

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

UNITED STATES OF AMERICA,)
)
 Plaintiff,)
)
 v.)
)
 LTD FINANCIAL SERVICES, L.P.,)
)
 TIMOTHY FELDMAN,)
)
 LEONARD PRUZANSKY,)
)
 JOHN BREWSTER, and)
)
 DERREK DAVIS,)
)
 Defendants.)

Civil Action No.

H-07-3741

CONSENT DECREE

WHEREAS, Plaintiff, the United States of America, has commenced this action by filing the Complaint herein; Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis (“Defendants”) 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, to settle and resolve all matters in dispute arising

from the Complaint to the date of entry of the Order and without Defendants admitting any of the matters alleged in the Complaint other than jurisdictional facts;

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. § 1692*l*. A complete copy of the FDCPA, 15 U.S.C. § 1692 *et seq.*, is attached.

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 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 attorneys' 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

A. Defendant LTD Financial Services, L.P., its successors and assigns, shall pay to Plaintiff a civil penalty, pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), in the amount of one million, three hundred seventy-five thousand dollars (\$1,375,000).

B. Defendant LTD Financial Services, L.P. shall make the payment required by this Paragraph on or before the tenth day following entry of this Decree. Such payment shall be by electronic fund transfer in accordance with the instructions to be provided by the Office of Consumer Litigation, Civil Division, U.S. Department of Justice, Washington, D.C. 20530.

C. In the event of any default in payment, which default continues for ten (10) days beyond the due date of payment, the entire unpaid amount, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable.

D. This judgment represents a civil penalty owed to the United States Government and is not compensation for actual pecuniary loss. The Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, in any subsequent litigation filed by or on behalf of the Commission to collect any unpaid amount or otherwise enforce its rights pursuant to this Decree, including a nondischargeability complaint filed in any bankruptcy case.

E. Proceedings initiated under this Paragraph are in addition to, and not in lieu of, any other civil or criminal penalties that may be provided by law, including any other proceedings the Plaintiff may initiate to enforce this Decree.

II. INJUNCTION

Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis, as well as their successors and assigns, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with any of them who receive actual notice of this Decree by personal service or otherwise, whether acting directly or through any business entity, corporation, subsidiary, division, affiliate, or other device, in connection with acting as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5) and (3), are hereby permanently restrained and enjoined from taking the following actions:

Violating FTC Act

- A. Misrepresenting to consumers, expressly or by implication, that:
 - 1. Nonpayment of a debt will result in garnishment of a consumer’s wages;
 - 2. Nonpayment of a debt will result in a consumer’s property being seized or attached or in a consumer’s arrest; and
 - 3. Legal action will be taken against a consumer;
- B. Making a misrepresentation to consumers, expressly or by implication, about the consequences of paying or not paying a debt, in whole or in part;

C. Making any material misrepresentation, expressly or by implication, to collect or to attempt to collect a debt or obtain information concerning a consumer;

Violating FDCPA

D. Except as provided in Section 804 of the FDCPA, communicating with any person other than the consumer, the attorney of the consumer, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector, in connection with the collection of a debt, unless Defendants have the prior consent of the consumer given directly to Defendants, or the express permission of a court of competent jurisdiction, or Defendants can show that such communication is reasonably necessary to effectuate a post judgment judicial remedy, in violation of Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b);

E. Using any false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

1. Representing or implying that nonpayment of a 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 at the time of the representation, such action is lawful and Defendants or the creditor intend to take such action, in violation of Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);
2. Representing or implying that any action will be taken, unless at the time of the representation, such action is lawful and Defendants or the creditor intend to take such action, or that any action may be taken when Defendants

cannot show that, at the time of the representation, there is a reasonable likelihood that such action will be taken, in violation of Section 807(5) of the FDCPA, 15 U.S.C. § 1692e(5);

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

F. Communicating with a consumer at any unusual time or place or a time or place known or which should be known by Defendants as inconvenient to the consumer, including, but not limited to, the consumer's place of employment, when Defendants know or should know that such communications are inconvenient, in violation of Section 805(a)(1) of the FDCPA, 15 U.S.C. § 1692c(a)(1);

G. Engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person, in violation of Section 806 of the FDCPA, 15 U.S.C. § 1692d, including, but not limited to:

1. Using obscene or profane language, or language the natural consequence of which is to abuse the hearer, in violation of Section 806(2) of the FDCPA, 15 U.S.C. § 1692d(2);
 2. Causing a telephone to ring, or engaging a person in telephone conversations, repeatedly or continuously, with intent to annoy, abuse, or harass, in violation of Section 806(5) of the FDCPA, 15 U.S.C. § 1692d(5);
- and

H. Engaging in any other act or practice that would violate the FDCPA, 15 U.S.C. § 1692, as attached and as hereafter amended.

III. NOTICE REQUIREMENTS

A. For a period of five (5) years from the date of entry of this Decree, Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis, as well as their successors and assigns, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with any of them who receive actual notice of this Decree by personal service or otherwise, whether acting directly or through any business entity, corporation, subsidiary, division, affiliate, or other device, in connection with acting as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5) and (3), shall make the following disclosure clearly and conspicuously on each written collection communication that is sent to a consumer for the purpose of collecting a debt:

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact. Sending such a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to our CONTACT CENTER, [current physical address], email us at [current email address], or call us toll-free at [current phone number] between 9:00 A.M. Central Time and 5:00 P.M. Central Time Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). 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.

The above disclosure shall be given in the languages which appear in such communications sent to consumers.

B. Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis, as well as their successors and assigns, and their officers, agents, servants, employees, and all persons or entities in active concert or participation with any of them who receive actual notice of this Decree by personal service or otherwise, whether acting directly or through any business entity, corporation, subsidiary, division, affiliate, or other device, in connection with acting as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5), and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5), and (3), shall provide a copy of the following notice to all officers, servants, agents, and employees having responsibility with respect to the collection of consumer debts, within thirty (30) days of the date of entry of this Decree, 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 receipt of a copy of 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.

Most importantly, Section 805 of the Act says that you may not contact a consumer at work if you know or

should know it is inconvenient for the consumer, and that you may not communicate with any person other than the consumer in connection with the collection of a debt, for any purpose other than to obtain location information about the consumer.

Section 806 of the Act states that you may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt.

In addition, Section 807 of the Act prohibits you from representing or implying that any action, including legal action, will be taken unless at the time of the representation, such action is lawful and there is a clear intent to take such action. Further, 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 concerning a consumer.

Individual debt collectors may be financially liable for their violations of the Act.

IV. DISTRIBUTION OF CONSENT DECREE AND FDCPA BY DEFENDANTS

For a period of three (3) years from the date of entry of this Decree, Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis shall deliver copies of this Decree and the FDCPA as directed below:

A. **LTD Financial Services, L.P.:** Defendant LTD Financial Services, L.P. must deliver copies of this Decree and the FDCPA to all of its principals, officers, directors, and managers. Defendant LTD Financial Services, L.P. also must deliver copies of this Decree and the FDCPA to all of its employees, agents, and representatives who engage in conduct related to the subject matter of this Decree. For current personnel, delivery shall be within five (5) days of service of this Decree

upon Defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.

B. Defendants Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis as control persons: For any business which is engaged in the collection of “debts” from “consumers,” as those terms are defined in Section 803(5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(5) and (3), that Defendant Timothy Feldman, Leonard Pruzansky, John Brewster, or Derrek Davis controls, or in which such Defendant has a majority ownership interest, such Defendant must deliver copies of this Decree and the FDCPA to all principals, officers, directors, and managers of that business. Such Defendant must also deliver copies of this Decree and the FDCPA to all employees, agents, and representatives of that business who engage in conduct related to the subject matter of this Decree. For current personnel, delivery shall be within five (5) days of service of this Decree upon such Defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities.

C. Defendants Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis as employees or non-control persons: For any business where Defendant Timothy Feldman, Leonard Pruzansky, John Brewster, or Derrek Davis is not a controlling person of that business but otherwise engages in conduct as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5), and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5), and (3), such Defendant must deliver copies of this Decree and the FDCPA to all principals and managers of such business before engaging in such conduct.

D. Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis must secure a signed and dated statement acknowledging receipt

of this Decree and the FDCPA, within thirty (30) days of delivery, from all persons receiving copies of the Decree and the FDCPA pursuant to this Paragraph.

V. RECORD KEEPING PROVISIONS

For a period of six (6) years from the date of entry of this Decree, Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis, their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Decree by personal service or otherwise, in connection with any business involving the collection of debts from consumers, where any Defendant is the majority owner of the business, or manages or controls the business, are hereby restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the revenues generated in connection with the collection of debts, and the disbursement of such revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer 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, 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, Defendants' response to the complaint and the response date, whether the complaint was resolved, the date of resolution; and any action taken to correct alleged conduct that violates the FDCPA;

E. Copies of all scripts, training materials, advertisements, or other promotional or marketing materials; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Decree, including, but not limited to, copies of acknowledgments of receipt of notices given to employees, required by Paragraph III. B, copies of acknowledgments of receipt of this Decree and the FDCPA, required by Paragraph IV. D, and all reports submitted to the FTC pursuant to Paragraph VI.

VI. COMPLIANCE REPORTING BY DEFENDANTS

In order that compliance with the provisions of this Decree may be monitored:

- A. For a period of three (3) years from the date of entry of this Decree,
 1. Defendants Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis shall notify the Commission of the following:

- a. Any changes in residence, mailing addresses, and telephone numbers of such Defendant within ten (10) days of the date of such change;
 - b. Any changes in employment status (including self-employment) of such Defendant, and any change in such Defendant's ownership of any business entity, within ten (10) days of the date of such change. Such notice shall include the name and address of each business that such Defendant is affiliated with, employed by, creates or forms, or performs services for; a statement of the nature of the business; and a statement of such Defendant's duties and responsibilities in connection with the business or employment;
 - c. Any changes in such Defendant's name or use of any aliases or fictitious names; and
2. Defendants LTD Financial Services, L.P., Timothy Feldman, Leonard Pruzansky, John Brewster, and Derrek Davis shall notify the Commission of any changes in corporate structure of Defendant LTD Financial Services, L.P. or any business entity that Defendants Timothy Feldman, Leonard Pruzansky, John Brewster, or Derrek Davis controls, or has an ownership interest in, that may affect compliance obligations arising under this Decree, including, but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Decree; the filing of a bankruptcy petition; or a

