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MICHAEL W. DOBBINS
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UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

CAPITAL ACQUISITIONS AND
MANAGEMENT CORP., a corporation;

RM FINANCIAL SERVICES, INC., a corporation;

REESE WAUGH, individually and as an officer
of Capital Acquisitions and Management Corp.
and RM Financial Services, Inc.;

JEROME KUEBLER, individually and as an
officer of Capital Acquisitions and Management
Corp.;

SCOTT R. FRANSON, individually and as an
owner and manager of Capital Acquisitions
and Management Corp.; and

MARIO BIANCHI, individually and as a manager
of RM Financial Services, Inc. and Capital
Acquisition and Management Company,

Defendants.

Case No. 04050147

COMPLAINT FOR CIVIL PENALTIES,
INJUNCTIVE, AND OTHER RELIEF

Plaintiff, the United States of America, acting upon notification and authorization to the
Attorney General by the Federal Trade Commission ("Commission"), by its undersigned attorneys, for
its complaint alleges as follows:

JURISDICTION AND VENUE

1
2 1. This is an action arising under §§ 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade
3 Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 56(a), and the Fair Debt Collection
4 Practices Act ("FDCPA"), 15 U.S.C. §§ 1692, *et seq.*, to obtain monetary civil penalties and injunctive
5 and other equitable relief for defendants' violations of the FDCPA.

6 2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337, 1345, and
7 1355, and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 57b, and 1692i. This action arises under 15 U.S.C.
8 § 45(a)(1) and 15 U.S.C. §1692i.

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

DEFENDANTS

11
12
13 4. Defendant Capital Acquisitions and Management Corp. ("CAMCO"), is a for-profit
14 corporation organized, existing, and doing business under the laws of the State of Illinois. Its principal
15 place of business is located at 303 N. Main Street, Rockford, Illinois. At all times relevant to this
16 complaint, defendant CAMCO has transacted business in this district.

17 5. Defendant RM Financial Services, Inc. ("RM"), is a for-profit corporation organized,
18 existing, and doing business under the laws of the State of Georgia. Its principal place of business is
19 located at 3000 Northwoods Parkway, Suite 105, Norcross, Georgia 30071. At all times relevant to
20 this complaint, defendant RM has transacted business in this district.

21 6. Defendant Reese Waugh ("Waugh") is a vice president, the chief operating officer and a
22 director of CAMCO and the president of RM. Waugh resides at 12757 Northwood Drive, Genoa,
23 Illinois 60135-8343. Individually and in his capacity as vice-president and chief operating officer of
24 CAMCO and president of RM, defendant Waugh has formulated, directed, and controlled the acts and
25 practices of CAMCO and RM, including the acts and practices alleged herein. At all times relevant to
26 this complaint, defendant Waugh, individually and acting through CAMCO and RM, has transacted
27 business in this district.

28 7. Defendant Jerome Kuebler ("Kuebler") is vice president of operations of CAMCO.
Kuebler resides at 604 Oakview Avenue, Joliet, IL 60433. Individually and in his capacity of vice

1 president of operations of CAMCO, Kuebler has formulated, directed, and controlled the acts and
2 practices of CAMCO, including the acts and practices alleged herein. At all times relevant to this
3 complaint, defendant Kuebler, individually and acting through CAMCO, has transacted business in this
4 district.

5 8. Defendant Scott R. Franson ("Franson") is a debt collection manager and a debt
6 collector at CAMCO. Franson resides at 12965 Williams Court, Genoa, IL 60135. Individually and in
7 his capacity as a debt collection manager and debt collector of CAMCO, Franson has formulated,
8 directed, participated in, and controlled the acts and practices of CAMCO, including the acts and
9 practices alleged herein. At all times relevant to this complaint, defendant Franson, individually and
10 acting through CAMCO, has transacted business in this district.

11 9. Defendant Mario Bianchi ("Bianchi") was a debt collection manager and a debt
12 collector at RM. Bianchi is currently a debt collection manager and a debt collector at CAMCO's
13 Schaumburg office. Bianchi resides at 3N561 Meadow Road, Addison, IL 60101. Individually and in
14 his capacity as a debt collection manager and debt collector of CAMCO and RM, Bianchi has
15 formulated, directed, participated in, and controlled the acts and practices of CAMCO and RM,
16 including the acts and practices alleged herein. At all times relevant to this complaint, defendant
17 Bianchi, individually and acting through CAMCO and RM, has transacted business in this district.

18 10. Defendants CAMCO, RM, Waugh, Kuebler, Franson, and Bianchi are "debt collectors"
19 as defined in Section 803(6) of the FDCPA, 15 U.S.C. §1692a(5).
20

21 FAIR DEBT COLLECTION PRACTICES ACT

22 11. In 1977, Congress passed the FDCPA, 15 U.S.C. §1692, *et seq.*, which became effective
23 on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. §
24 1692i, authorizes the Commission to use all of its functions and powers under the FTC Act to enforce
25 compliance with the FDCPA by any debt collector, irrespective of whether that debt collector is
26 engaged in commerce or meets any other jurisdictional tests set by the FTC Act. The authority of the
27 Commission in this regard includes the power to enforce the provisions of the FDCPA in the same
28 manner as if the violations of the FDCPA were violations of a Federal Trade Commission trade
regulation rule.

1 16. On numerous occasions, in connection with the collection of debts, defendants have
2 engaged in conduct the natural consequence of which is to harass, oppress, or abuse a person, in
3 violation of Section 806 of the FDCPA, 15 U.S.C. § 1692d, including but not limited to the following:

- 4 a. using obscene or profane language or language the natural consequence of which
5 is to abuse the hearer, in violation of Section 806(2) of the FDCPA, 15 U.S.C. §
6 1692d(2); or
7 b. causing a telephone to ring or engaging any person in telephone conversation
8 repeatedly or continuously with the intent to annoy, abuse, or harass any person
9 at the called number, in violation of Section 806(5) of the FDCPA, 15 U.S.C. §
10 1692d(5).

11 17. On numerous occasions, in connection with the collection of a debt, defendants have
12 used false, deceptive, or misleading representations or means, in violation of Section 807 of the
13 FDCPA, 15 U.S.C. § 1692e, including but not limited to the following:

- 14 a. falsely representing the character, amount, or legal status of any debt, in
15 violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A);
16 b. falsely representing or implying that any individual is an attorney or that a
17 communication is from an attorney, in violation of Section 807(3) of the
18 FDCPA, 15 U.S.C. § 1692e(3);
19 c. representing that nonpayment of any debt will result in the arrest or
20 imprisonment of any person or the seizure, garnishment, attachment, or sale of
21 any property or wages of any person unless such action is lawful and the debt
22 collector or creditor intends to take such action, in violation of Section 807(4) of
23 the FDCPA, 15 U.S.C. § 1692e(4);
24 d. threatening to take any action that cannot legally be taken or that is not intended
25 to be taken, in violation of Section 807(5) of the FDCPA, 15 U.S.C. § 1692e(5);
26 e. threatening to communicate to any person credit information that defendants
27 know or should have known to be false, in violation of Section 807(8) of the
28 FDCPA, 15 U.S.C. § 1692e(8); or

1 f. using any false representation or deceptive means to collect or attempt to collect
2 any debt or to obtain information concerning a consumer, in violation of Section
3 807(10) of the FDCPA, 15 U.S.C. § 1692e(10).

4 18. On numerous occasions, in connection with the collection of a debt, when the consumer
5 has notified defendants in writing within the thirty (30) day period described in Section 809(a) of the
6 FDCPA, 15 U.S.C. § 1692g(a), that the debt, or any portion thereof, is disputed, defendants have
7 continued to attempt to collect the debt before verification of the debt was provided to the consumer, in
8 violation of Section 809(b) of the FDCPA, 15 U.S.C. § 1692g(b).

9 **CIVIL PENALTIES AND INJUNCTION FOR VIOLATIONS OF THE FDCPA**

10 19. Defendants have violated the FDCPA as described above, with actual knowledge or
11 knowledge fairly implied on the basis of objective circumstances, as set forth in Section 5(m)(1)(A) of
12 the FTC Act, 15 U.S.C. § 45(m)(1)(A).

13 20. Each instance within five years preceding the filing of this complaint, in which each
14 defendant has failed to comply with the FDCPA in one or more of the ways described above,
15 constitutes a separate violation for which plaintiff seeks monetary civil penalties.

16 21. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), authorizes the Court to
17 award monetary civil penalties of \$11,000 for each violation of the FDCPA.

18 22. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue
19 a permanent injunction to ensure that defendants will not continue to violate the FDCPA.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, plaintiff respectfully requests that this Court, acting pursuant to 15 U.S.C. §§
22 45(m)(1)(A), 53(b), 1692l, and its own equitable powers:

- 23 1. Enter judgment against defendants and in favor of plaintiff for each violation alleged in
24 this complaint;
- 25 2. Award plaintiff monetary civil penalties for each violation of the FDCPA occurring
26 within the five years preceding the filing of this complaint;
- 27 3. Order defendants to include the following disclosure in each written communication
28 with consumers in connection with the collection of a debt:

1 **The law requires us to stop contacting you about this debt** if you write to us
2 and ask us to stop. However, under the law, we may still contact you for two
3 reasons:

- 4 ● to advise you that we or your creditor intend(s) to pursue specific
5 remedies permitted by law; or
- 6 ● to advise you that our efforts are being terminated.

7 This law is enforced by the Federal Trade Commission, Washington, D.C.
8 20580. If you have a complaint about the way we are collecting this debt, you
9 may write to the Federal Trade Commission, 915 Second Avenue, Suite 2896,
10 Seattle, Washington 98174, file your complaint online at www.ftc.gov, or call
11 the FTC at 1-877-FTC-HELP.

- 12 4. Order defendant to provide the following notice to each employee having responsibility
13 with respect to the collection of debts, no later than the time the employee assumes
14 responsibility with respect to the collection of debts, and to obtain from each such
15 person a signed statement acknowledging receipt of a copy of the notice:

16 Debt collectors must comply with the federal Fair Debt
17 Collection Practices Act, which limits our activities in
18 trying to collect money from consumers. Most
19 importantly, Section 805 of the Act prohibits you from
20 contacting a consumer at work if you know or should
21 know it is inconvenient for the consumer, or from
22 communicating with any person other than the consumer
23 for any purpose other than to obtain location information
24 about the consumer not previously known. In addition,
25 Section 807 of the Act prohibits you from representing or
26 implying that any action, including legal action, will be
27 taken unless, at the time of the representation, the action
28 is lawful and there is a clear intent to take the action.
 Individual debt collectors may be financially liable for
 their violations of the Act.

- 1 5. Enjoin defendants permanently from future violations of the FDCPA; and
- 2 6. Award plaintiff such additional relief as the Court may deem just and proper.

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4 DATED: March 24, 2004

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