

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MINNESOTA**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No.
)	
ALLIED INTERSTATE, INC., a corporation,)	
)	
Defendant.)	

**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 (“Commission”), by its undersigned attorneys, for its Complaint alleges as follows:

JURISDICTION AND VENUE

1. This is an action arising under §§ 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 the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. §§ 1692-1692p, to obtain monetary civil penalties, a permanent injunction, and other equitable relief for Allied’s violations of the FDCPA and Section 5 of the FTC Act.

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

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

PLAINTIFF

4. This action is brought by the United States of America on behalf of the Federal Trade Commission. The Commission is an independent agency of the United States government given statutory authority and responsibility by the FTC Act, *as amended*, 15 U.S.C. §§ 41-58. The Commission is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce; and the FDCPA, 15 U.S.C. §§ 1692-1692p, which imposes duties upon debt collectors.

DEFENDANT

5. Defendant Allied Interstate, Inc. (“Allied”), is a Minnesota corporation with its principal place of business located at 435 Ford Road, 800 Interchange West, Minneapolis, Minnesota 55426. At all times relevant to this Complaint, Allied has transacted business in this district and throughout the United States.

6. Allied is a “debt collector” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

COMMERCE

7. At all times material to this Complaint, Allied has maintained 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.

DEFENDANT'S BUSINESS PRACTICES

8. From its offices in Minneapolis, Minnesota, and eleven other offices throughout the United States and in Canada, India, and the Philippines, Allied engages in consumer debt collection activities throughout the United States.
9. Allied regularly attempts to collect debts by contacting consumers by telephone.
10. During the period from January 1, 2006 through at least December 31, 2008:
 - (a) In numerous instances when Allied contacted consumers to collect a debt, those consumers told Allied that they did not owe the debt that Allied was attempting to collect. Nonetheless, in numerous of these instances, Allied continued to telephone, sometimes frequently, and attempted to collect the debt, without taking adequate steps to determine whether its information about the debtor and the debt was accurate.
 - (b) In numerous instances, Allied telephoned a person other than the debtor multiple times to request location information for a debtor, even though:
 - (a) that person had not requested additional calls; and (b) it was not reasonable to believe that the person's earlier response disavowing knowledge of the debtor's location was erroneous or incomplete or that the person then had correct or complete location information.
 - (c) In numerous instances, Allied placed collection calls to a consumer by dialing the consumer's telephone number many times a day for weeks or months, sometimes placing multiple calls over a short period of time.

When the consumer answered some of these calls, Allied hung up, leaving the consumer with only dead air.

- (d) In numerous instances, Allied used abusive language during collection calls.
- (e) In numerous instances, when speaking with individuals other than the consumer from whom Allied was attempting to collect a debt, such as the consumer's neighbors, co-workers, or non-spousal family members, Allied revealed the existence of the debts without the consumer's prior consent or as otherwise permitted under section 805(b) of the FDCPA.
- (f) In numerous instances, Allied threatened to file suit against consumers if they failed to pay the debt Allied was attempting to collect when, in fact, Allied did not intend to file suit.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

11. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

12. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I

13. In numerous instances, during telephone calls to consumers who had previously told Allied that they did not owe the debt that Allied was attempting to collect, Allied represented, directly or indirectly, expressly or by implication, that the consumers owed the debt.

14. In truth and in fact, in numerous instances Allied did not have a reasonable basis for the representations described in Paragraph 13 at the time the representations were made.

15. Therefore, the making of the representation set forth in Paragraph 13 constitutes deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

16. In numerous instances, Allied represented, directly or indirectly, expressly or by implication, that Allied intended to take legal action against a consumer if the consumer did not pay the debt Allied was attempting to collect.

17. In truth and in fact, in numerous instances in which Allied made the representations set forth in paragraph 16, it did not intend to take legal action against the consumer.

18. Therefore, Allied's representations as set forth in Paragraph 16 were and are false or misleading 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 FAIR DEBT COLLECTION PRACTICES ACT

19. In 1977, Congress passed the FDCPA, 15 U.S.C. §§1692-1692p, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. § 1692l, specifically empowers the Commission to enforce the FDCPA. Under its provisions, for purposes of the exercise by the Commission of its functions and powers under the FTC Act, a violation of the FDCPA is deemed an unfair or deceptive act or practice in violation of the FTC Act. Further, the Commission is authorized to use all of its functions and powers under the FTC Act to enforce compliance with the FDCPA by any person, irrespective of

whether that person is engaged in commerce or meets any other jurisdictional tests in the FTC Act. The authority of the 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 a Federal Trade Commission trade regulation rule.

20. The term “consumer,” as used in this Complaint means any natural person obligated or allegedly obligated to pay any debt, as “debt” is defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5).

21. The term “location information,” as used in this Complaint means a consumer’s place of abode and the consumer’s telephone number at such place, or the consumer’s place of employment, as defined in Section 803(7) of the FDCPA, 15 U.S.C. § 1692a(7).

COUNT III

22. In numerous instances, in connection with the collection of debts, Allied, directly or indirectly, communicated more than once with persons other than the consumer for the purpose of obtaining location information about the consumer without being requested to do so, and without a reasonable belief that: (1) the earlier response of the person was erroneous or incomplete; and (2) that the person had subsequently obtained correct or complete location information, in violation of Section 804(3) of the FDCPA, 15 U.S.C. § 1692b(3).

23. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 22 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT IV

24. In numerous instances, in connection with the collection of debts, Allied, directly or indirectly, communicated with persons other than the consumer, including parents, children, neighbors, employers, and co-workers, for purposes other than acquiring location information about a consumer, without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, and when such communication was not reasonably necessary to effectuate a post-judgment judicial remedy, in violation of Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b).

25. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 24 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT V

26. In numerous instances, in connection with the collection of debts, Allied, directly or indirectly, engaged in violations of Section 806 of the FDCPA, 15 U.S.C. § 1692d, including, but not limited to, the following:

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

27. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 26 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VI

28. In numerous instances, in connection with the collection of debts, Allied used false, deceptive, or misleading representations or means, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to threatening to take actions that could not legally be taken or that were not intended to be taken, in violation of Section 807(5) of the FDCPA, 15 U.S.C. § 1692e(5).

29. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 28 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

INJUNCTION FOR VIOLATIONS OF THE FTC ACT AND FDCPA

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

EQUITABLE RELIEF FOR VIOLATIONS OF THE FTC ACT AND THE FDCPA

31. Under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, this Court is authorized to issue all equitable and ancillary relief as it may deem appropriate in the enforcement of the FDCPA and the FTC Act, including the ability to order the disgorgement of ill-gotten monies.

CIVIL PENALTIES FOR VIOLATIONS OF THE FDCPA

32. Allied violated the FDCPA as described above, 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).

33. Each instance within five (5) years preceding the filing of this Complaint, in which Allied failed to comply with the FDCPA in one or more of the ways described above, constitutes a separate violation for which Plaintiff seeks monetary civil penalties.

34. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), and Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorizes the Court to award monetary civil penalties of not more than \$11,000 for each violation of the FDCPA before February 10, 2009, and not more than \$16,000 for each violation of the FDCPA after that date.

PRAYER FOR RELIEF

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

1. Enter judgment against Allied and in favor of Plaintiff for each law violation alleged in this Complaint;
2. Enter a permanent injunction to prevent future violations of the FTC Act and the FDCPA by Allied;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Allied's violations of the FTC Act and the FDCPA, including but not limited to, the disgorgement of ill-gotten monies;

4. Award Plaintiff monetary civil penalties for each violation of the FDCPA occurring within five (5) years preceding the filing of this Complaint; and
5. 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: _____

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