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10  
11 UNITED STATES DISTRICT COURT  
12 EASTERN DISTRICT OF CALIFORNIA

13  
14 FEDERAL TRADE COMMISSION,

15 Plaintiff,

16 v.

17 BROADWAY GLOBAL MASTER INC., a  
corporation, also d/b/a BGM,

18 IN-ARABIA SOLUTIONS INC., a  
19 corporation, and

20 KIRIT PATEL, individually and as an officer  
of BROADWAY GLOBAL MASTER INC.,  
21 and IN-ARABIA INC.

22 Defendants.  
23

Case No.

**COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF**

24  
25 Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

26 1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade  
27 Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and Section 814 of the Fair Debt  
28 Collection Practices Act ("FDCPA"), 15 U.S.C. § 1692l, to obtain temporary, preliminary, and

1 permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of  
2 monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or  
3 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FDCPA, 15  
4 U.S.C. § 1692 *et seq.*

5 **JURISDICTION AND VENUE**

6 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a),  
7 and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b, and 1692l.

8 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C.  
9 § 53(b).

10 **PLAINTIFF**

11 4. The FTC is an independent agency of the United States Government created by  
12 statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),  
13 which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also  
14 enforces the FDCPA, 15 U.S.C. § 1692 *et seq.*, which prohibits deceptive, abusive, and unfair  
15 collection practices.

16 5. The FTC is authorized to initiate federal district court proceedings, by its own  
17 attorneys, to enjoin violations of the FTC Act and the FDCPA, and to secure such equitable  
18 relief as may be appropriate in each case, including rescission or reformation of contracts,  
19 restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C.  
20 §§ 53(b), 56(a)(2)(A), 56(a)(2)(B), 57b, and 1692l(a). Section 814 of the FDCPA further  
21 authorizes the FTC to use all of the functions and powers of the Commission under the FTC Act  
22 to enforce compliance by any person with the FDCPA, including the power to enforce the  
23 provisions of the FDCPA in the same manner as if the violations were violations of an FTC trade  
24 regulation rule. 15 U.S.C. § 1692l.

25 **DEFENDANTS**

26 6. Defendant Broadway Global Master Inc. ("BGM") is a closely-held California  
27 corporation with its principal place of business at 1570 Eastlake Circle, Tracy, California, 95304.  
28 BGM transacts or has transacted business in this district and throughout the United States.



**DEFENDANTS' DECEPTIVE AND ABUSIVE BUSINESS ACTIVITIES**

1  
2 11. Since at least July 2010, and continuing thereafter, Defendants have engaged in a  
3 scheme to defraud consumers through the collection and processing of payments for debts that  
4 consumers do not actually owe, or that are never applied to consumers' real debts. Defendants  
5 use callers in India to contact consumers and make a series of misrepresentations and threats to  
6 convince the consumers to pay the purported debts. Payments made by consumers then are  
7 processed through merchant accounts controlled by Defendants before being deposited into  
8 Defendants' bank accounts. The scheme targets consumers who previously applied for or  
9 received loans from payday loan companies.

10 12. Defendants' callers contact consumers and tell them that they are delinquent on a  
11 payday loan or another debt.

12 13. Defendants' callers often claim that they are law enforcement officers or that they  
13 are affiliated with a federal, state, or local government agency.

14 14. Defendants' callers threaten consumers that they will face arrest or legal action if  
15 they fail to pay the alleged debt immediately.

16 15. Defendants' callers also threaten to contact third parties about the consumers'  
17 alleged debt, including family members and employers.

18 16. Defendants' callers possess the consumers' private personal information, such as  
19 their Social Security Numbers or bank account numbers, and recite such information, convincing  
20 consumers that the calls are legitimate collection efforts and that consumers must pay the  
21 purportedly delinquent debts.

22 17. Defendants' callers repeatedly contact these consumers on their home, cell, and  
23 work telephones. Defendants' callers frequently use abusive or profane language during these  
24 telephone calls, all as a means of intimidating and harassing consumers to convince them to pay  
25 the alleged debts.

26 18. Many consumers pay the alleged debt that Defendants purport to be collecting  
27 because they are afraid of the threatened repercussions of failing to pay or because they want to

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1 stop the harassment. Generally, consumers make these payments using a credit card, debit card,  
2 or other payment card.

3 19. Payments made by consumers are deposited into one of several of Defendants'  
4 merchant processing accounts that Defendants have established to process consumers' credit,  
5 debit, and payment card payments. The payments appear on consumers' bank or card statements  
6 with the billing descriptor "BGM," "Broadway Global Master," "Broadway Global," or a similar  
7 name, typically along with a phone number associated with BGM. Payments processed through  
8 Defendants' merchant processing accounts are then transferred into Defendants' operating bank  
9 accounts.

10 20. Since July 2010, Defendants have collected and processed millions of dollars in  
11 payments for debts that consumers do not owe and that Defendants have no authority to collect.

12 21. Many consumers have attempted to obtain refunds from Defendants by calling the  
13 phone number associated with BGM on the billing descriptor. In many instances, when  
14 consumers have called this number, no one answered the phone, they were disconnected, or,  
15 after notifying the person who answered the phone that they were calling to request a refund,  
16 they were placed on hold for indefinite periods.

17 22. Many consumers have filed complaints with the Better Business Bureau, their  
18 bank, or their credit card or payment card company, in an attempt to have their payment charged  
19 back, reversed, or refunded.

20 (a) Many of these complaints indicate that the consumer did not owe the  
21 money that Defendants' callers sought to collect.

22 (b) Many of these complaints indicate that the money that the consumer had  
23 paid to Defendants was not applied to the debt they did owe, as the callers  
24 claimed it would be.

25 (c) Many of these complaints attach correspondence in which the payday  
26 lender on whose behalf Defendants' callers claim the debt was being  
27 collected denied having received any payment or having any relationship  
28 with Defendants.

1 (d) Many of these complaints report that Defendants' callers claimed to be  
2 law enforcement officers.

3 (e) Many of these complaints report that Defendants' callers threatened to  
4 have the consumer arrested or to file legal actions against the consumer if  
5 the consumer did not pay the alleged debt immediately.

6 (f) Many of these complaints indicate that Defendants called the consumer  
7 repeatedly.

8 (g) Many of these complaints indicate that Defendants' callers were  
9 threatening to call, or actually calling, the consumer's family or place of  
10 employment.

11 (h) Many of these complaints refer to third parties who had characterized  
12 Defendants' practices as a "scam."

13 23. In many instances, Defendants received and responded to the complaints that  
14 consumers filed with the Better Business Bureau, their bank, or their credit card or payment card  
15 company. Individual Defendant Patel responded on behalf of himself and the Corporate  
16 Defendants.

17 24. Based on the information in Paragraphs 21 through 23, Defendants knew or should  
18 have known that the payments they processed were for debts that consumers did not owe or that  
19 the payments they processed were not applied to debts consumers actually owed.

20 25. Despite their knowledge of their callers' abusive practices, Defendants continue to  
21 process payments made by consumers in response to these practices.

22 **VIOLATIONS OF THE FTC ACT**

23 26. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts  
24 or practices in or affecting commerce."

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

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**COUNT ONE**

*Deceptive Acts or Practices in Violation of the FTC Act*

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

(a) The consumer is delinquent on a payday loan that Defendants have the authority to collect;

(b) Defendants are a law enforcement authority or that they are otherwise affiliated with a government agency;

(c) The consumer will be arrested or imprisoned for failing to pay the Defendants; and

(d) Defendants can or will take formal legal action against a consumer who fails to pay, such as filing suit.

29. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 28 of this Complaint:

(a) The consumer is not delinquent on a payday loan that Defendants have the authority to collect;

(b) Defendants are not a law enforcement authority and they are not otherwise affiliated with a government agency;

(c) The consumer will not be arrested or imprisoned for failing to pay Defendants; and

(d) Defendants cannot or will not take formal legal action against a consumer who fails to pay, such as filing suit.

30. Therefore, Defendants' representations as set forth in Paragraph 28 of this Complaint are false or misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATIONS OF THE FDCPA**

31. In 1977, Congress passed the FDCPA, 15 U.S.C. § 1692 *et seq.*, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA,

1 15 U.S.C. § 1692l, provides that a violation of the FDCPA shall be deemed an unfair or deceptive  
2 act or practice in violation of the FTC Act.

3 32. Defendants are “debt collectors” as defined by Section 803(6) of the FDCPA, 15  
4 U.S.C. § 1692a(6).

5 33. A “consumer,” as defined in Section 803(3) of the FDCPA, 15 U.S.C. § 1692a(3),  
6 “means any natural person obligated or allegedly obligated to pay any debt.”

7 34. A “debt,” as defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5),  
8 “means any obligation or alleged obligation of a consumer to pay money arising out of a  
9 transaction in which the money, property, insurance or services which are the subject of the  
10 transaction are primarily for personal, family, or household purposes, whether or not such  
11 obligation has been reduced to judgment.”

12 **COUNT TWO**

13 *Deceptive Acts or Practices in Violation of the FDCPA*

14 35. In numerous instances, in connection with the collection of alleged debts,  
15 Defendants use false, deceptive, or misleading representations or means, in violation of Section  
16 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

- 17 (a) Falsely representing the character, amount, or legal status of any debt, in  
18 violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A);  
19 (b) Falsely representing or implying that Defendants are affiliated with the  
20 United States or a State, in violation of Section 807(1) of the FDCPA, 15  
21 U.S.C. § 1692e(1);  
22 (c) Falsely representing or implying that nonpayment of a debt will result in  
23 the arrest or imprisonment of a person, when such action is not lawful or  
24 when the Defendants have no intention of taking such action, in violation  
25 of Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);  
26 (d) Threatening to take action that is not lawful or the Defendants do not  
27 intend to take, such as filing a lawsuit, in violation of Section 807(5) of the  
28 FDCPA, 15 U.S.C. § 1692e(5); and

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

4 **COUNT THREE**

5 *Abusive Acts or Practices in Violation of the FDCPA*

6 36. In numerous instances, in connection with the collection of alleged debts,  
7 Defendants engage in conduct the natural consequence of which is to harass, oppress, or abuse the  
8 caller, in violation of FDCPA Section 806, 15 U.S.C. §1692d, including, but not limited to, by:

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

16 **CONSUMER INJURY**

17 37. Consumers have suffered and will continue to suffer substantial injury as a result  
18 of Defendants' violations of the FTC Act and the FDCPA. In addition, Defendants have been  
19 unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this  
20 Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm  
21 the public interest.

22 **THIS COURT'S POWER TO GRANT RELIEF**

23 38. Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b and Section  
24 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), empower this Court to grant injunctive and such  
25 other relief as the Court may deem appropriate to halt and redress violations of any provision of  
26 law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award  
27 ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies

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1 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any  
2 provision of law enforced by the FTC.

3 **PRAYER FOR RELIEF**

4 Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C.  
5 §§ 53(b) and 57b, and Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), and the Court's own  
6 equitable powers, requests that the Court:

7 A. Award Plaintiff such preliminary injunctive and ancillary relief as may be  
8 necessary to avert the likelihood of consumer injury during the pendency of this action and to  
9 preserve the possibility of effective final relief, including but not limited to, temporary and  
10 preliminary injunctions and an order freezing assets;

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

13 C. Award such relief as the Court finds necessary to redress injury to consumers  
14 resulting from Defendants' violations of the FTC Act and FDCPA, including but not limited to,  
15 rescission or reformation of contracts, restitution, the refund of monies paid, and the  
16 disgorgement of ill-gotten monies; and

17 D. Award Plaintiff the costs of bringing this action, as well as such other and  
18 additional relief as the Court may determine to be just and proper.

19  
20 Dated: April 3, 2012

Respectfully submitted,

21 WILLARD K. TOM  
22 General Counsel

23 /s/

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