

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

UNITED STATES OF AMERICA,

Plaintiff,

v.

WHITEWING FINANCIAL GROUP, INC.,

CHRISTOPHER B. BADGER,

LYNDA J. BADGER, and

JON P. BADGER,

Defendants.

Case No.

H 06 - 2102

CONSENT DECREE

WHEREAS, plaintiff, the United States of America, has commenced this action by filing the Complaint herein; defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger have waived service of the Summons and Complaint; the parties have been represented by the attorneys whose names appear hereafter, and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law and without defendants admitting liability for any of the matters alleged in the Complaint;

THEREFORE, on the joint motion of plaintiff and defendants, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

1. This Court has jurisdiction of the subject matter and of the parties.
2. The Complaint states a claim upon which relief may be granted against the defendants 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), 53b, and 56(a), and Section 814 of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692l.
3. Venue in this district is proper under 28 U.S.C. §§ 1391(b-c) and 1395(a) and 15 U.S.C. § 53(b).
4. The activities of defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger are in or affecting commerce as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. For purposes of this Consent Decree ("Decree"), the definitions set forth in the FDCPA, 15 U.S.C. § 1692a, shall apply.
6. Entry of this Decree is in the public interest.
7. Defendants stipulate to the entry of this Decree freely and without coercion. Defendants further acknowledge that they have read the provisions of this Decree and are prepared to abide by them.
8. All parties hereby waive all rights to appeal or otherwise challenge or contest the validity of this Decree.
9. The parties shall each bear their own costs and attorney's fees incurred in this action. Defendants have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412.

I. CIVIL PENALTY AND RIGHT TO REOPEN

A. Judgment in the amount of One Hundred Fifty Thousand Dollars (\$150,000.00) is hereby entered against defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger, jointly and severally, as a civil penalty, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A). Based upon defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger's sworn representations in financial statements, full payment of the foregoing civil penalty is suspended except for Thirty Thousand Dollars (\$30,000.00) until further order of the Court, contingent upon the accuracy and completeness of the financial statements, as set forth in Subparagraph C of this Paragraph.

B. Within ten (10) days of the defendants' execution of this Consent Decree, defendants Whitewing Financial Group, Inc., Christopher B. Badger, Lynda J. Badger, and Jon P. Badger shall transfer to the Commission Thirty Thousand Dollars (\$30,000.00), as a non-suspended civil penalty payment. The defendants' payment to the Commission under this Section shall be made by wire transfer in accord with directions provided by the Commission or by certified check or other guaranteed funds made payable to and delivered to the Commission and shall not accrue interest. By signing this Decree, defendants relinquish all dominion, control, and title to the monies transferred to the Commission, and agree that all legal and equitable title to said monies is vested in the Commission, for use according to the terms of this Consent Decree. In the event the Commission does not approve this Consent Decree or the Court does not enter this Consent Decree, the monies transferred to the Commission under this Section shall be returned to the Defendants (which monies shall not accrue interest).

