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NO FEE – CAL. GOVT. CODE § 6103

SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SANTA MONICA COURTHOUSE

THE PEOPLE OF THE STATE OF CALIFORNIA, Plaintiff, v. LEAR CAPITAL, INC., a California corporation, and DOES 1-25, inclusive, Defendants.	Case No. 19STCV19362 **NOTICE OF ENTRY OF STIPULATED JUDGMENT** Hon. Mark H. Epstein Department R

TO THE COURT, ALL INTERESTED PARTIES, AND COUNSEL OF RECORD:

PLEASE TAKE NOTICE that on February 16, 2022, the Stipulated Judgment was entered in this action, a true and correct copy of which is attached hereto as Exhibit 1.

Dated: February 18, 2022

Respectfully submitted,

OFFICE OF THE LOS ANGELES CITY ATTORNEY

By: Steven S. Son

STEVEN S. SON
Attorneys for Plaintiff,
THE PEOPLE OF THE STATE OF CALIFORNIA

PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen (18) and not a party to the within action. My business address is: Office of the Los Angeles City Attorney, City Hall East, 200 North Main Street, 6th Floor, Los Angeles, California 90012.

On February 18, 2022**,** I served a copy of the following document:

NOTICE OF ENTRY OF STIPULATED JUDGMENT

On the interested party or parties in this action as follows:

Attorneys for Defendant, Lear Capital, Inc.	Attorneys for Defendant, Lear Capital, Inc.
Seth Pierce, Esq. (sep@msk.com) Daniel Hayes, Esq. (dmh@msk.com) Nicole Williams (nxl@msk.com) Melanie Ocubillo (mmo@msk.com) Mitchell Silberberg & Knupp LLP 2049 Century Park East, 18th Floor Los Angeles, California 90067	Mitchell Kamin, Esq. (mkamin@cov.com) Ryan Weinstein, Esq. (rweinstein@cov.com) Covington & Burling LLP 1999 Avenue of the Stars Los Angeles, CA 90067

[X] **BY E-SERVICE:** Based on Emergency Rule 12 of the Emergency Rules Related to COVID-19, I caused the document(s) described above to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on February 18, 2022 at La Canada Flintridge, California.

_____

Steven S. Son

EXHIBIT 1

Electronically Received 01/31/2022 09:46 AM

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Attorneys for Plaintiff,
THE PEOPLE OF THE STATE OF CALIFORNIA

FILED
Superior Court of California
County of Los Angeles
FEB 16 2022
Sherri R. Carter, Executive Officer/Clerk
By E Goldstein Deputy
Ellen Goldstein

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SUPERIOR COURT OF THE STATE OF CALIFORNIA

COUNTY OF LOS ANGELES – SANTA MONICA COURTHOUSE

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

LEAR CAPITAL, INC., a California corporation, and DOES 1-25, inclusive,

Defendants.

Case No. 19STCV19362

~~[PROPOSED]~~ **STIPULATED JUDGMENT**

Hon. Mark H. Epstein

Department R

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This Stipulated Judgment is entered into by and between the following: Plaintiff the People of the State of California, by and through its counsel of record, the Office of the Los Angeles City Attorney (City Attorney Michael N. Feuer, Assistant City Attorney Michael J. Bostrom, Deputy City Attorney Steven S. Son, and Deputy City Attorney Christopher S. Munsey), on the one hand; and Defendant Lear Capital, Inc., by and through its counsel of record, Mitchell Silberberg & Knupp LLP (Messrs. Seth E. Pierce, Daniel M. Hayes, Bradley J. Mullins, and Mark C. Humphrey) and Covington & Burling LLP (Messrs. Mitchell A. Kamin and Ryan H. Weinstein), on the other hand.

THE PARTIES HEREBY STIPULATE THAT IT BE ORDERED, ADJUDGED, AND DECREED that this Stipulated Judgment be entered in this action as follows:

I. DEFINITIONS

1. The following definitions apply for purposes of this Stipulated Judgment:

a. "Enforcement Action" means the civil law enforcement action styled *The People of the State of California v. Lear Capital, Inc.*, Los Angeles County Superior Court, Case No. 19STCV19362;

b. "Court" means the Los Angeles County Superior Court;

c. "Effective Date" means the date this Stipulated Judgment is entered by the Court in the Enforcement Action.

d. "People" means Plaintiff the People of the State of California;

e. "City Attorney's Office" means the Office of the Los Angeles City Attorney, and its officials, attorneys, employees, agents, contractors, and representatives;

f. "Defendant" means Defendant Lear Capital, Inc., and its successors and assigns;

g. "UCL" means California's Unfair Competition Law, Cal. Bus. & Prof. Code §§ 17200, *et seq.*;

h. "Non-Bullion Product" means any precious metal Defendant classified or classifies at the time of sale as numismatic, semi-numismatic, premium, or semi-premium;

i. "IRA" means individual retirement account;

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j. "IRA Transaction" means the purchase of any precious metal for placement in a self-directed precious metals IRA;

k. "Transaction Agreement" means Defendant's Shipping and Transaction Agreement, the Lear Capital Transaction Agreement, or the equivalent;

l. "Verbal Confirmation Recording" means the verbal confirmation of a customer's purchase, on a recorded line, that Defendant requires before processing and completing a customer's transaction;

m. "Covered Transaction" means any telephone sale of (i) any Non-Bullion Product, and (ii) any IRA Transaction;

n. "Covered Customer" means any customer who:

i. Entered into one or more Covered Transactions between June 5, 2015 and December 30, 2021, the total sum of which equals $1,500,000 or less;

ii. Paid to Defendant a transaction fee equivalent to 15% or higher of the total purchase price, exclusive of any applicable taxes, shipping, or insurance fees but inclusive of any free coins associated with the same transaction, for one or more Covered Transactions;

iii. Did not separately settle with and release all claims against Defendant related to his or her Covered Transaction(s); and

iv. Was a Los Angeles County resident (according to Defendant's internal records of the applicable Covered Transaction) at the time of the Covered Transaction(s) or an identified, non-New York customer who complained to the City Attorney's Office by December 30, 2021.

o. "Covered Claim" means the amount of a Covered Customer's claim, which equals the aggregate dollar amount the Covered Customer paid in transaction fees in excess of 15% for each Covered Transaction;

p. "Claims Administrator" means the independent third party settlement claims administrator retained to handle all aspects of the claims administration process;

q. "Settlement Notice" means the writing attached hereto as Exhibit A, which

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identifies, *inter alia*, (i) the date(s) of the customer's Covered Transaction(s), (ii) the transaction fee(s) the customer paid, as a percentage of the customer's total purchase price, per transaction, (iii) a summary of the People's allegations, Defendant's denials, and the settlement, (iv) an overview of the claims administration process, which includes the estimated amount of the customer's payment (and the reasons why there may be a higher and a supplemental payment), instructions on how to submit a claim, the need to confirm the customer transacted business with Defendant, and the methods by which payment shall be made, and (v) an explanation of the factors determining the amount of the customer's payment;

r. "Claim" means (i) the writing attached hereto as Exhibit B for claims submitted by mail or online at www.goldsilversettlement.com, and (ii) an e-mail from a Covered Customer to settlement@learcapital.com that indicates the Covered Customer wishes to submit a claim under this settlement and which includes the Covered Customer's first and last name, for claims submitted by e-mail; and

s. "Substantial Compliance" means the performance of each material element essential to an obligation in a form and manner that satisfies the purpose and objective of the obligation, such that any identified deficiency poses no materially greater risk of financial harm to the consumer.

II. OVERVIEW

2. On June 5, 2019, the City Attorney's Office filed a Complaint, on behalf of the People, against Defendant in the Los Angeles County Superior Court, for alleged violations of the UCL.

3. In the Complaint, the People allege that Defendant—a Los Angeles-based precious metals dealer that primarily sells gold and silver coins over the telephone to consumers across the country—promises customers "complete purchase transparency" that includes "no hidden fees," and that it desires to help customers protect their investments. The People also allege, however, that Defendant employs a wide range of unfair and deceptive business practices that are designed to mislead consumers as to the true nature and value of their investments, particularly as to the actual amount of Defendant's fees, resulting in harm to consumers.

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4. Defendant has denied that it has engaged in any unfair or deceptive business practices, avers that it fully disclosed its fee structure both in a written Transaction Agreement signed by each telephonic customer and its website, and that it disclosed the specific fee percentage charged to each Covered Customer during the recorded confirmation for each customer transaction.

5. Instead of engaging in protracted and costly litigation that will delay relief for consumers, as well as consume significant time and resources of the Court and of the parties, the People and Defendant agree to the entry of this Stipulated Judgment to resolve all of the matters in dispute in this Enforcement Action, without the completion of trial or the adjudication of issues involving law or fact.

6. This Stipulated Judgment shall not constitute evidence of admission of fault or concession of liability by Defendant, either express or implied.

III. TRANSACTION AGREEMENT

7. Defendant shall include and impose an additional provision in its policies and procedures that prohibits any of its personnel from communicating to any customer that the Transaction Agreement, or any of the information contained therein or processes relating thereto, is a "formality" or does not apply to that customer.

IV. VERBAL CONFIRMATION RECORDING

8. Defendant shall, during the Verbal Confirmation Recording for each Covered Transaction, include an additional disclosure which specifically informs the customer each of the following:

a. That Defendant will issue the customer a written invoice in the time period consistent with paragraphs 15-17 hereto, via an attachment to an e-mail (if the customer provides Defendant an e-mail address), by overnight mail delivery service (if the customer does not provide Defendant an e-mail address), or by text (if the customer affirmatively elects to receive the written invoice via text);[1]

[1] The disclosure need only reference the delivery method being used for the customer in question.

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b. That the customer should review the written invoice for accuracy, as it contains the purchase terms specific to the customer's transaction;

c. That the customer will have twenty-four (24) hours after delivery of this written invoice to cancel the transaction without any penalty for any reason, the instructions for which will be identified on the written invoice;[2] and

d. That the customer may have a longer period (beyond 24 hours) to cancel the transaction according to the laws of the customer's state, additional information of which can be found in the Addendum page(s) to the Transaction Agreement.

9. Defendant shall make this additional disclosure during the Verbal Confirmation Recording for each Covered Transaction, either at the beginning or end of the Verbal Confirmation Recording. As is the case with all of the other disclosures Defendant currently provides in the Verbal Confirmation Recording, Defendant shall obtain the customer's affirmative verbal acknowledgement that s/he understands this disclosure before processing and completing a transaction.

10. Defendant shall continuously record the verbal confirmation of a transaction from start to finish, such that the Verbal Confirmation Recording, once initiated, records the entirety of the communication between Defendant and the customer. Once the Verbal Confirmation Recording is commenced, Defendant shall not stop recording the call until the customer has either (i) completed the procedure by acknowledging s/he understands and agrees with each of the disclosures therein, (ii) unequivocally declines to proceed with the transaction, or (iii) the call terminates.

11. Defendant shall include and impose an additional provision in its policies and procedures that prohibits any of its personnel from communicating to any customer that the Verbal Confirmation Recording, or any of the information contained therein or processes relating thereto, is a "formality" or does not apply to that customer.

12. Defendant shall save and maintain all completed Verbal Confirmation Recordings

[2] For purposes of this subparagraph, delivery shall mean upon issuance in the case of e-mail or text message, or in the case of overnight delivery, the date and time of delivery recorded by the overnight carrier.

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pursuant to Defendant's standard policy (at this time, in perpetuity).

V. WRITTEN INVOICE

13. Defendant shall issue a written invoice, for each Covered Transaction, that identifies the quantity, description, type, content, and price per unit of the precious metals, the total purchase price, and the actual fee (as a percentage of the customer's total purchase price, exclusive of any applicable shipping, insurance, and taxes but inclusive of any free coins associated with the same transaction) Defendant is charging for the transaction. These terms shall be identified in a font no smaller than 12 point, and located immediately following the detailed listing of the coins/bars being purchased. Defendant shall use best efforts to keep the invoice to one page where practicable, but exceeding the one-page limit when reasonably called for by the circumstances of a particular transaction due to space limitations shall not constitute a violation of this paragraph.

14. This written invoice shall also further state, in a font no smaller than 12 point and located immediately below the terms identified in paragraph 13, each of the following:

a. That the customer may, without penalty for any reason, cancel the transaction within twenty-four (24) hours after receipt of the written invoice (which sentence shall be in bold font);

b. That the customer may have a longer period (beyond 24 hours) to cancel the transaction, if applicable, according to the laws of the customer's state, additional information which can be found in the Addendum page(s) to the Transaction Agreement;

c. The toll-free telephone number and e-mail address to which the customer may submit a cancelation request; and

d. Instructions on how to submit a cancelation request, including what information the customer must provide, for both telephone and e-mail submissions.

15. Where the customer provides Defendant an e-mail address but does not affirmatively elect text delivery, Defendant shall deliver the written invoice to the customer shortly, but in no circumstance (other than technical failures or similar impediments outside of Defendant's control) later than one hour after the completion of the Verbal Confirmation

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Recording, and as an attachment to an e-mail, not as an electronic hyperlink contained within an e-mail. The subject line of the e-mail shall state "Lear Capital Transaction Confirmation – Written Invoice," and the body of the e-mail shall state "Dear [customer], Congratulations on your precious metals purchase! Please review your written invoice, which is attached here," or substantially similar language which makes clear the e-mail concerns the written notice and that the written invoice is attached to the e-mail. Nothing herein shall preclude Defendant from including additional language/information in the e-mail's body thereafter, such as wire instructions, contact information, and additional marketing or "thank you for your business" language.

16. Where the customer does not provide Defendant an e-mail address and does not affirmatively elect text delivery, Defendant shall deliver the written invoice to the customer by overnight mail delivery service (*e.g.*, FedEx). To the extent possible, Defendant shall issue overnight delivery the same day in which the Verbal Confirmation Recording is completed, or by the next business day in the event the Verbal Confirmation Recording is completed within insufficient time to meet Defendant's overnight delivery cutoff period for the day.

17. Where the customer affirmatively elects to receive the written invoice via text, Defendant shall deliver the written invoice to the customer shortly, but in no circumstance (other than technical failures or similar impediments outside of Defendant's control) later than one hour after the completion of the Verbal Confirmation Recording, and within the body of the text, not as an electronic hyperlink contained within the text. The body of the text shall first state "Lear Capital Transaction Confirmation – Written Invoice," with an image of the written invoice immediately following below and within the text.

18. To the extent Defendant is unable to timely issue the written notice under the deadlines set forth in paragraphs 15-17 due to technical issues, the 24-hour right to cancel period shall not begin to run until the time the written invoice is delivered, as the term delivery is used in paragraph 8(c). Such technical issues shall not constitute a violation of this Stipulated Judgment.

19. The exemplar written invoice, attached hereto as Exhibit C, complies with the requirements set forth in paragraphs 13-14. Defendant may also substitute the term/phrase "ask-

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to-cost fee" with "fee" or "spread," consistent with the provisions set forth in paragraph 27.

20. To the extent Defendant wishes to change the form, content, or style of the written invoice in the future, Defendant shall provide the City Attorney's Office at least five (5) business days advance notice, which includes a mockup of the proposed change(s), such that the City Attorney's Office has an opportunity to object and/or take other action if the City Attorney's Office determines that the revisions violate any of the requirements set forth herein.

21. Defendant shall include and impose an additional provision in its policies and procedures that prohibits any of its personnel from communicating to any customer that the written invoice, or any of the information contained therein or processes relating thereto, is a "formality" or does not apply to that customer.

22. Notwithstanding anything to the contrary in this Stipulated Judgment, if Defendant conducts a hybrid transaction (*i.e.*, the transaction includes both bullion precious metals, as classified by Defendant at the time of the sale, outside of an IRA, along with any Non-Bullion Product or bullion precious metals purchased for placement in an IRA), then the cancelation period, disclosure, and other requirements herein applicable shall only apply to the Non-Bullion Product or IRA Transaction aspects of the hybrid transaction.

VI. OTHER CORPORATE REFORMS

23. Notwithstanding anything to the contrary in this Stipulated Judgment, the cancelation and related disclosure provisions set forth in paragraphs 8-9, 14, and 18-19 shall not apply to transactions where a customer has indicated his/her intent to cancel a prior transaction, but then subsequently enters into a new transaction with modified terms within seven (7) calendar days of the cancelation (hereinafter "Modified Transaction(s)"). For the sake of clarity, this Stipulated Judgment does not obligate Defendant to provide a 24-hour cancelation period, or disclose any such cancelation period, for Modified Transactions; however, Defendant must nevertheless provide the customer a subsequent written invoice for any Modified Transaction, consistent with the other (non-cancelation-related) provisions of this Stipulated Judgment.

24. Defendant shall establish and implement a dedicated toll-free telephone line and e-mail account, staffed by non-commissioned personnel, to field and respond to any and all types of

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customer complaints. Defendant shall organize and save all complaint-related information, either submitted to or sent from these dedicated platforms, in a centralized database for a period of two years.

25. Defendant shall establish and implement a separately dedicated toll-free telephone line and e-mail account, staffed by non-commissioned personnel, to field and respond to all transaction cancelation requests. Defendant shall organize and save all cancelation-related information, either submitted to or sent from these dedicated platforms, in a centralized database for a period of two years, and the telephone line shall have a voicemail system or similar storage functionality with unlimited storage capacity with a time-stamp function for all cancelation requests received regardless of the time of day.

26. Defendant shall include and impose additional provisions in its policies and procedures that prohibit any of its personnel from:

a. Attempting to upsell any customer any Non-Bullion Product after the customer has already tendered funds to Defendant to purchase bullion, unless the customer, on his/her own initiative, affirmatively requests otherwise;

b. Stating to any customer that there is a "risk" that bullion may be "confiscated" by the government, in contrast to non-bullion, although Defendant may make truthful statements that are based on actual and specific facts; and

c. Providing any tax advice, although Defendant may make accurate statements about reporting and disclosure obligations, the ability to purchase precious metals for placement in a self-directed precious metals IRA, any need for minimum required distributions, and similar related factual information.

27. As for the use of the term/phrase "ask-to-cost fee," Defendant shall:

a. Explain that the term means "Lear's gross profit on the transaction," whenever and immediately after Defendant uses the term, either orally or in writing; or

b. Eliminate the use of the term entirely, both orally and in writing, and instead replace the term with "fee" or "spread" as substitutes.

28. Defendant shall provide biannual training to its sales personnel regarding all of the

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terms of the parties' stipulated injunction and compliance, as set forth in this Stipulated Judgment.

29. Defendant shall establish and implement a rapid-response protocol with the City Attorney's Office lasting a period of two years after the Effective Date, such that:

a. If the City Attorney's Office provides written notice to Defendant of a customer complaint to which the City Attorney's Office has become aware, Defendant shall search for all records relating to the specified customer and, within five (5) business days of receiving such written notice, provide the City Attorney's Office all non-privileged records relating to the customer, including but not limited to any and all Transaction Agreement(s), Verbal Confirmation Recording(s), written invoice(s), and all internal and external communications and notes, whether saved in a centralized database or not; and

b. If the City Attorney's Office explains to Defendant, in writing, that it has determined a lack of Substantial Compliance with one or more of Defendant's obligations set forth in this Stipulated Judgment, Defendant shall, within ten (10) business days of receiving such written notice, provide the City Attorney's Office a written response explaining why Defendant disputes such a determination and/or proposing a plan to cure the deficiencies.

VII. MONETARY RELIEF

30. Defendant has deposited $2,750,000 (United States Dollars) into escrow with the Claims Administrator.

31. Of this $2,750,000 in total monetary relief, up to $2,475,000 shall go towards customer compensation and at least $275,000 shall go towards payment of civil penalties to the City Attorney's Office, as set forth in paragraphs 45-54.

32. Defendant shall separately and additionally pay any and all of the Claims Administrator's costs and expenses arising out of, related to, or in connection with the settlement claims administration process described in this Stipulated Judgment.

VIII. CLAIMS ADMINISTRATION

33. The Claims Administrator shall handle all aspects of the settlement claims administration process, as set forth in this Stipulated Judgment.

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34. Defendant shall obtain the City Attorney's Office's approval when selecting and contracting with the Claims Administrator, which the City Attorney's Office shall not in good faith unreasonably withhold. However, the contract must (i) identify the City Attorney's Office as a third-party beneficiary with the ability to enforce the provisions of the contract, and (ii) require the Claims Administrator to provide periodic updates to and respond to reasonable inquiries from both Defendant and the City Attorney's Office regarding the claims administration process.

35. Within ten (10) business days of the Effective Date, the Claims Administrator shall provide the Settlement Notice to all Covered Customers.

36. The Settlement Notice shall be delivered electronically to all e-mail addresses Defendant has on file for each Covered Customer. If electronic notice is not possible because Defendant does not have an e-mail address for a Covered Customer or because a sent e-mail is returned as undelivered/undeliverable, the Settlement Notice shall be mailed, by First Class mail, to all current addresses Defendant has on file for each such customer, following a National Change of Address update.

37. The Claims Administrator shall use the same settlement@learcapital.com e-mail account, to the extent commercially practicable, to issue the Settlement Notice electronically to Covered Customers and, within reason, for all related subsequent electronic communications with those customers. The subject line for the Settlement Notice e-mail shall state "RE: Lear Capital – Settlement Notice," and the Settlement Notice shall be included within the body of the e-mail, not as an attachment.

38. Covered Customers shall have thirty-five (35) calendar days, after the Settlement Notice is issued, in which to timely submit a Claim, either by e-mail, mail, or online through a website (www.goldsilversettlement.com) created and maintained by the Claims Administrator, pursuant to the instructions set forth in the Settlement Notice. In the event a Covered Customer submits a Claim by mail, the Claim shall be considered timely if the postmark date is thirty-five (35) calendar days or less from the date the Claims Administrator issues the Settlement Notice. Any Covered Customer that fails to submit a claim within this time period shall be deemed to

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have rejected his or her right to make a Claim or receive payment hereunder.

39. Within fourteen (14) calendar days after the deadline in which to timely submit Claims expires under paragraph 38, the Claims Administrator shall (i) notify all of the Covered Customers for whom the Claims Administrator requires a signed IRS Form W-9, and (ii) provide and make readily available that form to those Covered Customers. Covered Customers who are asked to provide a signed IRS Form W-9 shall have fourteen (14) calendar days from the date they are notified and provided the form in which to provide a signed version of that form to the Claims Administrator. Those Covered Customers may submit the signed form to the Claims Administrator by either e-mail (to settlement@learcapital.com), online (at www.goldsilversettlement.com), or by mail (timeliness determined by postmark date).

40. Within thirty (30) calendar days after the deadline in which to timely submit signed tax forms expires under paragraph 39, or as soon thereafter as is commercially practicable, the Claims Administrator shall issue payment to all Covered Customers who timely submitted and completed their Claims, as described in paragraphs 38-39, according to the parameters described in paragraphs 45-47.

41. The Claims Administrator shall adhere to the following rules when issuing payment to Covered Customers under this settlement:

a. If the customer made a non-IRA Transaction, the Claims Administrator shall issue payment directly to the customer via check, and the Claims Administrator shall provide all required tax form(s) to the customer, if necessary;

b. If the customer made an IRA Transaction, the Claims Administrator shall, with Defendant's reasonable assistance, make commercially reasonable efforts to issue payment to the customer's self-directed precious metals IRA (either directly, or through Defendant), in which case no tax form(s) will be necessary;

c. If the customer made an IRA Transaction but the Claims Administrator is unable to issue payment directly to the customer's self-directed precious metals IRA because the IRA account no longer exists or the IRA administrator refuses to accept payment or cooperate, the customer may rescind his or her acceptance of payment, or otherwise have the Claims

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Administrator issue payment directly to the customer via check and issue all required tax form(s) to the customer, if necessary; and

d. In the event that a customer made both non-IRA and IRA Transactions, the customer may elect to deposit the portion of his or her payment allocable to the IRA Transaction(s) into his/her IRA account (subject to the same limitations set forth in this paragraph), while receiving the balance directly.

42. Covered Customers who receive payment by check must deposit/negotiate their checks within ninety (90) calendar days from check's date of issuance.

43. If feasible, the Claims Administrator shall return all inquiries from Covered Customers relating to the claims administration process within twenty-four (24) hours, or as soon thereafter as is commercially practicable, in the same form and manner in which the Claims Administrator receives the customer's original communication. For example, the Claims Administrator shall return a customer's voicemail with a telephone call and respond to a customer's e-mail by replying to that e-mail.

44. To the extent any questions or disputes arise as to a customer's eligibility for compensation under this settlement, Defendant shall work cooperatively and in good faith with the City Attorney's Office to resolve any such issues.

IX. CUSTOMER COMPENSATION

45. Of the $2,750,000 in total monetary relief specified in paragraph 30, up to $2,475,000 shall go towards customer compensation.

46. The estimated amount of a Covered Customer's payment under this settlement, as reflected in the Settlement Notice, shall be determined by (i) dividing $2,475,000 by the total amount of all Covered Claims, before (ii) multiplying the resulting fraction to the full amount of a customer's Covered Claim.

47. For purposes of actual payment, in connection with paragraph 40:

a. If 100% of Covered Customers timely submit a Claim, the Claims Administrator shall issue payments to Covered Customers in amounts equal to those estimates identified in the Settlement Notice; and

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b. If less than 100% of Covered Customers timely submit a Claim, the Claims Administrator shall ratably reallocate the settlement funds from those Covered Customers who did not timely submit a Claim to those Covered Customers who timely submitted Claims, up to the full amount of their Covered Claims.

48. For purposes of any supplemental payments:

a. If there are unclaimed funds (*i.e.*, where one or more customer payments are not timely deposited/negotiated) and where the fund is oversubscribed (*i.e.*, the total amount of all timely-submitted claims exceeds $2,475,000), the Claims Administrator shall ratably reallocate those unclaimed funds and issue supplemental payments to those Covered Customers who timely claimed their funds, up to the full amount of their Covered Claims; and

b. If there are unclaimed funds but where the fund is undersubscribed (*i.e.*, the total amount of all timely-submitted claims is less than $2,475,000), the Claims Administrator shall treat such residue consistent with paragraphs 51-54 instead of providing any supplemental payment to any Covered Customer.

49. The Claims Administrator shall issue customer payments according to the following schedule:

a. Within the time period specified in paragraph 40, for payments required under paragraph 47; and

b. Within thirty (30) calendar days upon the expiration of the period in which customers must deposit/negotiate checks under paragraph 42, for any payment required under paragraph 48(a).

50. Within three (3) calendar days of the Effective Date, Defendant shall:

a. Provide the Claims Administrator a list identifying the names, contact information, and the Covered Claim for each Covered Customer; and

b. Provide the City Attorney's Office a list identifying the names, contact information, the date of the transaction, the type and quantity of precious metal(s) purchased, the total purchase price, and the transaction fee percentage for each Covered Transaction that is the subject of a Covered Claim.

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X. CIVIL PENALTIES AND RESIDUE

51. Of the $2,750,000 in total monetary relief specified in paragraph 30, at least $275,000 shall go towards payment of civil penalties to the City Attorney's Office.

52. If, after completion of the settlement claims administration process, any residue remains from the $2,475,000 set aside for customer payments because the fund is undersubscribed, *i.e.*, where the total amount of all timely-submitted claims is less than $2,475,000, 50% of such residue shall go towards additional civil penalties to the City Attorney's Office and the remaining 50% of such residue shall be returned to Defendant.

53. If, after completion of the settlement claims administration process, any residue remains from the $2,475,000 set aside for customer payments because of unclaimed funds, *i.e.*, where one or more customer payments are not timely deposited/negotiated, and after any reallocation of those unclaimed funds if so required under paragraph 48(a), 50% of such residue shall go towards additional civil penalties to the City Attorney's Office and the remaining 50% of such residue shall be returned to Defendant.

54. The Claims Administrator shall tender payment of civil penalties to the City Attorney's Office according to the following schedule:

a. Within ten (10) business days of the Effective Date, for the payment required under paragraph 51; and

b. Within five (5) business days after the completion of all customer payments, for any payment required under paragraphs 52-53.

XI. RELEASE

55. In full and complete settlement, satisfaction, and compromise of the People's claims, the People release any and all claims that were or could have been alleged against Defendant arising out of, related to, or in connection with the subject matter of the Enforcement Action, accruing prior to the Effective Date.

56. In full and complete settlement, satisfaction, and compromise of Defendant's possible claims, Defendant releases any and all claims that were or could have been alleged

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against the People or the City Attorney's Office arising out of, related to, or in connection with the subject matter of the Enforcement Action, accruing prior to the Effective Date.

57. The People and Defendant each acknowledge that each of them has been advised by its attorneys of the contents and effect of section 1542 of California Civil Code, and each of these parties expressly waives, with respect to this Stipulated Judgment, any and all of the provisions, rights, and benefits conferred by section 1542, which states as follows:

> "A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

58. Nothing in this Stipulated Judgment, however, precludes or affects the People's right to enforce the terms of this Stipulated Judgment.

XII. JURISDICTION

59. The parties agree that the Court has jurisdiction over the subject matter of this Enforcement Action and the parties thereto, pursuant to Article VI, section 10 of the California Constitution, California Code of Civil Procedure sections 410.10, *et seq.*, and the UCL.

60. Pursuant to section 664.6 of the California Code of Civil Procedure, the Court's inherent power, and any other applicable law, the Court shall retain jurisdiction to decide any and all disputes, claims, or controversies between the People and Defendant arising out of, related to, or in connection with the validity, interpretation, application, breach, satisfaction, or enforcement of this Stipulated Judgment, including any punishment for any violations of the obligations described in this Stipulated Judgment, except as otherwise specifically limited herein.

XIII. OTHER PROVISIONS

61. Defendant shall comply with all of the obligations required under sections III, IV, V, and VI of this Stipulated Judgment within thirty (30) calendar days of the Effective Date.

62. This Stipulated Judgment shall not prohibit the City Attorney's Office or the People from pursuing future civil or criminal proceedings against Defendant arising out of any unlawful, unfair, or fraudulent business acts or practices under the UCL that are of the subject of

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the Enforcement Action occurring subsequent to the Effective Date.

63. This Stipulated Judgment shall not be construed as relieving Defendant of the obligation to comply with all state and federal laws, regulations, and rules, nor shall any of the provisions of this Stipulated Judgment be deemed to constitute permission for Defendant to engage in any business acts or practices prohibited by such laws, regulations, and rules.

64. This Stipulated Judgment shall not create any rights in any person, natural or otherwise, other than the parties hereto.

65. This Stipulated Judgment shall not be construed to create, waive, or limit any private right of action by any customer against Defendant or any other person or entity.

66. This Stipulated Judgment represents and incorporates the entire understanding between the parties, and supersedes any and all prior and contemporaneous communications, negotiations, understandings, and agreements between the parties, whether oral or written, with respect to the matters covered in this Stipulated Judgment, other than the Binding Agreement between the City Attorney's Office and Defendant effective as of December 30, 2021, which is incorporated into this Stipulated Judgment. In the event of a conflict between the terms of the Binding Agreement and this Stipulated Judgment, the Stipulated Judgment shall control.

67. This Stipulated Judgment may not be changed, modified, altered, interlineated, or supplemented, except by agreement in writing signed by all of the parties hereto that is thereafter approved by order of the Court.

68. All of the parties hereto waive all rights to appeal this Stipulated Judgment, except to the extent a party seeks to appeal an order that arises from an action or proceeding to enforce the terms of this Stipulated Judgment.

69. Except to the extent as otherwise provided in this Stipulated Judgment, each party hereto shall bear its own attorney's fees and costs arising out of, related to, or in connection with the Enforcement Action.

70. The Court's entry of this Stipulated Judgment shall operate as a dismissal with prejudice of the Doe Defendants in this Enforcement Action.

71. The parties hereto agree that this Stipulated Judgment may be signed by the parties

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and their counsel in counterpart.

Respectfully submitted,

Date: January 30, 2022

OFFICE OF THE LOS ANGELES CITY ATTORNEY

By: _____
MICHAEL N. FEUER
STEVEN S. SON
Attorneys for Plaintiff,
THE PEOPLE OF THE STATE OF CALIFORNIA

Date: January 28, 2022

MITCHELL SILBERBERG & KNUPP LLP

By: _____
SETH E. PIERCE
Attorneys for Defendant,
LEAR CAPITAL, INC.

Date: January 28, 2022

LEAR CAPITAL, INC.

By: _____
KEVIN D. DEMERITT
Founder/Chairman for Defendant,
LEAR CAPITAL, INC.

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IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

This Stipulated Judgment, entered into by and between the People and Defendant, be entered in this Enforcement Action, as this Court finds that the entry of this Stipulated Judgment is in the interest of justice and in the public interest.

The Clerk of this Court is hereby directed to enter this Stipulated Judgment, consisting of (inclusive of the proof of service) twenty-~~one~~ nine (~~21~~ 29 pc) pages, in this Enforcement Action forthwith.

IT IS SO ORDERED, ADJUDGED, AND DECREED.

Date: Feb 16, 2022

Hon. Mark H. Epstein
Judge of the Los Angeles County Superior Court

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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen (18) and not a party to the within action. My business address is: Office of the Los Angeles City Attorney, City Hall East, 200 North Main Street, 6th Floor, Los Angeles, California 90012.

On January 30, 2022, I served a copy of the following document:

[PROPOSED] STIPULATED JUDGMENT

On the interested party or parties in this action as follows:

Attorneys for Defendant, Lear Capital, Inc.	Attorneys for Defendant, Lear Capital, Inc.
Seth Pierce, Esq. (sep@msk.com) Daniel Hayes, Esq. (dmh@msk.com) Nicole Williams (nxl@msk.com) Melanie Ocubillo (mmo@msk.com) Mitchell Silberberg & Knupp LLP 2049 Century Park East, 18th Floor Los Angeles, California 90067	Mitchell Kamin, Esq. (mkamin@cov.com) Ryan Weinstein, Esq. (rweinstein@cov.com) Covington & Burling LLP 1999 Avenue of the Stars Los Angeles, CA 90067

[X] **BY E-SERVICE:** Based on Emergency Rule 12 of the Emergency Rules Related to COVID-19, I caused the document described above to be sent to the persons at the e-mail addresses listed above. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.

[X] **STATE:** I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on January 30, 2022 in La Canada Flintridge, California.

Steven S. Son

Steven S. Son

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EXHIBIT A

02/17/22

To: Mail merge (customer name/address or e-mail)

From: Administrator address (mailings) or settlement@learcapital.com (e-mails)

Subject: RE: Lear Capital – Settlement Notice (both mail/e-mail)

WHY DID I GET THIS NOTICE? A settlement has been reached in the civil lawsuit filed by the Los Angeles City Attorney's Office ("City Attorney") against Lear Capital, Inc. ("Lear") entitled *The People of the State of California v. Lear Capital, Inc.*, Los Angeles County Superior Court, Case No. 19STCV19362. **As a result of this settlement, you will receive financial compensation as long as you timely submit and complete a valid claim. Accordingly, please review this entire notice carefully, as it provides instructions, an overview of the claims administration process, and other important information.** Lear's records reflect that you made NUMBER transaction(s) with Lear on DATE(S), paying a fee of **PERCENTAGE(S)** for your transaction(s).

WHAT IS THE LAWSUIT ABOUT? In the lawsuit, the City Attorney alleges that Lear promises customers "complete purchase transparency" that "includes no hidden fees," and that it desires to help customers protect their investments. The City Attorney also alleges, however, that Lear misleads its customers about the true nature and value of their investments, particularly as to the actual amount of its fees. Lear vigorously disputes the allegations, particularly because it records each customer at the time of sale confirming the purchase, including details of the fees charged, and Lear then issues an invoice with that information, in addition to each customer signing a written transaction agreement. As a result of the parties' compromise, the settlement resolves the matters in dispute, without a trial and without any final ruling by the Court on the merits of the dispute. You may view the City Attorney's complete allegations (HERE), Lear's response (HERE), and the complete terms of the settlement (HERE) all at www.goldsilversettlement.com.

HOW DO I SUBMIT A CLAIM? If you would like to receive financial compensation under this settlement, you must submit a claim by either:

- Going to www.goldsilversettlement.com, clicking on the "SUBMIT A CLAIM" hyperlink located on the top of the webpage, and completing the claim submission process online; or
- Sending an e-mail to settlement@learcapital.com and stating that you wish to submit a claim, including your first and last name in the e-mail; or
- Completing and mailing the self-addressed and stamped tear-off postcard attached to the bottom of this notice, in the event you received this notice by mail and prefer to submit a claim by mail instead of electronically.

WHAT IS THE DEADLINE? In order to receive financial compensation under this settlement, you must submit or postmark your claim by DATE.

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WHAT HAPPENS AFTER I SUBMIT A CLAIM? If you timely submit a claim, you do not need to do anything further, unless the Claims Administrator provides you a tax form (IRS Form W-9) and asks you to return a signed copy of that form, so that payment can be properly issued to you. **If you are asked but do not return that signed tax form within 14 days of receiving such a request from the Claims Administrator, you will not receive any financial compensation under this settlement.** You may return the signed tax form by either:

- Going to www.goldsilversettlement.com, clicking on the "COMPLETE MY CLAIM" hyperlink located at the top of the webpage, and submitting the form online; or
- E-mailing a copy of the signed tax form to settlement@learcapital.com; or
- Signing the tax form that was mailed to you, and mailing the signed form in the enclosed self-addressed and stamped envelope, in the event you received the tax form by mail and prefer to complete your claim by mail instead of electronically.

DO I NEED TO SIGN A RELEASE? No, you do not need to sign a release to receive financial compensation under this settlement.

HOW IS MY PAYMENT CALCULATED? The amount of your payment is based on three factors: (1) the amount you paid in transaction fees to Lear in excess of 15% for your transactions that are covered under this settlement, (2) the total amount of available settlement funds, and (3) the total amount of all covered claims. **Based on these factors, your estimated payment under this settlement is $TBD.** However, it is possible that you may receive a payment that is higher than this estimated amount, if less than 100% of those eligible to receive payment timely submit and complete claims. It is also possible that you may receive a supplemental payment, if other customers who are subject to this settlement do not timely deposit/negotiate their payments.

HOW WILL I RECEIVE THIS PAYMENT? You will receive your payment under one of the following methods:

- If you purchased precious metals outside of a self-directed precious metals IRA, the Claims Administrator will directly mail you a check; or
- If you purchased precious metals to be held in a self-directed precious metals IRA, the Claims Administrator will make commercially reasonable efforts to issue payment directly to your IRA; or
- If you purchased precious metals to be held in a self-directed precious metals IRA but the Claims Administrator is unable to issue payment directly to your IRA, the Claims Administrator will directly mail you a check.
- Please note that if you made both non-IRA and IRA purchases, you may elect to deposit the portion of your payment attributable to the IRA transaction(s) into your IRA account, while receiving the balance directly.

WHEN WILL I RECEIVE THIS PAYMENT? You will receive your payment around 90 days from the date of this notice. If you receive payment by check, you must cash that check within 90 days of the check's date of issuance. If there are additional settlement funds available for distribution because some customers do not timely deposit/negotiate their payments, those

funds may be released to other customers in or around 30 days after the deadline in which to deposit/negotiate checks expires.

WHAT HAPPENS IF I DO NOTHING? You are not obligated to submit a claim. However, if you do nothing, you will not receive financial compensation under this settlement.

WHAT IF I HAVE QUESTIONS? If you have questions or issues in connection with your payment under this settlement, please contact the Claims Administrator (VENDOR) at TELEPHONE or settlement@learcapital.com.

[POSTCARD FRONT – FOR MAILINGS ONLY]

Customer name
RE: Lear Capital – Settlement Notice
Customer address

[POSTCARD BACK]

[ ] I would like to submit a claim to receive financial compensation in connection with the settlement in *The People of the State of California v. Lear Capital, Inc.*, Los Angeles County Superior Court, Case No. 19STCV19362.

Date: _____ Signature: _____

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CLAIM

[ ] I would like to submit a claim to receive financial compensation in connection with the settlement in *The People of the State of California v. Lear Capital, Inc.*, Los Angeles County Superior Court, Case No. 19STCV19362.

Date: _____ Signature: _____

*For online submissions (www.goldsilversettlement.com), the above text will be made available after the customer clicks on the "SUBMIT A CLAIM" hyperlink located at the top of the webpage, and the customer shall be able to check/mark, date, and sign this Claim electronically. For mailed submissions, the above text will be located on the self-addressed and stamped tear-off postcard attached to the bottom of the Settlement Notice.

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EXHIBIT C

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Lear Letterhead

Invoice ID:

Invoice Date:

Account ID:

Account Rep:

Sold To:

Name
Address
Address
Number

Internal instructions:

1. To be FedEx'd or emailed the same day the voice confirmation is recorded.
2. All coins purchased, including bonus coins, must be listed on same invoice.
3. Record of FedEx delivery or email with invoice attachment to be maintained indefinitely.
4. Cancellation phone number to be staffed by non-commissioned administrative staff. All VMs for this number to be preserved indefinitely.
5. Cancellation window disclosed on voice confirmation.

Qty	Description	Metal	Contet (Oz)	Price Per Coin	Total Per Coin

IRA Account # [if applicable]

Sub Total:
Shipping:
Total Invoice:

Important disclosures:

1. The ask to cost fee (i.e., the difference between the price you are paying and Lear's cost to acquire the metal sold to you) is __% on this transaction. Your precious metals must appreciate enough to cover this percentage for you to make a profit when you sell.

2. **You have one day following receipt of this invoice to cancel your purchase without any penalty.** This deadline will run from when the email attaching your invoice is received or FedEx delivers your invoice (if no email address was provided). If, for example, the invoice is received on a Tuesday, you have until Wednesday, 5pm, California time, to cancel your transaction. You must call toll free _____ to cancel your transaction. Operators are standing by during normal California business hours. In the event you receive voicemail, please leave your name, your invoice ID (listed above) and state, "I wish to cancel my transaction." (Certain customers may have additional time to cancel, depending on your state of residence and type of transaction. Please see Lear's Transaction Agreement Addendum for state-specific details.)

3. Past performance is no guarantee of future results.

4. Lear is not an investment advisor, retirement specialist, or fiduciary. Lear sales representatives are commissioned salespersons. The customer, alone, decides what to purchase or liquidate, and when, based on their own research and judgment.

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