

**UNITED STATES DISTRICT COURT  
DISTRICT OF MARYLAND**

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**FEDERAL TRADE COMMISSION** )  
600 Pennsylvania Avenue, Northwest )  
Washington, District of Columbia 20580 )  
 )  
Plaintiff, )  
 )  
 )  
v. )  
 )  
**BALLENGER GROUP, LLC** )  
321 Ballenger Center Drive )  
Frederick, Maryland 21703 )  
Frederick County, and )  
 )  
**BALLENGER HOLDINGS, LLC** )  
321 Ballenger Center Drive )  
Frederick, Maryland 21703 )  
Frederick County )  
Defendants. )  
 )  

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**Civil Action No.:**

**STIPULATED FINAL JUDGMENT AND ORDER FOR  
PERMANENT INJUNCTION AND MONETARY SETTLEMENT**

Plaintiff Federal Trade Commission (“FTC”) commenced this action concurrently with this Stipulated Judgment and Order by filing a Complaint for permanent injunctive and other equitable relief pursuant to Sections 5(a) and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 53(b). The Complaint charges Defendants Ballenger Group, LLC, and Ballenger Holdings, LLC, with deceptive and unfair acts and practices in promoting and offering credit counseling and debt management plans in violation of Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).

The FTC, and the Defendants, having been represented by counsel and acting by and through

such counsel, have consented to the entry of this Order by this Court to resolve all matters of dispute between the FTC and the Defendants without adjudication of any issue of fact or law and without the Defendants admitting liability for any of the matters alleged in the Complaint.

**NOW, THEREFORE**, on the joint motion of the FTC and the Defendants

**IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED** as follows:

### **FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and of the parties. Venue in the District of Maryland is proper.
2. The Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b).
3. The FTC has the authority under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b) to seek the relief it has requested.
4. Defendants have waived service of the Summons and Complaint.
5. The activities of Defendants charged in the Complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
6. Defendants enter into this Order freely and without coercion, and acknowledge that they understand the provisions of this Order and are prepared to abide by its terms.
7. Defendants waive all rights to seek appellate review or otherwise challenge or contest the validity of this Order. Defendants further waive and release any claims they may have against the FTC, its employees, representatives, or agents.
8. Defendants agree that this Order does not entitle Defendants to seek or to obtain attorneys' fees



4. “Credit counseling” means providing financial advi

- B. In communications disseminated orally, the message shall be delivered in a volume and cadence sufficient for an ordinary consumer to comprehend it.
- C. In communications made through an electronic medium (such as television, video, radio, and interactive media such as the Internet, online services, and software), the message shall be presented simultaneously in both the audio and visual portions of the communication. In any communication presented solely through visual or audio means, the message may be made through the same means by which the communication is presented. Any audio message shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. Any visual message shall be of a size and shade, with a degree of contrast to the background against which it appears, and shall appear on the screen for a duration and in a location sufficiently noticeable for an ordinary consumer to read and comprehend it.

The message shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the message shall be used in any communication.

#### **I. PROHIBITED BUSINESS ACTIVITIES**

**IT IS FURTHER ORDERED** that, in connection with the advertising, promoting, marketing, offering, selling, or distributing of any goods or services related to credit counseling, credit education, or debt management, Defendants, as well as their successors, assigns, officers, agents, servants, employees, or affiliates, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from

making, or causing or assisting others to make, expressly or by implication, any false or misleading representations, including, but not limited to, misrepresenting:

- A. the existence, absence, terms, or amount of any fees, contributions, monies, or other costs, whether monetary or in kind, associated with the goods or services;
- B. that no profits are being made from the goods or services provided; and
- C. the terms, costs, other conditions, benefits of, or any other matter regarding the goods or services.

## **II. MANDATORY DISCLOSURES**

**IT IS FURTHER ORDERED** that in connection with the advertising, promoting, marketing, offering, selling or distributing of any goods or servi

- B. what effect the consumer's decision not to pay fees, contributions, monies, or other costs, whether monetary or in kind, has on the terms, other conditions, or benefits of the goods or services; and
- C. if such is the case, that any money paid by a consumer on a DMP will not be disbursed to creditors, regardless of whether the money is deemed a fee, a contribution, or otherwise, and the person to whom that money will be paid.

### **III. MONETARY RELIEF**

**IT IS FURTHER ORDERED** that judgment in the amount of seven hundred and fifty thousand dollars (\$750,000.00) is hereby entered against Defendants Ballenger Group and Ballenger Holdings, jointly and severally, which shall be paid as follows:

- A.
  - 1. Within ten (10) business days of the date of entry of this Order, Defendants shall pay the sum of two hundred and fifty thousand dollars (\$250,000.00) to the Commission; and
  - 2. Within thirty (30) days after the date that the payment in Part III.A.1 is due Defendants shall pay the additional sum of two hundred and fifty thousand dollars (\$250,000.00); and
  - 3. Within sixty (60) days after the date that the payment in Part III.A.1 is due Defendants shall pay the additional sum of two hundred and fifty thousand dollars (\$250,000.00); and
  - 4. All payments shall be made by wire transfer in accord with directions

provided by the Commission.

- B. Any and all funds paid pursuant to this Order shall be deposited into a fund administered by the FTC or its agent to be used for equitable relief including, but not limited to, consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices as alleged in the Complaint. Any funds not used for such equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants have no right to challenge the FTC's choice of remedies under this Subsection.
- C. Defendants further agree that the facts as alleged in the Complaint shall be taken as true in the event of any subsequent litigation to enforce this Order or to collect amounts due pursuant to this Order, including, but not limited to, a nondischargeability complaint in any bankruptcy proceeding.
- D. In the event of any default in payment that continues for ten (10) business days beyond



attorneys' fees incurred by the FTC and its agents in any attempts to collect amounts due.

- F. All funds paid pursuant to this Order are equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment, or forfeiture.

#### **IV. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that each Defendant within five (5) business days after receipt of this Order as entered by the Court, must submit to the FTC a truthful sworn statement acknowledging receipt of this Order.

#### **V. DISTRIBUTION OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order Defendants Ballenger Group, LLC, and Ballenger Holdings, LLC shall deliver a copy of this Order to all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of this Order. Defendants Ballenger Group, LLC, and Ballenger Holdings, LLC shall deliver this Order to current personnel within thirty (30) days of the Entry of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.

#### **VI. RECORDKEEPING REQUIREMENT**

**IT IS FURTHER ORDERED** that, for a period of six (6) years from the date of entry of this

Order, in connection with any business related to credit counseling, credit education, or debt management, Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Copies of all manuals, sales scripts, training materials, advertisements, or other marketing materials;
- B. Records accurately reflecting: the name, address, and phone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date on which the person commenced work; and the date and reasons for his or her termination, if applicable;
- C. Records accurately reflecting: the number of consumers to whom Defendants provided any good or service; and the number of consumers who paid fees, contributions, monies, or other costs, whether monetary or in kind, to anyone in order to obtain the good or service, and the amount of each such payment;
- D. Customer files containing the names, addresses, phone numbers, dollar amounts paid to creditors, and dollar amounts paid to any other person, to the extent such information is obtained in the ordinary course of business; and
- E. Complaints and refund requests (whether received directly, indirectly, or through any third party) and any responses to those complaints or requests.

## **VII. COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order

scripts used by employees for conversations with consumers or potential consumers.

C. For purpose of the compliance reporting required by this Part, the FTC is

any of the Defendants, without the necessity of identification or prior notice;

**Provided that** nothing in this Order shall limit the FTC's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C.

§§ 49 and 57b-1, to obtain documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

- C. Defendants shall permit representatives of the FTC to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

## **IX. TAXPAYER IDENTIFICATION NUMBERS**

Associate Director, Division of Financial Practices  
Federal Trade Commission  
600 Pennsylvania Ave., N.W.  
Washington, D.C. 20580  
Re: FTC v. Ballenger Group, et al.

**XII. COSTS AND ATTORNEYS FEES**

**IT IS FURTHER ORDERED** that all parties to this Order will bear their own costs and attorneys fees incurred in connection with this action.

**XIII. SCOPE OF ORDER**

This Order resolves only claims against the named Defendants and their employees, officers, and directors, and it does not preclude the Commission from initiating further action or seeking any remedy against any other persons or entities, including without limitation persons or entities who may be subject to portions of this Order by virtue of actions taken in concert or participation with Defendants, and persons or entities in any type of indemnification or contractual relationship with Defendants.

**XIV. RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_

The parties hereby stipulate and agree to the terms and conditions set forth above and consent to entry of this Stipulated Final Judgment and Order.

FOR PLAINTIFF FEDERAL TRADE COMMISSION:

WILLIAM E. KOVACIC  
General Counsel

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Maiysha R. Branch  
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ATTORNEYS FOR PLAINTIFF  
FEDERAL TRADE COMMISSION

FOR THE DEFENDANTS:

\_\_\_\_\_  
BALLENGER GROUP, LLC  
By George Fortuna, Chief Executive Officer

Dated: \_\_\_\_\_

\_\_\_\_\_  
BALLENGER HOLDINGS, LLC  
By Michael Malesardi, Chief Financial Officer

Dated: \_\_\_\_\_

Approved as to Form:

\_\_\_\_\_  
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Attorneys for Defendants Ballenger Group, LLC and  
Ballenger Holdings, LLC

Dated: \_\_\_\_\_