

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

UNITED STATES OF AMERICA ,

Plaintiff,

v.

GC SERVICES LIMITED  
PARTNERSHIP,

Defendant.

Civil Action No. 17-461

COMPLAINT FOR CIVIL PENALTIES, INJUNCTIVE RELIEF, AND OTHER RELIEF

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC"), pursuant to Section 16(a)(1) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 56(a)(1), for its Complaint alleges

1. This is an action arising 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), 53(b), and 56(a), and Section 814 of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §

1692



8. The term “location information,”

13. Defendant regularly attempts to collect debts by contacting consumers by telephone, U.S. mail, and other instrumentalities of interstate commerce.

14. In numerous instances, Defendant has left messages on the voicemail, answering machine, or messaging service of persons, in which Defendant discloses debts to third parties. Defendant divulges that: (1) it is calling in connection with the collection of debt, and (2) the name of the consumer. For example, in numerous instances, Defendant has left such messages even though the voicemail, answering machine, or messaging service greeting either does not give the name of any person ("You have reached 555-1234. Please leave a message.") or announces that the voicemail, answering machine, or messaging service is for a person other than the consumer whom Defendant is trying to reach. In many instances, individuals other than the consumer hear the message, thereby disclosing consumers' alleged debts to persons other than the consumer without the prior consent of the consumer.

15. In numerous instances, when Defendant has hired persons to collect a debt, the persons

have told Defendant that they are not individuals who owe the debts that Defendant is attempting to collect. For example, consumers frequently have informed

16. In numerous instances, when Defendant contacted persons to collect debts, and the persons have told Defendant they are not the individuals who owe the Defendant, Defendant has represented to those persons that it will no longer contact them to collect the debts at issue or that it will take steps to ensure that it will no longer do so. For example, Defendant often ha

COUNT I  
Deceptive Representations About Future Calls

20. In numerous instances, in connection with the collection of debts, through the means described in Paragraph 16, Defendant has represented, directly or indirectly, expressly or by implication, that:
- a. Defendant will take steps to prevent the placement of calls to telephone numbers to collect debts, after the persons at those numbers stated that the numbers are not consumers' numbers; and
  - b. Defendant will not place calls to telephone numbers to collect debts, after persons at those numbers stated that the numbers are not consumers' numbers.
21. In truth and in fact, in numerous instances in which Defendant has made the representations set forth in Paragraph 20 of this Complaint:
- a. Defendant has not taken steps to prevent the placement of calls to telephone numbers to collect debts, after the persons at those numbers stated that the numbers are not consumers' numbers; and
  - b. Defendant has placed calls to telephone numbers to collect debts, after the persons at those numbers stated the numbers are consumers' numbers.
22. Therefore, Defendant's representations as set forth in Paragraph 20 of this Complaint are false or misleading and constitute deceptive acts and practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a)

VIOLETIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

23. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692, which became effective on March 20, 1978, and has been in force since that date. Section 1692(a) FDCPA, 15 U.S.C. § 1692(a), provides that a violation of the FDCPA shall be deemed

an unfair or deceptive act or practice in violation of the FTC Act. Section 804(a) of the FDCPA, 15 U.S.C. § 1692a, also authorizes the Federal Trade 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 Federal Trade 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 an FTC trade regulation rule.

24. Section 804(3) of the FDCPA, 15 U.S.C. § 1692b(3), prohibits debt collectors from communicating with persons other than consumers for the purpose of acquiring location information about consumers more than once without a reasonable belief that the earlier responses of such persons were erroneous or incomplete and that such persons now have correct or complete location information.
25. Section 805(b) of the FDCPA, 15 U.S.C. § 1692c, prohibits communications about a debt with any person other than the consumer or the consumer's attorney, a consumer reporting agency, the creditor or the creditor's attorney, or the debt collector's attorney except as allowed by Section 804 of the FDCPA with the permission of the consumer or a court of competent jurisdiction, or as reasonably necessary to effectuate postjudgment relief. For the purpose of Section 805(b), Section 805 of the FDCPA defines the term "consumer" to include "the consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator."

26. Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10) prohibits debt collectors from using false representations or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
27. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692i violation of the FDCPA constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II



effectuate a postjudgment judicial remedy, in violation of Section 805(b) of the FDICPA,  
15 U.S.C. § 1692c(b).

COUNT IV

CIVIL PENALTIES FOR VIOLATIONS OF THE FDCPA

33. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), and Section 814(a) of the FDCPA, 15 U.S.C. § 1692a, authorize the Court to award monetary civil penalties for violations of the FDCPA when such violations were committed 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). Defendant's violations of the FDCPA, as described above, were made 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). The maximum penalty amount was adjusted from \$16,000 to \$40,000 per violation as of August 1, 2016, pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114-74 § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 C.F.R. § 1.98, 81 Fed. Reg. 42,476 (June 30, 2016).
34. Each instance in which Defendant failed to comply with the FDCPA in one or more of the ways described above constituted a separate violation of the FDCPA for the purpose of assessing monetary civil penalties. Plaintiff seeks monetary civil penalties for every separate violation of the FDCPA.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the United States of America, pursuant to 15 U.S.C. §§ 45(m)(1)(A), 53(b), 1692 and the Court's equitable powers, requests that the Court:

1. Enter a permanent injunction to prevent future violations of the FTC Act and the FDCPA by Defendant;

2. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's violations of the FTC Act and the FDCPA, including but not limited to rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies
3. Award Plaintiff monetary civil penalties for each violation of the FDCPA as alleged in this Complaint; and
4. 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.

DATED: February 14, 2017

Respectfully submitted,

OF COUNSEL:

MALINI MITHAL  
Acting Associate Director  
Division of Financial Practices

HEATHER ALLEN

CERTIFICATE OF SERVICE

I hereby certify that I have emailed a true and correct copy of the foregoing instrument to Mr. William C. MacLeod and Ms. Sharon K. Schiavetti, attorneys for Defendant, on February 14, 2017. Ms. Sharon K. Schiavetti agreed to accept service of this document by email on behalf of Defendant.

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