Dated: May 16, 2017

LAW OFFICES OF MICHAEL JAY BERGER

22
23
24 By:


MICHAEL JAY BERGER
Attorney for Debtor,
Vitargo Global Sciences, Inc.

DECLARATION OF ANTHONY ALMADA

1
2 I, Anthony Almada, declare as follows:

3 1. I am the Chief Executive Officer for Vitargo Global Sciences, Inc., the
4 debtor and debtor-in-possession herein (the "**Debtor**"). I am over the age of 18. I have
5 personal knowledge of the facts stated below, and if I were to be called as a witness, I
6 could and would competently testify about what I have written in this declaration.
7

8 2. I make this declaration in support of Debtor's Notice of Motion and Motion
9 for Order Authorizing Post-Petition Financing Under 11 U.S.C. § 364 (the "**Motion**").

10 3. This is the Debtor's first bankruptcy case.

11 4. Debtor was initially formed as Vitargo Global Sciences, LLC in June, 2013,
12 a follow-along entity of GENr8, Inc. and a predecessor business to Debtor (conversion
13 from LLC to INC in September, 2015).
14

15 5. The Debtor's business is the Debtor's primary asset. The asset is well
16 managed and is generating positive cash flow. Moreover, the Debtor's recent operating
17 results and future projections indicate that this trend will continue and improve over the
18 next year. Debtor owes approximately \$960,556.00 to secured creditors and owes
19 approximately \$4.7 million to unsecured creditors.
20

21 6. Debtor requires post-petition financing in order to pay its business and
22 liability insurance premiums. Prior to filing for bankruptcy, the Debtor financed its
23 insurance premiums through PREMIUM ASSIGNMENT CORPORATION ("**PAC**").
24 Debtor wishes to continue financing its insurance obligations through financing from
25 PAC going forward.
26

27 7. PAC has agreed to loan Debtor the total amount of \$34,830.40 to pay its
28 insurance premiums. Debtor has agreed to provide PAC with an initial down payment

1 of \$11,464.00. The remaining balance of \$23,366.00 shall be paid in eight equal
2 monthly payments at 6.52 percent per annum (\$2,992.62 per month). A true and correct
3 copy of the Agreement is attached herein as Exhibit "1".

4 8. In exchange for the financing, Debtor has agreed to provide PAC, or its
5 successors or assignees, a first priority lien on and security interest in any unearned
6 premiums. Without limitation, the liens, security interest and rights in any unearned
7 premiums granted under the Agreement are senior to any liens of the Debtor and are
8 senior to any claims under 11 U.S.C. §§ 503, 506(b) or 507(b). A true and correct copy
9 of the proposed order to the Motion is attached as Exhibit "2".
10

11 9. Debtor has attempted to obtain unsecured financing to cover the cost of its
12 insurance premiums, but has been unsuccessful. Additionally, industry practice dictates
13 that finance companies which loan funds to pay insurance premiums typically do so on a
14 secured basis.
15

16 10. Having determined that a secured debt was the only option to finance its
17 monthly insurance premiums, Debtor engaged in arms-length negotiations in good faith
18 and pursuant to Debtor's business judgment resulting in the Agreement with PAC.
19

20 11. The financing with PAC is also necessary to preserve the assets of the
21 Debtor's estate and is required in order to keep Debtor's business adequately insured
22 and thereby preserving the estate. The financing from PAC is necessary to preserve the
23 assets of the estate because insurance coverage will protect the Debtor's business and
24 assets from liability claims that may arise. Business insurance is an essential necessity
25 for businesses such as Debtor and is needed in order to protect the assets of estate.
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27 12. Debtor believes that the terms of the Agreement are fair and reasonable,
28 and that the post-petition financing is to the benefit of the estate and all creditors. This

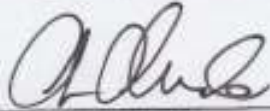
1 benefit stems from the necessary nature of maintaining adequate insurance coverage to
2 protect the Debtor's business, which is also the Debtor's largest asset. Additionally, PAC
3 is charging the Debtor an annual interest rate of 6.52 percent, which is both fair and
4 reasonable when compared to industry standards and current interest rates.
5

6
7 I declare under penalty of perjury that the foregoing is true and correct and that
8 this declaration is executed on May ____, 2017 at _____, California.
9

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11 _____
12 ANTHONY ALMADA
13 Chief Executive Officer
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1 benefit stems from the necessary nature of maintaining adequate insurance coverage to
2 protect the Debtor's business, which is also the Debtor's largest asset. Additionally, PAC
3 is charging the Debtor an annual interest rate of 6.52 percent, which is both fair and
4 reasonable when compared to industry standards and current interest rates.
5

6
7 I declare under penalty of perjury that the foregoing is true and correct and that
8 this declaration is executed on May 17, 2017 at IRVINE, California.
9

10 

11 _____
12 ANTHONY ALMADA
13 Chief Executive Officer
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EXHIBIT “1”

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EXHIBIT “1”



Quote # E107733

151 Kalmus Dr. Suite C220
 Costa Mesa, CA 92626
 Phone (850) 907-5610

PERSONAL COMMERCIAL NEW AGENCY RENEWAL ADD'L PREMIUM

THIS AGREEMENT, made effective the 24 day of February 2017, between
VITARGO GLOBAL SCIENCES, INC. DEBTOR IN POSSESSION
 (Name of Borrower/Insured exactly as it appears in financed policies)

ADDRESS 9880 IRVINE CENTER DR. STE. 100 *****
 CITY IRVINE STATE CA ZIP 92618 PHONE # _____

hereinafter called the Borrower, and Premium Assignment Corporation II, a California Corporation hereinafter called Lender, for the purpose of financing the purchase of insurance policies described in the Scheduled Policies of Insurance listed in page 3 to this Agreement.

TOTAL PRICE OF PREMIUMS	- CASH DOWN PAYMENT	= PRINCIPAL BALANCE OWED ON PREMIUMS	+ DOC STAMPS & SERVICE FEE (if applicable)	= TOTAL AMOUNT FINANCED	+ FINANCE CHARGE (Amount credit costs over term of loan)	= TOTAL OF PAYMENTS (Amount paid if all payments made as scheduled)	ANNUAL PERCENTAGE RATE
34,830.40	11,464.40	23,366.00	0.00	23,366.00	574.96	23,940.96	6.52

SELECT BILLING OPTION: Payment Book Monthly Invoice
 Direct Debit

YOUR PAYMENT SCHEDULE WILL BE:
 Each monthly payment due on same day of each succeeding month until paid in full.

Amount of Monthly Payment	Number of Payments	Date First Payment is Due
2,992.62	8	3/24/2017

FOR VALUE RECEIVED, BORROWER PROMISES TO PAY to the order of Lender at the address given at the top of this page, the Total Amount Financed and all sums shown above, including interest at the Annual Percentage Rate and other charges as described hereinafter, pursuant to the terms stated below and in page 2 of this Agreement.

- SECURITY FOR PAYMENT:** To secure payment of all sums due under this Agreement, Borrower grants Lender a security interest in any unearned premiums or other sums which may become payable under the Scheduled Policies of Insurance shown on page 3.
- LIMITED POWER OF ATTORNEY:** BORROWER IRREVOCABLY APPOINTS LENDER AS ATTORNEY-IN-FACT TO CANCEL THE SCHEDULED POLICIES OF INSURANCE AFTER BORROWER DEFAULTS IN MAKING PAYMENTS UNDER THIS AGREEMENT.
- NOTICE TO BORROWER:** (1) Do not sign this Agreement before you read it, or if it contains any blank space (other than as provided on the next page), (2) You are entitled to have and should retain a completely filled in copy of this Agreement to protect your legal rights, (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the service charge, and (4) BY SIGNING BELOW BORROWER AGREES TO THE PROVISIONS ABOVE AND ALL OF THE TERMS WHICH APPEAR ON THE SECOND PAGE OF THIS AGREEMENT AND ACKNOWLEDGES RECEIPT OF COPIES OF PAGES 1, 2 AND 3 OF THIS AGREEMENT and (5) The undersigned Agency will receive from Lender \$199.20 for aiding in the preparation of this Agreement and payment of the financed premiums.

SIGNATURE OF ALL INSURED[S] NAMED IN POLICIES OR AUTHORIZED AGENT OF INSURED[S], AS PERMITTED BY LAW:

X
 Date _____ Name and Title: _____ Date _____ Name and Title: _____

PRODUCER'S REPRESENTATIONS & WARRANTIES:

The undersigned Producer represents and warrants that: (A) The Cash Down Payment shown above has been paid by or on behalf of the Borrower. (B) The Total Price of Premiums shown above has been or will be used to purchase insurance policies shown in the Scheduled Policies of Insurance on page 3 of this Agreement. Any portion of the Total Price of Premiums received by Producer that is not used to purchase such insurance policies, as well as any refunds or credits on such policies, shall be promptly paid to Lender. (C) To the best of the undersigned's knowledge and belief, Borrower is not subject to any bankruptcy or insolvency proceedings and Producer has no reason to believe that Borrower is insolvent. (D) The Borrower's signature(s) is (are) genuine and authorized, or to the extent permitted by applicable law, the Producer has been authorized by Borrower to sign this Agreement on Borrower's behalf. (E) Producer has delivered or will deliver a copy of this Agreement to Borrower. Producer agrees that the Representations & Warranties above, as well as those on page 3 of this Agreement, are a binding contract between Producer and Lender.

PRODUCER / AGENCY

Name HEFFERNAN INS BROKERS/IRVINE
 Address 18004 SKY PARK CIR STE 210
IRVINE, CA 92614

 Date _____ PRODUCER'S SIGNATURE



IN CONSIDERATION of the payment by Lender of the Principal Balance Owed on Premiums shown on page 1 to the insurance companies named in the Scheduled Policies of Insurance shown on page 3 (or the agents of such companies), the Borrower agrees:

4. **ACCEPTANCE DATE** This Agreement is binding upon its acceptance by Lender. Acceptance shall occur upon payment of the Principal Balance Owed on Premiums to the insurance companies named in the Scheduled Policies of Insurance, or the agents of such companies.
5. **PAYMENTS** Borrower shall make payments directly to Lender in the amounts and at the same time specified on page 1 of this Agreement. Payments shall be made at Lender's address given at the top of page 1 or such other address as Lender may direct in writing. Payments made to any other address, person, firm, corporation or insurance agency (including but not limited to the Producer) shall not constitute payment to Lender. Payments received after cancellation of the Scheduled Policies of Insurance shall be credited to the unpaid balance due under this Agreement and shall not constitute reinstatement of the cancelled policies, nor shall it constitute a waiver by Lender of any rights.
6. **LATE CHARGES** If a payment is more than 10 days late, Borrower agrees to pay a late charge of 5% of each delinquent or unpaid installment, unless prohibited by applicable law.
7. **DEFAULT/CANCELLATION** A default shall occur if Borrower fails to pay any sums required by this Agreement in a timely manner, including interest and Late Charges, or if Borrower fails to carry out any other obligations under this Agreement. After default, any unpaid balance of the Total Amount Financed may become immediately due and payable in full at the option of Lender, and Lender may enforce its security interest and its rights under the Limited Power of Attorney. Interest will continue to accrue on the unpaid balance at the Annual Percentage Rate or maximum rate allowed by applicable law, at the option of Lender, until all balances owed under this Agreement are paid. Lender may request cancellation of all or any of the Scheduled Policies of Insurance at the earliest time after default permitted by applicable law.
8. **EXCESS INTEREST OR FEES** It is the intent of the Lender that no interest, fee or charge in excess of that permitted by applicable law will be charged, taken or become payable under this Agreement. In the event it is determined that Lender has taken, charged or accrued interest, fees or charges in excess of that permitted under law, such excess shall be returned to Borrower or credited against the sum due Lender hereunder.
9. **REFUNDS** The Borrower will receive a refund of the finance charge if the account is prepaid in full prior to the last installment due date. The refund shall be computed according to applicable law.
10. **SHORTAGE OR OVERAGE OF RETURNED PREMIUM** If Lender does not receive unearned premiums or other funds after cancellation or expiration of the Scheduled Policies of Insurance in an amount sufficient to pay the unpaid balance due under this Agreement, Borrower agrees to pay the deficiency to Lender on demand. Interest shall accrue on the deficiency at the Annual Percentage Rate, or the maximum rate allowed by applicable law, at the option of Lender. If the unearned premiums received by Lender are more than the amount due under this Agreement, the excess shall be returned to Borrower within the time allowed by applicable law. Borrower has no right to any excess of less than the minimum amount required to be paid by applicable law.
11. **ATTORNEYS FEES/COURT COSTS** Borrower agrees to pay all attorneys fees, expenses and costs incurred by Lender in collecting amounts due from Borrower under this Agreement, including attorneys fees incurred on appeal and in bankruptcy, unless prohibited or limited by applicable law.
12. **LENDER RELATIONSHIP** Borrower acknowledges that: (a) Lender is not an insurance agent nor an insurance company, (b) This Agreement is a financing agreement and not an insurance policy or guarantee of insurance coverage, (c) Lender has played no part in the selection or structuring of the financed insurance policies, (d) Lender has no obligation to request reinstatement of any insurance policies properly cancelled after a default under this Agreement, and (e) The decision of whether to reinstate insurance coverage is made solely by the insurance companies providing coverage, not Lender.
13. **ADDITIONAL PREMIUMS** Lender may advance to Producer, as Borrower's agent, or to an insurance company any additional premiums that may become due, less normal down payment, adding the advanced amount, plus any finance charge, to Borrower's balance under this Agreement. However, any additional premium which is owed to the insurance company(ies) named in the Scheduled Policies of Insurance as a result of any misclassification of risk which is not paid in full or financed in this Agreement may result in cancellation of the coverage by the insurance company for nonpayment of premium. Lender's payment shall not be applied by the insurer to pay for any additional premium owed by Borrower as a result of any misclassification of risk.
14. **LENDER LIABILITY** Lender is not responsible for any damages resulting from cancellation of the Scheduled Policies of Insurance by Lender, as long as the cancellation was done in accordance with applicable law. Borrower shall be responsible for Lender's reasonable attorneys fees and expenses for any unsuccessful action filed by Borrower seeking damages for improper cancellation. Lender's liability for breach of this Agreement shall be limited to the Principal Balance Financed under this Agreement, if permitted by applicable law.
15. **RETURNED CHECKS** Borrower agrees to pay a returned check fee of \$15, as allowed by applicable law, for each of Borrower's checks returned to Lender for insufficient funds or because the insured has no account in the payor bank.
16. **WARRANTIES OF BORROWER** Borrower warrants that: (a) Each of the Scheduled Policies of Insurance have been issued or a binder has been issued; (b) Borrower has not and will not assign or encumber any unearned premium of the Scheduled Policies of Insurance or grant a power of attorney to cancel the Scheduled Policies of Insurance to anyone other than Lender until all sums due under this Agreement are paid in full; (c) Lender may assign all its rights under this Agreement as allowed by applicable law; (d) No proceeding in bankruptcy or insolvency has been instituted by or against Borrower or is contemplated by Borrower, and (e) No insurance financed by this Agreement was purchased for personal, family or household purposes, unless so indicated on page 1.
17. **INTEREST CALCULATION** Interest is computed on an annual basis of 12 months of 30 days on the balance of the Total Amount Financed, from the effective date of the earliest insurance policy for which premiums are being advanced to the date when all sums due under this Agreement are paid.
18. **BLANK SPACES** Borrower agrees that if any policy financed by this Agreement has not been issued at the time the Agreement is signed, the names of the insurance companies issuing the financed policies, the policy numbers and the due date of the first installment may be inserted in the Agreement after it is signed.
19. **GOVERNING LAW** The Parties agree that the law of the state in which this Agreement is executed shall control the interpretation of the Agreement and the rights of the parties, unless the Agreement is executed in a state without premium finance laws, in which case the law of the State of Florida shall govern.
20. **SAVINGS AND MERGER CLAUSE** The Parties agree that if one or more portions of this Agreement are found to be invalid or unenforceable for any reason, the remaining portions shall remain fully enforceable. The parties also agree that this Agreement contains the entire agreement between the parties regarding the subject matter herein and supersedes any prior discussions
21. **FINANCING OPTION** Entry into this financing arrangement is not a condition of obtaining insurance. You may opt to pay the premium for such insurance without financing such premium, or to obtain financing from some other source if you choose.

Street Address:

9880 IRVINE CENTER DR. STE. 100

IRVINE, CA 92618

CUSTOMER IDENTIFICATION PROGRAM

CUSTOMER NOTICE

IMPORTANT INFORMATION ABOUT PROCEDURES FOR NEW LOANS -
To help the government fight the funding of terrorism and money laundering activities, U.S. Federal law (Patriot Act) requires financial institutions to obtain, verify, and record information that identifies each person (individuals or business) that is granted a loan. What this means for you: As part of this premium finance agreement, your insurance agent must provide your name, address, federal employer identification number and other information that allows us to identify you. You may also be asked to provide other identifying documents.

USA PATRIOT Act/Customer Identification Program Disclosure Acknowledgement

By signing this premium finance agreement I hereby acknowledge receipt of this Customer Identification Program (CIP) Customer Notice, agree that my insurance agent shall provide my name, address, federal employer identification and other information that allows you to identify me and further acknowledge that I understand the notice provisions. Words used in the Customer Identification Program (CIP) Customer Notice mean and include the plural and vice versa.



SCHEDULED POLICIES OF INSURANCE

V8(15)G199GI2.54

VITARGO GLOBAL SCIENCES, INC.DEBTOR IN POSSESSION
 9880 IRVINE CENTER DR. STE. 100

 IRVINE, CA 92618

HEFFERNAN INS BROKERS/IRVINE 17856
 18004 SKY PARK CIR STE 210
 IRVINE, CA 92614-6484
 (714) 361-7700

Premium	Down Payment	Unpaid Balance	Doc Stamps/Fees	Amt. Financed	Finance Charges	Total / Payments
34,830.40	11,464.40 (32.91 %)	23,366.00	0.00	23,366.00	574.96	23,940.96

Payment	Payments	Rate	First Due	Type	Status	Contract Type
2,992.62	8	6.52 %	3/24/2017	INVOICE		COMMERCIAL

EFF DATE	EXP DATE	COMPANY / BROKER	CITY	ST	CO. #	TYPE MEP	POLICY NO.	TOTAL PREMIUM
2/24/2017		CO: GEMINI INSURANCE	NAPERVILLE	IL	85023	GL	GL_14904-	21,575.00
2/24/2018		MGA: SOCIUS INS SVCS	LOS ANGELES	CA	64611	25.00 %	1	
							Taxes/Fees	940.40
							Total	22,515.40
2/24/2017		CO: PHILADELPHIA INDEMNITY INS	BALA CYNWYI	PA	84589	CYBR	PHSD1225	5,428.00
2/24/2018		MGA:				25.00 %	816	
2/24/2017		CO: TRAVELERS CAS & SURETY	WALNUT CREE	CA	87300	CRIM	106693476	1,377.00
2/24/2018		MGA: SOCIUS INS SVCS	LOS ANGELES	CA	64611	25.00 %		
2/24/2017		CO: AMTRUST INTL U	DUBLIN2	IR	ZF 88017	EPLI	EUC10017	5,000.00
2/24/2018		MGA: SOCIUS INS SVCS	LOS ANGELES	CA	64611	25.00 %	60 00	
							Taxes/Fees	510.00
							Total	5,510.00

Created By: UFKF45

Auth Code: _____

ADDITIONAL REPRESENTATIONS & WARRANTIES OF PRODUCER

(F) All information provided above is complete and correct in all respects and the policies listed above are or will be in force on the stated Effective Date and delivered by Producer to the Borrower, except for assigned risk or residual market policies.

(G) If any information listed above is or becomes incomplete or inaccurate, Producer shall promptly provide correct information to Lender.

(H) The Producer is an authorized policy issuing agent of the companies issuing the policies listed above or is the authorized agent of the MGA or broker placing the coverage directly with the insuring company, except those policies indicated with an "X".

(I) None of the policies listed above are subject to reporting or retrospective rating provisions. All policies subject to audit, minimum or fully earned premium provisions are indicated below:

Policy No and Prefix No: _____

(J) Except as indicated above, all Scheduled Policies of Insurance can be cancelled by Borrower or Lender on 10 days notice and the unearned premiums will be computed pro rata or on the standard short rate table.

(K) If any Scheduled Policies of Insurance are subject to audit, Producer and Borrower have made good faith determination that the deposit, provisional or initial premiums are not less than the anticipated premiums to be earned for the full term of the policy(ies).

(L) Upon cancellation of any of the Scheduled Policies of Insurance, Producer shall remit to Lender the full amount of the unearned premium, including unearned commission, as well as any other payments or credits received by Producer, up to the unpaid balance due under this Agreement, within 15 days of receipt from the insuring company.

DOCUMENTARY STAMPS REQUIRED BY LAW IF ANY ARE AFFIXED TO MONTHLY JOURNAL AND CANCELLED.

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EXHIBIT “2”

EXHIBIT “2”

UNITED STATES BANKRUPTCY COURT
DISTRICT OF _____
_____ DIVISION

In re: _____)
)
) **Case No:**
)
)
 Debtor(s).)
 _____)

ORDER AUTHORIZING DEBTOR TO ENTER INTO
PREMIUM FINANCE AGREEMENT

THIS CAUSE came on for hearing on the ____ day of _____, 20__ upon the Debtor’s Motion for Authorization to Enter into a Premium Finance Agreement (the “Motion”). The Court, having considered the Motion and the statements of counsel present, and it appearing that cause has been shown for the entry hereof and that no further notice need be given, and the Court being fully advised in the premises it is

ORDERED and ADJUDGED that:

1. The Motion is granted and any objections thereto are overruled.
2. The Debtor is authorized and directed to: (a) enter into the premium finance agreement attached to the Motion as Exhibit “A” (the “Agreement”), which is made a part hereof by reference; (b) grant PREMIUM ASSIGNMENT CORPORATION (“PAC”), or its successor or assigns a first priority lien on and security interest in unearned premiums as described in the Agreement; and (c) pay PAC or its successor or assigns all sums due under the Agreement.
3. Without limitation, the liens, security interests and rights in unearned premiums granted under the Agreement are senior to the lien of any DIP Lender in this Case and are senior to any claims under 11 U.S.C. §§ 503, 506(b) or 507(b).
4. If additional premiums become due to insurance companies under the policies financed under the Agreement, the Debtor and PAC or its successor or assigns are authorized to modify the Agreement as necessary to pay the additional premiums without the necessity of further hearing or order of this Court.
5. In the event PAC or its assigns fail to receive any payment due under the Agreement within fifteen (15) days of the due date, the automatic stay provided by 11 U.S.C. § 362 shall thereupon be terminated without the necessity of a motion, further hearing or order of this Court to permit PAC or its successor or assigns to exercise its rights and remedies under the Agreement, including without limitation the rights to: (a) cancel the financed insurance policy(ies), and (b) collect and apply unearned premiums payable under the financed policy(ies) to the balance owed under the Agreement.

6. If the collection and application of unearned premiums is insufficient to pay the balance owed under the Agreement, PAC or its successor or assigns may within 21 days after the collection and application of such unearned premiums file a proof of claim for the unsatisfied amount of any indebtedness under the Agreement notwithstanding the passage of any bar date for the filing of proofs of claim.

7. The rights of PAC or its successor or assigns under the Agreement are fully preserved and protected and shall remain unimpaired by this Bankruptcy proceeding, and shall remain in full force and effect, notwithstanding the subsequent conversion of this proceeding to one under Chapter 7 or any other provision of the United States Bankruptcy Code.

8. In order to enable the Debtor to have immediate insurance coverage, the ten day stay of this order pursuant to Bankruptcy Rule 6004(h) shall not apply, and the relief herein granted is effective immediately upon entry.

9. The Court retains jurisdiction to construe and enforce this Order.

DONE AND ORDERED at _____, _____ this ____ day of _____, 20____.

United States Bankruptcy Judge

EXHIBIT “3”

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EXHIBIT “3”

Attorney or Party Name, Address, Telephone & FAX Nos., State Bar No. & Email Address MICHAEL JAY BERGER (State Bar # 100291) LAW OFFICES OF MICHAEL JAY BERGER 9454 Wilshire Blvd. 6th Floor Beverly Hills, CA 90212-2929 Telephone: (310) 271-6223 Facsimile: (310) 271-9805 michael.berger@bankruptcypower.com <input type="checkbox"/> Individual appearing without attorney <input checked="" type="checkbox"/> Attorney for: Debtor and Debtor-in-possession	FOR COURT USE ONLY
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**UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA - SANTA ANA DIVISION**

In re: VITARGO GLOBAL SCIENCES, INC. Debtor(s).	CASE NO.: 8:17-bk-10988-TA CHAPTER: 11 <p style="text-align: center;">STATEMENT REGARDING CASH COLLATERAL OR DEBTOR IN POSSESSION FINANCING [FRBP 4001; LBR 4001-2]</p> DATE: TIME: COURTROOM: ADDRESS: 411 West Fourth Street Courtroom 5B Santa Ana, CA 92701-4593
---	--

Secured party(ies): FCFS, Inc.; Financial Agent Services; Fisher Capital Investments, LLC; Lila Ekonomistyrning, AB; On Deck Capital; and Wise Funding Group, LLC

The Debtor has requested the approval of either (1) a motion for use of cash collateral, or postpetition financing, or both, or (2) through a separately-filed motion, a stipulation providing for the use of cash collateral, or postpetition financing, or both. The proposed form of order on the motion or the stipulation contains the following provisions or findings of fact:

Disclosures Tracking FRBP 4001(c)(1)(B)(i) through (xi) and (d)(1)(B)	Page No.:	Line No. (if applicable)
<input checked="" type="checkbox"/> (i): “[A] grant of priority or a lien on property of the estate under § 364(c) or (d)”	1	1
<input type="checkbox"/> (ii): “[T]he providing of adequate protection or priority for a claim that arose before the commencement of the case, including the granting of a lien on property of the estate to secure the claim, or the use of property of the estate or credit obtained under § 364 to make cash payments on account of the claim” <ul style="list-style-type: none"> <input type="checkbox"/> Cross-collateralization, <i>i.e.</i>, clauses that secure prepetition debt by postpetition assets in which the secured party would not otherwise have a security interest by virtue of its prepetition security agreement or applicable law <input type="checkbox"/> Roll-up, <i>i.e.</i>, provisions deeming prepetition debt to be postpetition debt or using postpetition loans from a prepetition secured party to pay part or all of that secured party’s prepetition debt, other than as provided in § 552(b) 		

This form is mandatory. It has been approved for use by the United States Bankruptcy Court for the Central District of California.

<i>Continued from page 1</i>		
<input type="checkbox"/>	Grant a replacement lien in an amount in excess of the dollar amount of the lien on cash collateral as of the petition date	
<input type="checkbox"/>	(iii): “[A] determination of the validity, enforceability, priority, or amount of a claim that arose before the commencement of the case, or of any lien securing the claim”	
<input type="checkbox"/>	(iv): “[A] waiver or modification of Code provisions or applicable rules relating to the automatic stay” <input type="checkbox"/> Automatic relief from the automatic stay upon occurrence of certain events.	
<input type="checkbox"/>	(v): “[A] waiver or modification of any entity’s authority or right to file a plan, seek an extension of time in which the debtor has the exclusive right to file a plan, request the use of cash collateral under § 363(c), or request authority to obtain credit under § 364”	
<input type="checkbox"/>	(vi): “[T]he establishment of deadlines for filing a plan of reorganization, for approval of a disclosure statement, for a hearing on confirmation, or for entry of a confirmation order”	
<input type="checkbox"/>	(vii): “[A] waiver or modification of the applicability of nonbankruptcy law relating to the perfection of a lien on property of the estate, or on the foreclosure or other enforcement of the lien”	
<input type="checkbox"/>	(viii): “[A] release, waiver, or limitation on any claim or other cause of action belonging to the estate or the trustee, including any modification of the statute of limitations or other deadline to commence an action”	
<input type="checkbox"/>	(ix): “[T]he indemnification of any entity”	
<input type="checkbox"/>	(x): “[A] release, waiver, or limitation of any right under § 506(c)” <input type="checkbox"/> The granting of any lien on any claim or cause of action arising under § 506(c)	
<input type="checkbox"/>	(xi): “The granting of any lien on any claim or cause of action arising under §§ 544, 545, 547, 548, 549, 553(b), 723(a), or 724(a)”	
Additional Disclosures Required by LBR 4001-2		Page No.:
<input type="checkbox"/>	With respect to a professional fee carve out, disparate treatment for professionals retained by a creditors’ committee from that provided for the professionals retained by the debtor	Line No. (if applicable)
<input type="checkbox"/>	Pay down prepetition principal owed to a creditor	
<input type="checkbox"/>	Findings of fact on matters extraneous to the approval process	

05/16/2017
Date

Michael Jay Berger
Printed Name

Signature

In re: Vitargo Global Sciences, Inc. Debtor(s).	CHAPTER: 11 CASE NUMBER: 8:17-bk-10988-TA
--	---

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

**9454 Wilshire Boulevard, 6th floor
Beverly Hills, CA 90212**

A true and correct copy of the foregoing document entitled (*specify*): **NOTICE OF MOTION AND MOTION FOR ORDER AUTHORIZING POST-PETITION FINANCING UNDER 11 U.S.C. § 364; DECLARATION OF ANTHONY ALMADA IN SUPPORT THEREOF; AND SUPPORTING EXHIBITS** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On **05/17/2017**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

Michael Jay Berger	michael.berger@bankruptcypower.com,; yathida.nipha@bankruptcypower.com;
	michael.berger@ecf.inforuptcy.com
Michael J Hauser	michael.hauser@usdoj.gov
Richard A. Marshack	rmarshack@marshackhays.com
David Wood	dwood@marshackhays.com
Barbara L. Young	blyong@gct.law
United States Trustee (SA)	ustpreion16.sa.ecf@usdoj.gov

Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On **05/17/2017**, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

**Vitargo Global Sciences, Inc.
Anthony Almada, Chief Executive Officer
9880 Irvine Center Dr., Suite 100
Irvine, CA 92618**

Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each

person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on **05/17/2017**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

**Judge's Copy via UPS OVERNIGHT DELIVERY
Honorable Theodore Albert
Ronald Reagan Federal Building and Courthouse
411 West Fourth Street, Suite 5085
Santa Ana, CA 92701-4593**

Service information continued on attached page

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

05/17/2017	Peter Garza	/s/ Peter Garza
<i>Date</i>	<i>Printed Name</i>	<i>Signature</i>

Label Matrix for local noticing
0973-8

Case 8:17-bk-10988-TA
Central District of California
Santa Ana
Tue May 16 20:27:40 PDT 2017

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Chicago, IL 60602-4265

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Dana Point, CA 92629-3261

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Main Document Page 26 of 30
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Costa Mesa, CA 92626-7964

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Total Sports Management US
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121 North Fir Street, Suite F
Ventura, CA 93001

Unishippers
29222 Rancho Viejo Rd, Ste 116
San Juan Capistrano, CA 92675-1043

Unisource Worldwide
Veritiv Operating Co
850 N Arlington Heights Rd
Itasca, IL 60143-1411

Unisource/Veritiv
P O Box 141
Naperville, IL 60566-0141

Unisource/veritiv
P O Box 141
Naperville, 60566

Unisource/veritive operating Co.
P O Box 141
Naperville, 60566

United States Trustee (SA)
411 W Fourth St., Suite 7160
Santa Ana, CA 92701-4500

Univ North Carolina
CB#8700 - University North
Carolina
Chapel Hill, NC 27599-0001

Univ North Carolina
Main Document Page 29 of 30
CB#8700 - University North
Carolina
Chapel Hill, NC 27599-0001

Univ North Carolina
CB#8J00 - University North
Carolina
Chapel Hill, NC 27599-0001

Vertive Operating Company
850 N. Arlington Hts Rd
Itasca, IL 60143

Vital Biz Group, PLLC
7702 E Doubletree Ranch Road
Scottsdale, AZ 85258-2129

Vitargo Global Sciences, Inc.
9880 Irvine Center Drive, Ste 10
Irvine, CA 92618-4353

Wise Funding Group, LLC
228 Park Ave. S, #52825
New York, NY 10003-1502

Zachary McGinnis
1929 Pendelton Drive
Raleigh, NC 27614-9667

Zane Schweitzer
657 Kai Hele Ku Street
Lahaina, HI 96761-5718

ZoomEssence, Inc.
550 Hartle Street, Suite B
Sayreville, NJ 08872-2771

Michael Jay Berger
9454 Wilshire Blvd 6th Fl
Beverly Hills, CA 90212-2937

The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Staples
P.O. Box 78004
Phoenix, AZ 85062

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(u)Courtesy NEF

(u)Official Committee Of Unsecured Creditors

(d)Bill Julian
Manager, Midwest Region and GNC Cor
854 Fieldcrest Drive
Byron/ IL 61010-1487

(d)Dave Elsberry
P.O. Box 5168
Oceanside, CA 92052-5168

(d)Lauren Samperi
Manager. USA Customer Relations
1218 Via Visalia
San Clemente, CA 92672-9470

(u)Pamela Wooster
27660 Winchester
Steamboat Springs,

(d)The Loe Law Group
David C Loe
5826 East Naples Plaza
Long Beach, CA 90803-5039

(u)Damian Moos
Kang Spanos & Moos

(d)Michael Jay Berger
The Law Offices of Michael Jay Berger
9454 Wilshire Blvd.
6th Floor
Beverly Hills, CA 90212-2937

End of Label Matrix

Mailable recipients 130

Bypassed recipients 9

Total 139