

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and under 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 57b, 1681s, and 1692l.

3. Venue is proper in the United States District Court for the Southern District of Ohio under 28 U.S.C. §§ 1391(b)-(c), 1395(a), and 15 U.S.C. § 53(b).

PLAINTIFF

4. This action is brought by the **United States of America** on behalf of the

alleged in this Complaint. At all times relevant to this Complaint, Defendant Ebert has resided in or transacted business in this District.

7. **Defendant Brian Striker** (“Striker”) is an officer of CBCS, serving as the Director and/or Vice President of Collections. Defendant Striker plays an active role in the management and/or supervision of CBCS’s National Office’s debt collection activities. Defendant Striker, in his capacity as the Director of Collections and/or Vice President of Collections, formulated, directed, controlled, had the authority to control, or participated in the debt collection acts and practices of CBCS, including the acts and practices alleged in this Complaint. At all times relevant to this Complaint, Defendant Striker has resided in or transacted business in this District.

8. Defendant CBCS, Defendant Ebert, and Defendant Striker (“Defendants”) are “debt collectors,” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6). As part of its debt collection activities, Defendant CBCS furnishes information to CRAs. As such, Defendant CBCS is a person subject to Section 623 of the FCRA, 15 U.S.C. § 1681s-2, which imposes a series of duties and prohibitions upon any person or entity that furnishes information to a CRA.

9. The term “consumer” as used in this Complaint, means any natural person obligated or allegedly obligated to pay any debt, as “debt” is defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5).

COMMERCE

10. At all times material to this Complaint, Defendants have maintained a substantial course of trade in the collection of debts, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

COURSE OF CONDUCT

11. CBCS provides collection services to regional and national credit grantors, attempting to recover both commercial and consumer debts, a substantial number of which have previously been placed in collection.

12. CBCS regularly attempts to collect debts by contacting the consumer by telephone.

13. CBCS is a person who regularly and in the ordinary course of business furnishes information to one or more CRAs about its transactions or experiences with its consumers.

14. CBCS routinely receives complaints from consumers who claim they do not owe the debt CBCS attempts to collect, either because CBCS has contacted the wrong person or the debt has been satisfied previously.

15. In numerous instances, consumers notify CBCS at the address specified for such disputes that CBCS is reporting inaccurate information concerning the consumers' credit to the CRAs. These consumers typically also show mistaken identity or proof of payment as proof that the information reported by CBCS is inaccurate. CBCS has continued to report inaccurate information to the CRAs even after receiving such notice and accompanying proof.

16. In numerous instances, consumers dispute the information appearing on the consumers' credit reports in writing to the CRA reporting the information. Defendant CBCS receives most notices of disputes from a CRA in electronic format, through automated consumer dispute verification ("ACDV") forms.

17. Pursuant to Section 623(b)(1) of the FCRA, CBCS, as a furnisher of information to the CRAs, is required to conduct an investigation of the disputed information upon receipt of a notice of dispute from a CRA.

18. For certain types of disputes, such as those where the consumer claims the account is not his or hers or belongs to someone with a similar name, it is CBCS's policy and practice only to

compare the name, social security number, date of birth, and address in CBCS's computer database

with the information provided by the consumer. CBCS will compare the information with the information in its database and will

report the results of the comparison to the consumer. CBCS will also provide the consumer with a copy of the results of the comparison.

that only after the consumer has alleged the same type of account inaccuracy more than four times

will they make reasonable efforts to investigate the account. CBCS

collects accounts that are often of

THE FAIR CREDIT REPORTING ACT

23. The FCRA was enacted in 1970 and became effective on April 25, 1971, and has been in force since that date. In 1996, the FCRA was amended extensively by Congress. Among other things, Congress added Section 623 of the Act, which became effective on October 1, 1997.

24. Section 621 of the FCRA, 15 U.S.C. § 1681s, authorizes the Commission to use all of its functions and powers under the FTC Act to enforce compliance with the FCRA by all persons subject thereto except to the extent that enforcement specifically is committed to some other governmental agency, irrespective of whether the person is engaged in commerce or meets any other jurisdictional tests set forth by the FTC Act.

VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

COUNT I

25. Section 623(a) of the FCRA describes the duties of furnishers to provide accurate information to CRAs. Section 623(a)(1)(B) prohi 0CflTJ210.64 0 TD-.01 tcUs-.01 tc.09cer

28. Despite having proof from the consumer to the contrary, in numerous instances, Defendant CBCS continued to furnish information to a CRA relating to a consumer when (a) CBCS was notified by the consumer at an address specified by CBCS that specific information was inaccurate and (b) the information, was in fact, inaccurate.

29. The acts and practices alleged in Paragraphs 26-28 constitute violations of Section 623(a)(1)(B) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(B). Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraphs 26-28 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

30. Section 623(b)(1) of the FCRA requires furnishers of information to CRAs to conduct an investigation when the furnisher receives a notice of dispute from a CRA in accordance with the provisions of Section 611(a)(2) of the FCRA, 15 U.S.C. § 1681i(a)(2), and to report the results of the investigation to the CRA.

31. In numerous instances, Defendant CBCS does not conduct a meaningful investigation, or an investigation at all, when it receives a notice of dispute from a CRA. For example,

- a. In disputes where a consumer claims the account is not his or hers, or the account belongs to someone else, CBCS's policy and practice is to compare the name, social security number, date of birth, and address in CBCS's computer database with the information provided on each ACDV. Where three of the four items match, CBCS will report that it has verified as accurate the information reported to the CRA. Only after a consumer has disputed the information more than four times, does the account become assigned to a supervisor to do further

“investigation.” Because CBCS collects accounts that are often old, information in its computer files may not be accurate for a variety of reasons, including incorrect updating of addresses, errors in recording names and information, and problems with the original creditor’s records. In addition, these types of disputes often include claims of identity theft or mistaken identity, and thus, while the information in CBCS’s records may match the consumer’s name, social security number, date of birth, or address, it is not the consumer’s account.

- b. In disputes involving identity theft or fraud allegations, CBCS’s policies provide that if the existing account codes and notes in CBCS’s file for the consumer do not contain any reference to a prior claim of fraud, CBCS will verify the previously reported information without conducting any investigation prior to such verification.

32. The acts and practices alleged in Paragraph 31 constitute violations of Section 623(b) of the FCRA, 15 U.S.C. § 1681s-2(b). Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 31 also constitute unfair acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

33. Section 623(a)(3) of the FCRA provides that if the completeness or accuracy of any information furnished by any person to any CRA is disputed to such person by any consumer, the information must be noted as disputed in the information reported by such person to any CRA. This provision does not require consumer disputes to be in writing.

34. In numerous instances in which consumers have informed Defendant CBCS, over the telephone and/or in writing, that they dispute the completeness or accuracy of information furnished

by Defendant CBCS to a CRA, Defendant continued to furnish the information to CRAs without providing notice that such information is disputed by the consumer.

35. The acts and practices alleged in Paragraph 34 constitute violations of Section 623(a)(3) of the FCRA, 15 U.S.C. § 1681s-2(a)(3). Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph 34 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

FAIR DEBT COLLECTION PRACTICES ACT

36. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692-1692p, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. § 1692i, authorizes the Commission to use all of its functions and powers under the FTC Act to enforce compliance with the FDCPA by any debt collector, irrespective of whether that debt collector is engaged in commerce or meets any other jurisdictional tests set by the FTC Act. The authority of the Commission in this regard includes the power to enforce the provisions of the FDCPA in the same manner as if the violations of the FDCPA were violations of a Federal Trade Commission trade regulation rule. Finally, a violation of the FDCPA shall be deemed an unfair or deceptive act or practice in violation of the FTC Act.

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

of a debt, in violation of Section 807(2)(A) of the FDCPA, 15 U.S.C.
§ 1692e(2)(A); or

- b. In numerous instances, Defendants, directly or indirectly, have failed

**INJUNCTION FOR VIOLATIONS OF
THE FTC ACT, FCRA, AND FDCPA**

43. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction to ensure that: (a) Defendant CBCS will not continue to violate the FTC Act, the FCRA, and the FDCPA and (b) Defendant Ebert and Defendant Striker will not continue to violate the FTC Act and the FDCPA.

**EQUITABLE RELIEF FOR VIOLATIONS OF
THE FCRA, FDCPA, AND FTC ACT**

44. Under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, this Court is authorized to issue all equitable and ancillary relief as it may deem appropriate in the enforcement of the FCRA, the FDCPA, and the FTC Act, including the ability to order rescission or reformation of contracts, restitution, the refund of monies paid, and disgorgement to deprive a wrongdoer of ill-gotten gain.

**CIVIL PENALTIES
FOR VIOLATIONS OF THE FCRA**

45. Section 621 of the FCRA, 15 U.S.C. § 1681s, authorizes the Court to award monetary civil penalties of not more than \$2,500 per violation for each violation of Sections 623(a)(3) and 623(b) of the FCRA.

46. Each instance in which Defendant CBCS has violated Sections 623(a)(3) and 623(b) of the FCRA constitutes a separate violation of the FCRA for which Plaintiff seeks monetary civil penalties under Section 621 of the FCRA, 15 U.S.C. § 1681s.

47. Defendant CBCS has engaged in knowing violations of the FCRA as described above, which constitute a pattern or practice of violations.

**CIVIL PENALTIES
FOR VIOLATIONS OF THE FDCPA**

48. Defendant CBCS has violated the FDCPA as described above, with actual knowledge or knowledge fairly implied on the basis of objective circumstances, as set forth in Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

49. Each instance within five (5) years preceding the filing of this Complaint, in which Defendant CBCS has failed to comply with the FDCPA in one or more of the ways described above, constitutes a separate violation for which Plaintiff seeks monetary civil penalties.

50. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), Section 814(a) of the FDCPA, 15 U.S.C. § 1692l, and Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorize the Court to award monetary civil penalties of not more than \$11,000 for each violation of the FDCPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, pursuant to 15 U.S.C. §§ 45(m)(1)(A), 53(b), 1692l, 1681s, and the Court's own equitable powers, respectfully requests that the Court:

1. Enter a permanent injunction to prevent future violations of the FTC Act, the FDCPA, and the FCRA by Defendants;
2. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, the FDCPA, and the FCRA, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten gains;
3. Award Plaintiff monetary civil penalties for each violation of the FCRA as alleged in this Complaint, except as to violations of Section 623(a)(1), 15 U.S.C. § 1681s-2(a)(1);

4. Award Plaintiff monetary civil penalties for each violation of the FDCPA occurring within five years preceding the filing of this Complaint; and

5. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

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