

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

UNITED STATES OF AMERICA,
Plaintiff,

v.

REGIONAL ADJUSTMENT BUREAU, INC.,
a corporation;

Defendant.

No. 2:14-cv-02522-JPM-tmp

**STIPULATED ORDER FOR PERMANENT INJUNCTION
AND CIVIL PENALTY JUDGMENT**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“Commission” or “FTC”), filed its Complaint for Civil Penalties, Injunctive Relief, and Other Relief (“Complaint”), for civil penalties and other equitable relief in this matter, pursuant to Section 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §56(a)(1). Defendant has waived service of the summons and the Complaint. Plaintiff and Defendant stipulate to the entry of this Stipulated Order for Permanent Injunction and Civil Penalty Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.

2.

person owes a debt in the amount asserted by Defendant while collecting on debt. The information Defendant shall assess in an Investigation shall include but not be limited to:

(A) any applicable information that Defendant received from the credit originator or the creditor to whom the debt is owed, such as: (i) the debtor's credit application; (ii) the credit contract between the debtor and the credit originator, (iii) documents with the current or former name, address, and telephone phone number of the debtor, (iv) documents with the debtor's account number, in whole or in part, and account statements, (v) documents showing the payment history of the account, (vi) documents with the date and outstanding balance at charge-off, and (vii) collector's notes;

(B) any applicable information that Defendant received from data aggregators, data brokers, consumer reporting agencies, skip tracers, and other third-parties, such as: (i) documents with the current or former name, address, and telephone number of the debtor, (ii) documents with consumer report information, including credit scores and updates to the information in credit reports, and (iii) the scoring of the debt through the use of a predictive model;

(C) any applicable information that Defendant created or maintained in collecting on the debt, such as collectors' notes or payment history; and

(D) any applicable information Defendant received from the person denying, disputing, or challenging the claim that the person owes the debt or the amount of the debt, such as: (i) documents with the person's current

or former name, address, and telephone number, (ii) receipts or other

pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment shall immediately become due and payable.

C. Defendant relinquishes all dominion, control, and title to the funds paid to the fullest extent permitted by law. Defendant shall make no claim to or demand for the return of the funds, directly or indirectly, through counsel or otherwise.

D. Defendant agrees the facts as alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation filed by or on behalf of the Commission, to enforce its rights to any payment or monetary judgment pursuant to this Order.

E. Defendant acknowledges that its Taxpayer Identification Number (Employer Identification Number) may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

II. INJUNCTION AGAINST UNLAWFUL COLLECTION PRACTICES

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with collecting on debt, are permanently restrained and enjoined from:

A. Using any false, deceptive, or misleading representation or means in connection with the collection of any debt, including but not limited to falsely representing, directly or indirectly, expressly or by implication, that the persons owe debts that they do not owe.

B. Using any unfair or unconscionable means to collect or attempt to collect any debt, in violation of the FTC Act and Section 808 of the FDCPA, 15 U.S.C. § 1692f, including, but not limited to withdrawing funds from consumers' bank accounts without obtaining the consumers' express informed consent for the amounts withdrawn;

C. Communicating with persons other than the debtor for a purpose other than obtaining location information, including but not limited to, requesting that such person convey messages to the debtor from the collector, unless

collecting on debt, are permanently restrained and enjoined from:

A. Making any representation, expressly or by implication, that a person owes a debt or as to the amount of a debt, unless, at the time of making the representation, Defendant can substantiate such a representation; and

B. Failing, after a person denies, disputes, or challenges Defendant's claim that the person owes the debt or owes the debt in the amount asserted, to:

(1) Within fourteen (14) days after the denial, dispute, or challenge, or when the debt is next reported to a consumer reporting agency, if earlier, report the debt as disputed or request deletion of that item from the consumer's credit reporting file by any credit reporting agency to which the debt was reported by Defendant; and

(2) Promptly after the denial, dispute, or challenge:

(a) Cease collection, and not sell, provide, or transfer the debt to any person or entity other than the creditor to whom the debt is owed; or

(b) Commence and complete, within thirty days (30) days after a person denies, disputes, or challenges Defendant's claim that the person owes the debt or that it owes the debt in the amount asserted, an Investigation of the denial, dispute, or challenge, *provided that* Defendant shall not be required to investigate any denial, dispute, or challenge more than once unless the person provides to Defendant or Defendant otherwise acquires or obtains information, data, or documentation that was not considered in any

prior investigation. Defendant shall notify the consumer within five (5) business days if the denial, dispute, or challenge is not investigated under this proviso.

- (i) If Defendant reasonably concludes after its Investigation that the person does owe the debt, Defendant, within fifteen (15) days of reaching its conclusion, shall provide verification of the debt to the person, inform the person of its conclusion, and provide the basis for it, after which it may continue collection. If the person continues to dispute the debt, nothing in this order supersedes the requirement of § 623(a)(3) of the Fair Credit Reporting Act (“FCRA”), 15 U.S.C. § 1681s-2(a)(3), that Defendant convey the dispute when furnishing information on the debt to any consumer reporting agency.
- (ii) If Defendant reasonably concludes after its Investigation that the person does not owe the debt or the debt cannot be verified, Defendant shall, within fifteen (15) days reaching its conclusion: (a) inform the person of its conclusion and the basis for it; (b) request that each consumer reporting agency to which the debt has been reported delete the debt from the person’s credit reporting file; (c) cease collection; and (d) not sell, provide, or transfer the debt to any person or entity other than the creditor to whom the debt is owed.

- (iii) If Defendant reasonably concludes after its Investigation that the person does owe the debt but not in the amount that Defendant asserted, Defendant shall, within fifteen (15) days of reaching its conclusion: (a) inform the person of its conclusion and the basis for it; and (b) provide to each consumer reporting agency to which the debt has been reported any correction to the reported information that is necessary to make the information provided by Defendant accurate.

Provided that, if the person initiates contact with Defendant by any means, Defendant may respond to the person prior to the completion of the Investigation.

Provided further that, nothing in this Part affects Defendant's obligation to comply with all applicable provisions of the FDCPA and the FCRA.

Provided further that, nothing in this Part prohibits Defendant from requiring consumers who deny, dispute, or challenge a debt on the grounds of fraud or identity theft to do so in writing, so long as Defendant clearly and conspicuously discloses these requirements to consumers.

Once Defendant receives an identity theft report, the requirements of § 623(a)(6)(B) of the FCRA, 15 U.S.C. § 1681s-2(a)(6)(B), apply.

IV. TELEPHONE MESSAGE REQUIREMENTS TO AVOID THIRD-PARTY DISCLOSURE

IT IS FURTHER ORDERED that Defendant, Defendant's officers, agents, servants, and employees, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with

erroneous or incomplete, and that such person now has correct or complete location information.

B. Failing to create and maintain (for at least three (3) years from the date of last contact with the person) records documenting that a person has informed Defendant, either orally or in writing, that the debtor that Defendant is trying to contact cannot be reached at that telephone number or the person does not have location information about the debtor that Defendant is trying to reach.

C. Failing to create and maintain (for at least three years from the date of last contact with the person) records documenting that Defendant had a reasonable belief that a person's statement that the debtor Defendant is p0beli s

telephone number, tor that the p

this Order, Defendant is hereby restrained and enjoined from failing to create and maintain tape recordings of all telephone calls between Defendant and anyone it contacts in collecting on debt, provided that Defendant must commence making such recordings no later than three (3) months after the date of this Order and must maintain these recordings for two (2) years after they are made.

VII. ATTORNEY REFERRALS

This Order shall not apply to attorney and law firm vendors who Defendant arranges to provide legal representation for its clients.

VIII. NOTICE REQUIREMENTS

IT IS FURTHER ORDERED that:

A. For a period of five (5) years from the date of entry of this Order, Defendant, whether acting directly or indirectly, shall make the following disclosure clearly and conspicuously on each written collection communication that is sent to a debtor for the purpose of collecting on past-due debt:

Federal and state laws prohibit certain methods of debt collection and require that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop. Sending such a letter does not make the debt go away if you owe it. Once we get the letter, we can't contact you again, except to say there won't be any more contact or to tell you that we plan to take a specific action.

If you have a complaint about the way we are collecting your debt, please write to our CONTACT CENTER [current physical address], email us at [current email address], visit our website at www.rabinc.com [or applicable corporate website] or call us toll-free at [current phone number] between 9:00 AM and 5:00 PM Central Time, Monday – Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act. If you have a complaint about the way we are collecting your debt, please contact the FTC online at www.ftc.gov; by phone at 1-877-FTC-HELP; or by mail at 600 Pennsylvania Ave., NW, Washington, DC 20580. If you want information, Wices.4(a)-17.79r[(us C 20580. If you want6hone COed)-.8action and 0 TD-.52 Tc.0648

The above disclosure shall be given in the language(s) that appear in such communications sent to consumers. Defendant shall be responsible for the requirement in Part VIII.A fifteen (15) days after entry of this Order.

B. Defendant shall be deemed to have complied with the notice requirement of Part VIII.A of this Order if Defendant provide a notice in a specific state, county, or city that (1) is required by the laws or regulations of that jurisdiction, (2) complies with those laws or regulations, and (3) is substantially similar to the notice required in Part VIII.A, above.

C. Defendant, whether acting directly or indirectly, shall provide a written (electronic or paper) copy of the following notice to all officers, servants, agents, and employees having responsibility with respect to the collection of debts, within fifteen (15) days of the date of entry of this Order, 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 such debts, and shall secure from each such person, within thirty (30) days of delivery, a signed and dated statement acknowledging that he or she has read the notice.

Debt collectors must comply with the federal Fair Debt Collection Practices Act, which limits our activities in trying to collect money from consumers.

Section 804 of the Act states that, when contacting someone to acquire location information about the debtor, you may not state that the debtor owes a debt. You also may not contact this person more than once unless the person asks you to or unless you reasonably believe the person's earlier response was wrong or incomplete and that the person now has correct or complete location information to provide to you.

Section 805 of the Act states that, in connection with the collection of a debt, you may not communicate with any person other than the debtor for a purpose other than to obtain location information about the debtor. This means that you may not reveal the existence of a debt to anyone other than (1) the person who allegedly owes the debt or (2) the debtor's spouse, parent (if the debtor is a minor), guardian, executor, or administrator.

Section 805 of the Act also states that you may not communicate with a debtor in connection with the collection of any debt: (1) at any unusual time or place or a time or place known or which should be known to be inconvenient to the debtor; or (2) at the debtor's place of employment if the debt collector knows or has reason to know that the employer prohibits the debtor from receiving such communication.

Section 805 of the Act also states that, if a person notifies you in writing that they refuse to pay a debt or that they wish you to cease further communication with them, you shall not communicate further with that person with respect to such debt, except: (1) to advise them that further collection efforts are being terminated; (2) to notify them that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or (3) where applicable, to notify them that the debt collector or creditor intends to invoke a specified remedy.

Section 806 of the Act states that you may not harass, oppress, or abuse any person in connection with the collection of a debt. Among other things, this includes calling someone repeatedly or continuously to annoy, abuse, or harass the person.

Section 807 of the Act prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information about a debtor.

Section 808 of the Act states that a debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Among other things, debt collectors may not withdraw funds from consumers' bank accounts without obtaining the consumers' express informed consent for the amounts withdrawn.

Provided that, for purposes of compliance with Part VIII.C of this Order, the signature required for the employee's statement that he or she has read the notice may be in the form of an electronic signature.

IX. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendant obtain acknowledgments of receipt of this Order:

- A. Defendant, within seven (7) days of entry of this Order, must submit to the

Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For five (5) years after entry of this Order, Defendant must deliver a copy of this Order and FDCPA to: (1) all principals, officers, directors, and LLC managers and members who formulate, direct, or control Defendant's policies and practices relating to debt collection goods or services who participate in collecting or attempting to collect debts; (2) all employees, agents, and representatives who participate in collecting or attempting to collect debts and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within seven (7) days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Defendant delivered a copy of this Order and the FDCPA, that Defendant must obtain, within thirty (30) days, a signed and dated acknowledgment of receipt of this Order.

X. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that Defendant make timely submissions to the Commission:

A. One (1) year after entry of this Order Defendant must submit a compliance report, sworn under penalty of perjury. Defendant must:

- (1) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission and Plaintiff may use to communicate with Defendant;
- (2) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses;
- (3) describe the activities of each business, including the goods and services

offered, the means of advertising, marketing, and sales;

(4) describe in detail whether and how Defendant is in compliance with each Section of this Order; and

(5) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

B. For twenty (20) years after entry of this Order, Defendant must submit a compliance notice, sworn under penalty of perjury, within fourteen (14) days of any change in the following:

(1) any designated point of contact; or

(2) the structure of Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

C. Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within fourteen (14) days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement,

Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: United States v. Regional Adjustment Bureau, Inc.

XI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendant must create certain records for twenty (20) years after entry of the Order, and retain each such record for five (5) years. Specifically, Defendant for any business that such Defendant is a majority owner or controls directly or indirectly, must create and retain the following records:

A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. Consumer files containing the names, addresses, phone numbers, dollar amounts of debt owed, records of collection activity, and amounts collected;

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

(1) Any complaint and the date received, and the nature of the complaint 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 concerning the validity of any complaint; all documents relating to the disposition of the complaint, including records of all contacts with the consumer;

Defendant's response to the complaint and the response date; whether the complaint was resolved; the date of resolution; and any action taken to correct the conduct complained about.

E. Copies of all scripts and other training materials related to the collection of debts;

F. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

G. A copy of each unique advertisement or other marketing material offering or providing debt collection goods or services.

XII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendant's compliance with this Order, including any failure to transfer any assets as required by this Order:

A. Within fourteen (14) days of receipt of a written request from a representative of the Commission or Plaintiff, Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission and Plaintiff are also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission and Plaintiff are authorized to communicate with Defendant through undersigned counsel. If such counsel no longer represents Defendant, the Commission and Plaintiff are authorized to communicate directly with Defendant unless or until the Commission of Plaintiff is notified that new counsel is representing Defendant. Defendant must permit representatives of the Commission and Plaintiff to interview any employee or other person affiliated with Defendant who has agreed to such an interview.

The person interviewed may have counsel present.

C. The Commission and Plaintiff may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendant or any individual or entity affiliated with Defendant, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

XIII. RETENTION OF JURISDICTION

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

IT IS SO ORDERED, this 14th day of July, 2014.

/s/ Jon P. McCalla
JON P. McCALLA
UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR PLAINTIFF:

UNITED STATES OF AMERICA

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United States Attorney

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FEDERAL TRADE COMMISSION

By: s/ Sana C. Chriss (per email consent dated 7/3/2014)

By: s/ Robin L. Rock (per email consent dated 7/3/2014)

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FOR DEFENDANT:

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DEFENDANT: Regional Adjustment Bureau, Inc.

By: s/J.S. Smith, Jr. (per written consent dated 4/4/2014)

INDIVIDUALLY, AND AS OFFICER

OF REGIONAL ADJUSTMENT BUREAU, INC.