

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL TRADE COMMISSION,

of contracts; restitution; the refund of monies paid; disgorgement of ill-gotten monies; the appointment of a receiver; immediate access to the Defendants' business premises; an asset freeze; and other equitable relief for Defendants' acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FDCPA, 15 U.S.C. §§ 1692–1692p, in connection with the Defendants' deceptive and abusive debt-collection practices, including attempts to harass consumers into paying debts they do not owe.

JURISDICTION AND VENUE

2. This Court has subject-matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in this District is proper under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41–58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the FDCPA, 15 U.S.C. §§ 1692–1692p, which prohibits deceptive, abusive, and unfair debt-collection practices and imposes specific duties upon debt collectors.

5. The FTC is authorized to initiate federal district court proceedings by its own attorneys, enjoin violations of the FTC Act and the FDCPA, and secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, the disgorgement of ill-gotten monies, the appointment of a receiver, immediate access to the Defendants' businthe -2sT34 autisthe secuan77 (a)]Tset freeze. c 0U.S.C. Tw Tw

domains. Because these Corporate Defendants operate as a common enterprise, each is liable for the acts and practices alleged below. Defendant McKenzie formulates, directs, controls, has the authority to control, or participates in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

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

DEFENDANTS’ ILLEGAL DEBT-COLLECTION PRACTICES

11. Since at least 2012, Defendants have been using illegal debt-collection tactics to prey upon vulnerable, financially distraught consumers.

12. Defendants, often masquerading as law-enforcement officials or attorneys, use threats or fear to persuade consumers into paying phantom debts that are no longer owed or were never owed. Defendants often threaten consumers with felony charges, arrest at their workplaces, imprisonment for lengthy durations, garnishment of their wages or tax refunds, and even the suspension of their Social Security payments or

but also often communicate impermissibly with extended family members about the alleged debts.

14. Defendants often withhold required notices about the consumer's right to dispute the debt within 30 days and receive written verification of the debt. When consumers ask for debt verifications, Defendants often refuse. For example, a consumer who asked Defendants for verification was told "we don't got to do that you f***ing ... b***ch."

15. Defendants' misrepresentations, threats, omissions, abuse, and harassment often lead consumers to reasonably believe that they have no choice but to pay.

16. Defendants McKenzie and CRM are continuing their illegal debt-

to fully comply with the FDCPA and “expressly acknowledge[d] their awareness and understanding of these statutes and their provisions.”

17. Defendants McKenzie and CRM are recidivists who continue to illegally deceive, abuse, and harass consumers into paying phantom debts. Since 2018, Parliament has been assisting McKenzie and CRM in their illegal debt-collection activities.

Defendants’ False and Unsubstantiated Claims
That Consumers Owe Debts

18. In many instances, Defendants attempt to collect debts that consumers do not owe, including debts that consumers have paid previously or that were previously discharged in bankruptcy.

19. Even when consumers have eviden

24. Contrary to Defendants' representations, in all or most instances, Defendants do not, lack the intent to, or have no standing or authority to initiate or levy any civil penalties—or to initiate or file such civil actions on behalf of creditors, their agents, or other persons or entities with such standing or authority.

25. In some instances, Defendants threaten consumers with lawsuits when, in fact, the debts are unenforceable under an applicable statute of limitations.

26. Defendants also falsely tell consumers that Defendants will suspend or revoke consumers' governmental benefits or privileges—including driving privileges, Social Security payments, or unemployment-insurance benefits—for failure to pay the alleged debts. For example, Defendants called a consumer's parents, recited both his driver's license and Social Security numbers, and informed them that they would have the consumer's driving privileges revoked

consumers reasonably believe that Defendants' false representations are true, or consumers feel intimidated into paying the alleged debts.

27. To further intimidate consumers into paying, Defendants often threaten to tack on unauthorized or impermissible penalties, fees, or other amounts to debts if consumers refuse to pay.

28.

amounts to debts. For example, in many instances, Defendants impermissibly have tacked on the Corporate Defendants' collection fees or commissions, or Defendants arbitrarily have added additional amounts to the alleged debts that they collected from consumers.

Defendants' Harassing and Abusive Communications With Consumers

32. Defendants often illegally contact consumers repeatedly at consumers' work telephone numbers, as a means of intimidating or harassing consumers into paying the alleged debts. For example, Defendants have called or threatened to call consumers' places of employment, even though consumers have told Defendants that such calls are inconvenient or prohibited by their employers and could subject consumers to discipline or termination.

33. In numerous instances, Defendants use profane language with consumers, including responding to consumers asking for debt verifications by saying "f*** you" or calling the consumer a "f***ing a**hole."

Defendants' Unlawful Contacts With Third Parties

34. In numerous instances, Defendants disclose, or threaten to disclose,

consumers' employers, family members, and friends, and tell them that consumers will face serious legal consequences, including arrest or jail. In some instances, Defendants also threaten consumers' family members with legal sanctions, such as arrest or imprisonment, for failing to pay the alleged debts on behalf of the consumer.

Defendants' Failure to Provide Statutorily Required Notices and Disclosures to Consumers

35. In their communications with consumers, Defendants often do not inform consumers that Defendants are debt collectors and that any information provided by consumers will be used to collect a debt, as required by law (commonly referred to as the FDCPA's "mini Miranda" warning). Despite receiving numerous calls from Defendants, consumers complain that Defendants never informed them that they would use the information they provided to collect a debt.

36. In numerous instances, Defendants fail to provide consumers, when required by law, with a notice stating: (i) the amount of the debt; (ii) the name of the creditor to whom the debt is owed; (iii) that unless the consumer disputes the debt within thirty days, the debt will be assumed valid; (iv) that if the consumer disputes the debt in writing, Defendants will obtain and send the consumer a

within thirty days, Defendants will provide the name and address of the original creditor if different from the current creditor.

37. In many instances, despite making numerous phone calls,

COUNT ONE

**FALSE, MISLEADING, OR UNSUBSTANTIATED CLAIMS THAT
CONSUMERS OWE DEBTS OR OTHER OBLIGATIONS TO
DEFENDANTS**

41. In numerous instances, in connection with the collection of alleged consumer debts, Defendants represent, directly or indirectly, expressly or by implication, that:

- a) the consumer is delinquent on a debt that the Defendants have the authority to collect, including that the consumer owes a debt in a specific amount; or
- b) the consumer has a legal obligation to pay Defendants.

42. In numerous instances, Defendants' representations set forth in Paragraph 41 of this Complaint are false or misleading or were not substantiated at the time the representations were made.

43. Therefore, the making of the representations as set forth in Paragraph 41 constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT TWO

**FALSE, MISLEADING, OR UNSUBSTANTIATED THREATS
REGARDING LEGAL ACTION**

44. In numerous instances in connection with the collection of alleged consumer debts, Defendants represent, directly or indirectly, expressly or by implication, that:

a)

criminal prosecution or civil lawsuit against the consumer for failing to pay Defendants.

45. In truth and in fact, in the numerous instances in which Defendants have made the representations set forth in Paragraph 44:

- a) Defendants have not taken, do not intend to take, or do not have authority to take formal legal action against a consumer who fails to pay, such as filing suit;
- b) The consumer will not be arrested or imprisoned for failing to pay Defendants;
- c) The consumer will not have his or her governmental benefits or privileges (such as Social Security payments or driver's licenses) suspended or revoked for failing to pay Defendants;
- d) Nonpayment of a purported debt will not result in the consumer's arrest, or in the seizure, garnishment, or attachment of the consumer's property or wages; or
- e) Defendants are not, or are not affiliated with, governmental law enforcement, a law firm or a lawyer, a creditor or its authorized agent, or other person or entity with standing to file or initiate a criminal

prosecution or civil lawsuit against the consumer for failing to pay Defendants.

46. Therefore, Defendants' representations set forth in Paragraph 44 are false or misleading or were not substantiated at the time the representations were made, and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FDCPA

47. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692–1692p,

of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment.”

50. Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6), defines “debt collector” to mean “any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by clause (F) of the last sentence of this paragraph, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts. For the purpose of section 1692f(6) of this title, such term also includes any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the enforcement of security interests. The term does not include—(A) any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor; (B) any person while acting as a debt collector for another person, both of whom are related by common ownership or affiliated by corporate control, if the person acting as a debt collector does so only for persons to whom it is so

related or affiliated and if the principal business of such person is not the collection of debts; (C) any officer or employee of the United States or any State to the extent that collecting or attempting to collect any debt is in the performance of his official duties; (D) any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt; (E) any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors; and (F) any person collecting or attempting to collect any debt owed or due or asserted to be owed or due another to the extent such activity (i) is

harass, oppress, or abuse any person in connection with the collection of a debt. Without limiting the general application of the foregoing, the following conduct is a violation of Section 806 of the FDCPA: placement of telephone calls without meaningful disclosure of the caller's identity. 15 U.S.C. § 1692d(6).

53. Section 807 of the FDCPA, 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of Section 807 of the FDCPA: (1) the false representation of the character, amount, or legal status of any debt, 15 U.S.C. § 1692e(2)(A); (2) the false representation or implication that any individual is an attorney or that any communication is from an attorney, 15 U.S.C. § 1692e(3); (3) the representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action, 15 U.S.C. § 1692e(4); (4) the threat to take any action that cannot legally be taken or that is not intended to be taken, 15 U.S.C. § 1692e(5); (5) the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer, 15 U.S.C. § 1692e(10); (6) the failure

to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, except that this paragraph shall not apply to a formal pleading made in connection with a legal action, 15 U.S.C. § 1692e(11); and (7) the use of any business, company, or organization name other than the true name of the debt collector's business, company, or organization. 15 U.S.C. § 1692e(14).

54. Section 809 of the FDCPA, 15 U.S.C. 15 U.S.C. § 1692g, requires that, within five days after the initial communication with a consumer in connection with the collection of any debt, a debt collector shall, unless the following information is contained in the initial communication or the consumer has paid the debt, send the consumer a written notice containing—(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, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is

disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

55.

f) Using false representations or deceptive means to collect or attempt to collect a debt or to obtain information concerning a consumer, in violation of Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10);

g) Failing to disclose (1) in the initial oral communication with a consumer that the debt collector is attempting to collect a debt and that any information obtained by the debt collector will be used for the purpose of attempting to collect a debt and (2) in all subsequent communications with consumers that the communication is from a debt collector, in violation of Section 807(11) of the FDCPA, 15 U.S.C. § 1692e(11);

h) Falsely representing or implying that Defendants are vouched for or affiliated with the United States, any State, or County, such as claiming to be an officer of the court, affiliated with a police or sheriff's department, or working in connection with prosecuting attorneys' offices, in violation of Section 807(1) of the FDCPA, 15 U.S.C. § 1692e(1); or

COUNT FIVE

UNLAWFUL COMMUNICATIONS WITH THIRD PARTIES

58. Section 805(b) of the FDCPA, 15 U.S.C. §§ 1692c(b), prohibits a debt collector, without either the prior consent of the consumer, the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, from communicating in connection with the collection of a debt with any person other than the consumer (defined to include the consumer's spouse, parent [if the consumer is a minor], guardian, executor, or administrator), the consumer's attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector for any purpose other than acquiring the consumer's location information.

59. In numerous instances, Defendants have violated and continue to violate Section 805(b) of the FDCPA by communicating in connection with the collection of debts with third parties other than those covered by the limited exceptions set forth in Paragraph 58 of this Complaint.

COUNT SIX

PROHIBITED HARASSING AND ABUSIVE CONDUCT



likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

63. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt

A. Award Plaintiff 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 temporary and preliminary injunctions, an order freezing assets, immediate access, and the appointment of a receiver;

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

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the FDCPA, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. 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.

Respectfully submitted,

Alden F. Abbott
General Counsel

Dated: *September 21, 2020*

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