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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION and
PEOPLE OF THE STATE OF NEW YORK,
by ERIC T. SCHNEIDERMAN, Attorney
General of the State of New York

Plaintiffs,

v.

NATIONAL CHECK REGISTRY, LLC, a
New York limited liability company; CHECK
SYSTEMS, LLC, a New York limited liability
company; INTERCHEX SYSTEMS, LLC, a
New York limited liability company;
AMERICAN MUTUAL HOLDINGS, INC., a
New York corporation; GOLDBERG
MAXWELL, LLC, a New York limited
liability company; MORGAN JACKSON,

Case No.

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER EQUITABLE
RELIEF

LLC, a New York limited liability company;
MULLINS & KANE, LLC, a New York
limited liability company; BUFFALO
STAFFING, INC., a New York corporation;
ECAPITAL SERVICESLLC, f/k/a Consumer
Check Reporting, LLC, a New York limited
liability company JOSEPH C. BELLA, III,
individually and

(iii) illegal debt collection practices under GBL § 602 and to obtain legal, equitable or other appropriate relief including rescission or reformation of contracts, restitution, the appointment of a receiver, disgorgement of ill-gotten monies, or other relief as may be appropriate.

DEFENDANTS

7. Defendant National Check Registry, LLC is a New York limited liability company that has held itself out as doing business at addresses including 665 Main Street, Suite 300, Buffalo, New York 14203. At times material to this Complaint, National Check Registry has transacted business in this district and throughout the United States.

8. Defendant Check Systems, LLC is a New York limited liability company that has held itself out as doing business at addresses including 295 Main Street, Suite 112, Buffalo, New York 14203 and 268 Main Street, Suite 100-102, Buffalo, New York 14202. At times material to this Complaint, Check Systems has transacted business in this district and throughout the United States.

9. Defendant Interchex Systems, LLC is a New York limited liability company that has held itself out as doing business at addresses including 268 Main Street, Suite 100, Buffalo, New York 14202. At times material to this Complaint, Interchex Systems has transacted business in this district and throughout the United States.

10. Defendant American Mutual Holdings Inc., is a New York corporation that has held itself out as doing business at addresses including 268 Main Street, Suite 100, Buffalo, New York 14202. At times material to this Complaint, American Mutual Holdings has transacted business in this district and throughout the United States.

11. Defendant Goldberg Maxwell, LLC is a New York limited liability company that has held itself out as doing business at addresses including 224 Summer Street, Buffalo,

New York 14222. At times material to this Complaint, Goldberg Maxwell has transacted business in this district and throughout the United States.

12. Defendant Morgan Jackson, LLC is a New York limited liability company that has held itself out as doing business at addresses including 268 Main Street, Suite 100, Buffalo, New York 14202. At times material to this Complaint, Morgan Jackson has transacted business in this district and throughout the United States.

13. Defendant Mullins & Kane LLC, is a New York limited liability company that has held itself out as doing business at addresses including 1673 Hertel Avenue, Buffalo, New York 14216. At times material to this Complaint, Mullins & Kane has transacted business in this district and throughout the United States.

14. Defendant Buffalo Staffing, Inc., is a New York corporation that has held itself out as doing business at addresses including 224 Summer Street, Buffalo, New York 14222. At times material to this Complaint, Buffalo Staffing has transacted business in this district and throughout the United States.

15. Defendant Capital Services, LLC, formerly known as Consumer Check Reporting LLC, is a New York limited liability company that has held itself out as doing business from 295 Main Street, Suite 115, Buffalo, New York 14202. At times material to this Complaint, Capital Services has transacted business in this district and throughout the United States.

16. Defendant Joseph C. Bella, III, is or has been a principal of one or more of the Corporate Defendants, including National Check Registry, Check Systems, Interchex Systems, American Mutual Holdings, Goldberg Maxwell, Mullins & Kane, Morgan Jackson, Buffalo Staffing, and Capital Services, LLC. He also is or has been a signatory to the bank accounts of

district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

19. Defendants are “debt collectors” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6). In addition, Defendants are not a “bad check enforcement program” excluded from the FDCPA under Section 818 of that statute. 15 U.S.C. § 1692p.

COMMON ENTERPRISE

20. Defendants National Check Registry, Check Systems, Interchex Systems, American Mutual Holdings, Goldberg Maxwell, Morgan Jackson, Mullins & Koff, Buffalo Staffing, and Capital Services (collectively, “Corporate Defendants”) have operated as a common enterprise while engaging in the deceptive and abusive acts and practices alleged below. Defendants have conducted the business practices described below through an interrelated network of companies that have common officers, managers, business functions, employees, and boiler room locations, and that commingled funds. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Joseph Bella, Diane Bella, and Shaw have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise. Defendants Joseph Bella, Diane Bella, and Shaw are jointly and severally liable with the Corporate Defendants for the acts and practices alleged below.

DEFENDANTS' DECEPTIVE AND ABUSIVE COLLECTION PRACTICES

22. Since at least February 2010, and continuing thereafter, Defendants have used abusive and deceptive tactics to pressure consumers into making payments on purported debts, often with respect to loans that the consumers have challenged or in whole. Defendants core tactic has been to misrepresent that consumers have committed fraud or another unlawful act related to purported debts. Defendants have then claimed that consumers will face dire consequences including arrest and imprisonment unless the fraud charges are resolved. And Defendants claim that the only way to resolve the charges is by making an immediate payment on the debt over the phone. Moreover, Defendants have compounded their threats and misrepresentations by refusing to provide consumers with statutorily required disclosures and notices that would assist consumers in understanding and challenging the purported debt.

23. The Defendants' tactics already have been the subject of enforcement action by Plaintiff State of New York. On October 30, 2013, Defendant Joseph Bella agreed to an Assurance of Discontinuance ("AOD") in the State of New York. Defendant Joseph Bella agreed to the AOD individually and as a corporate officer of Defendants Check Systems, LLC, Interchex Systems, LLC, Goldberg Maxwell, LLC, Mullins & Kane, LLC, Morgan Jackson, LLC, and National Check Registry, LLC. The AOD also binds these Defendants' agents, trustees, servants, employees, successors, heirs and assigns, or any other person under their direction and control, whether acting individually or in concert with others, or through any corporate or other entity or device through which they have or are acting or conducting business, operating or doing business in New York State, including business which they have any legal or beneficial interest in. As part of the AOD, Defendants agreed to abide by all

applicable federal and state laws, including the FDCPA. Specifically, Defendants agreed to refrain from:

- x representing or implying that the D

as to tell consumers' friends, family members, or coworkers that the consumers are in legal trouble and are facing civil or criminal sanctions.

25. Defendants have profited handsomely both before and after entering into the AOD—from their combination of aggressive misrepresentations and a failure to comply with basic disclosure requirements. Since February 2010, Defendants have collected and processed at least 8.7 million dollars in payments for purported debts.

Defendants' False Threats that Consumers Are Facing Dire Consequences

26. In numerous instances, Defendants have contacted a consumer by telephone and have asserted that the consumer committed fraud or another fraudulent act. Defendants frequently build on the claim that consumers have committed fraud by threatening dire consequences to consumers who do not make payments. Specifically, Defendants have threatened to

x sue consumer

x have consumer

referencing the consumer's local labor law enforcement agency. For

from a generic sounding online creditor such as Loans.com or "Loan.com"

33. In numerous instances, consumers have claimed that they have never heard of these creditors or ask for additional information about the debts. In many instances,

38. In numerous instances, Defendants also have failed to provide consumers within five days after the initial communication with a statutorily required written notice—where the information was not contained in the initial communication and the consumer had not paid the debt—setting forth: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer disputes the debt, the debt will be assumed valid; and (4) a statement that if the consumer disputes all or part of the debt in writing within 30 days,

VIOLATIONS OF SECTION 5 OF THE FTC ACT

43. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

44.

15 U.S.C. § 45(a).

Count II by Plaintiff FTC

False or Unsubstantiated Representations That Consumers Owe Debts in Part or in Whole

48. In numerous instances in connection with the collection of purported consumer debts Defendants have represented, directly or indirectly, expressly or by implication, tha

a.

representations or means, in violation of Section 807 of the FDICPA, 15 U.S.C. § 1692e,

Count V by Plaintiff FTC

Unauthorized Charges

57. In numerous instances, in connection with the collection of debts, Defendants have collected fees that are not “expressly authorized by the agreement creating the debt or permitted by law,” in violation of Section 808(1) of the FDCPA, 15 U.S.C. § 1692f(1).

Count VI by Plaintiff FTC

Failure To Provide A Validation Notice

58. In numerous instances, in connection with the collection of debts, Defendants have failed to provide consumers, either in the initial communication with a consumer or in a written notice sent within five days after the initial communication, with statutorily required information about the debt and the right to dispute the debt in violation of Section 809(a) of the FDCPA, 15 U.S.C. § 1692g(a)

VIOLATIONS OF NEW YORK STATE LAW

Fraudulent and Deceptive Acts or Practices

59. In numerous instances, in connection with the collection of debts, Defendants directly or indirectly, have used false, deceptive, or misleading representations or means including, but not limited to:

- a. Falsely representing the character, amount, or legal status of a debt;
- b. Continuing to collect on a debt after being informed that the consumer did not owe the debt without any reasonable basis for doing so;
- c. Falsely representing or implying that nonpayment of a debt will result in the arrest or imprisonment of a person or the seizure, garnishment, or attachment of a person's property, wages or bank accounts when such

action is not lawful or when Defendants have no intention of taking such action,

- d. Threatening to take action that is not lawful or that Defendants do not intend to take, such as filing a lawsuit
- e. Falsely representing or implying that a consumer ~~has~~ committed any crime or other conduct
- f. Using a false representation or deceptive means to collect or attempt to collect a debt, or to obtain information concerning a consumer

Count VII by Plaintiff State of New York

- 60. N.Y Executive Law, § 63(12) empow

Count IX by Plaintiff State of New York

Violation of New York State Debt Collection Law

64. N.Y. General Business Law § 601 sets forth a list of prohibited debt collection practices. In numerous instances, Defendants have engaged in debt collection practices prohibited by General Business Law § 601 including the following:

- a. Knowingly collecting, attempting to collect, or asserting a right to any collection fee, attorney's fee, court cost or expense when such charges were not justly due and legally chargeable against the debtor in violation of General Business Law § 601(2);
- b. Communicating or threatening to communicate the nature of a claim to the debtor's employer prior to obtaining final judgment against the debtor in violation of General Business Law § 601(4);
- c. Disclosing or threatening to disclose information concerning the existence of a debt known to be disputed by the debtor without disclosing that fact in violation of General Business Law § 601(5);
- d. Threatening to

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C.

enriched as a result of their unlawful acts or practices. Absent injunctive relief ~~Courts~~
Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the
public interest.

THIS COURT'S POWER TO GRANT RELIEF

75. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and Section 814(a) of the
FDCPA, 15 U.S.C. § 1692(a), empower this Court to grant injunctive and such other relief as
the Court may deem appropriate to halt and redress violations of any provision of law enforced
by the FTC. The Court, in the exercise of its equitable jurisdiction, may award an ~~affidavit~~ r
including rescission or reformation of contracts, restitution, the refund of monies paid, and the
disgorgement of ~~illegally~~ gotten monies, to prevent and remedy any violation of any provision of law
enforced by the FTC.

76. N.Y. Executive Law § 63(12) empowers the Attorney General to seek injunctive
relief, restitution, damaged ~~disgorgement~~ and other relief when any person or business entity has
engaged in repeated fraudulent or illegal acts, or has otherwise demonstrated persistent fraud or
illegality in the carrying on, conducting or transaction of business. ~~New York Business Law~~
§ 349 prohibits deceptive business practices and empowers the Attorney General to seek
injunctive relief, restitution and civil penalties when violations occur. ~~General Business Law~~
Article 29-H, § 602 empowers the Attorney General to bring an action to restrain any violation
of Article 29-H, New York's Debt Collection Procedures.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff ~~is~~ FTC and the State of New York, pursuant to Section ~~13(b)~~
the FTC Act, 15 U.S.C. § 53(b), Section 814(a) of the FDCPA, 15 U.S.C. § ~~1692~~
Executive law § 63(12) and N.Y. General Business Law §§ 349, ~~350~~ and 602(2) and the

Court's own equitable powers, request that the Court:

A. Award Plaintiffs such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions, an order freezing assets, immediate access to business premises, and appointment of a receiver;

B. Enter a permanent injunction to prevent future violations of the FTC Act, the FDCPA, N.Y. General Business Law Articles 22 and 29H and Executive Law § 63(12), by Defendants;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, the FDCPA, N.Y. General Business Law Articles 22A and 29H and Executive Law § 63(12), including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and disgorgement of ill-gotten monies;

D. Pursuant to N.Y. General Business Law § 350d, impose a civil penalty of \$5,000 for each violation of General Business Law Article 22-A; and

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

