

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

WHITEWING FINANCIAL GROUP, INC.,

CHRISTOPHER B. BADGER,

Case No.

06-02102

2. The Complaint states a claim upon which relief may be granted against the defendants under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53b, and 56(a), and Section 814 of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692f.

I. CIVIL PENALTY AND RIGHT TO REOPEN

A. Judgment in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) is

Lynda J. Badger and Tom P. Badger jointly and severally as a civil penalty pursuant to Section

E. This judgment represents a civil penalty owed to the United States Government and is not compensation for actual pecuniary loss. The defendants agree that the facts as alleged in the complaint filed in this action shall be taken as true, without further proof, in any subsequent litigation filed by or on behalf of the Commission to collect any unpaid amount or otherwise enforce its rights pursuant to this Order, including a nondischargeability complaint filed in any bankruptcy case.

F. Proceedings initiated under this Paragraph are in addition to, and not in lieu of, any

1. Falsely representing the character, amount, or legal status of any debt, in violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. §1692e(2)(A);

2. Threatening to take any action that cannot legally be taken or threatening to

807(5) of the FDCPA, 15 U.S.C. § 1692e(5); and

3. Using false representations or deceptive means to collect or attempt to collect a debt or obtain information concerning a consumer, in violation of

3. That defendants possess documentation demonstrating that the debt is a valid debt of the consumer;

to take if the debt is not paid, including:

1. That the debt will be reported to a credit bureau if the debt is not paid; and
2. That legal proceedings will be initiated against the consumer if the debt is not paid; and

Making any misrepresentation, expressly or by implication, to collect on its attempt

about this debt. If you write to us and ask us to stop

But if you owe this debt, you will still owe it and, under the law, we may still contact you for two reasons:

- To advise you that we intend to pursue specific remedies permitted by law; or
- To advise you that our efforts are being terminated.

~~the way we are collecting this debt. Please direct~~

a copy of the following notice to all officers, servants, agents, and employees having responsibility with respect to the collection of debts, within thirty (30) days of the date of entry of this Decree, and to each employee hired for a period of five (5) years after that date, no later than the time the employee assumes responsibility with respect to the collection of debts, and shall secure from each such person a signed statement acknowledging receipt of a copy of the notice:

Debt collectors must comply with the federal Fair Debt Collection Practices Act, which limits your activities in trying to collect money from consumers. Section 805 of the Act prohibits you from contacting a consumer at work if you know or should know it is inappropriate for the consumer. In addition, Section

807 of the Act prohibits you from representing as

and the FDCPA to all of its employees, agents, and representatives who engage in conduct related to the subject matter of this Decree. For current personnel, delivery shall be within five (5) days of service of this Decree upon defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.

B. Defendants Christopher B. Badger, Lynda J. Badger, and Jon P. Badger as control persons: For any business which is engaged in the collection of "debts" from "consumers," as those terms are defined in Section 803(5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(5) and (3), that defendant Christopher B. Badger, Lynda J. Badger, or Jon P. Badger controls, directly or indirectly, or in which such defendant has a majority ownership

officers, directors, and managers of that business. Such defendant must also deliver copies of this

D. Defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J.

Badger, and Jon P. Badger must secure a signed and dated statement acknowledging receipt of

~~the Document and the FDICRA comment to this Document.~~

~~the Document and the FDICRA comment to this Document.~~

debt owed, records of collection activity, and amounts collected;

D. For every consumer complaint, whether received directly, indirectly, or through a third party, records that include:

1. Any complaint and the date received, and the nature of any complaints as reflected in any notes, logs, or memoranda, including a description of the conduct alleged; and
2. The basis of the complaint, including the names of any debt collectors or supervisors complained about; the nature of any investigation conducted

VI. COMPLIANCE REPORTING BY DEFENDANTS

In order that compliance with the provisions of this Decree may be monitored:

A. For a period of three (3) years from the date of entry of this Decree.

1. Defendants Christopher B. Badger, Lynda J. Badger, and Jon P. Badger

shall notify the Commission of the following:

- a. Any changes in residence, mailing addresses, and telephone numbers of such defendant within ten (10) days of the date of such change;
- b. Any changes in employment status (including self-employment) of such defendant, and any change in the ownership of such defendant in any business entity, within ten (10) days of the date of such

change. Such notice shall include the name and address of each

business that such defendant is affiliated with, employed by, or

Badger, or Jon P. Badger directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Decree, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Decree; the filing of a

bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the defendants learn less

- b. The then-current employment and business addresses, and telephone numbers of such defendant, a description of the business activities of each such employer or business, and the title and responsibilities of such defendant for each such employer or business; and
 - c. Any other changes required to be reported under Subparagraph A of this Paragraph.
2. For defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger:

 A COPY of each acknowledgment of receipt of this Decree obtained

VII. COMPLIANCE MONITORING

For the purpose of monitoring and investigating compliance with any provision of this

Decree:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger each shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in such defendant's possession or

employer, consultant, independent contractor, representative, agent, or employee who has agreed

interviewed may have counsel present.

Provided, however, that nothing in this Decree shall limit the Commission'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 any 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)).

VIII. ACKNOWLEDGMENT OF RECEIPT OF DECREE BY DEFENDANTS

Defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger, within five (5) business days of receipt of this Decree as entered by the Court, must each submit to the Commission a truthful sworn statement acknowledging receipt of this Decree.

IX. RETENTION OF JURISDICTION

This Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Decree.

THE FOREGOING AGREEMENT IS ENTERED IN FULL OF PLAINTIFF AND AGAINST DEFENDANTS

pursuant to all the terms and conditions recited above.

DATED: 6-23-06

[Handwritten signature]

[REDACTED]

The parties, by their respective counsel, hereby consent to the terms and conditions of the

FOR THE UNITED STATES OF AMERICA FOR THE DEFENDANT

**FOR THE FEDERAL TRADE
COMMISSION:**

BRADLEY ELBEIN
Regional Director, Southwest Region
Federal Trade Commission

FOR JON P. BADGER:


JON P. BADGER individually

[Redacted signature area]

REASONS FOR SETTLEMENT

This statement accompanies the Consent Decree executed by defendants Whitewing