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**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

DEBTPRO 123 LLC, a limited liability
company,

ALLSTAR PROCESSING CORP., a
corporation,

ALLSTAR DEBT RELIEF LLC, a Texas
limited liability company,

ALLSTAR DEBT RELIEF LLC, a
California limited liability company,

Case No. SACV 14 - 00693 JLS (ANx)

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

1 REDWAVE MANAGEMENT GROUP,
2 INC., a corporation,

3 BET COMPANIES, INC., also d/b/a
4 DebtPro 123, a corporation,

5 and

6 BRYAN E. TAYLOR, a/k/a B. Edward
7 Taylor, individually and as an officer of
8 DEBTPRO 123 LLC, ALLSTAR
9 PROCESSING CORP., ALLSTAR DEBT
10 RELIEF LLC (TX), REDWAVE
11 MANAGEMENT GROUP, INC., and BET
12 COMPANIES, INC.,

13 RYAN FOLAND, a/k/a R. Eugene Foland,
14 individually and as an officer of
15 DEBTPRO 123 LLC, ALLSTAR
16 PROCESSING CORP., ALLSTAR DEBT
17 RELIEF LLC (TX), and REDWAVE
18 MANAGEMENT GROUP, INC.,

19 STACEY FRION, individually and as an
20 officer of REDWAVE MANAGEMENT
21 GROUP, INC.,

22 KARA TAYLOR, a/k/a Kara Wilbur, a/k/a
23 Kara Lynn, individually and as an officer
24 of DEBTPRO 123 LLC, and REDWAVE
25 MANAGEMENT GROUP, INC.,

26 Defendants.

27 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

28 1. The FTC brings this action under Sections 13(b) and 19 of the Federal
Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b) and 57b, the
Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing

1 Act”), 15 U.S.C. §§ 6101-6108, and Section 410(b) of the Credit Repair
2 Organizations Act (“CROA”), 15 U.S.C. § 1679h(b), to obtain permanent
3 injunctive relief, rescission or reformation of contracts, restitution, the refund of
4 monies paid, disgorgement of ill-gotten monies, and other equitable relief for
5 Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
6 § 45(a), the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule”
7 (“TSR”), 16 C.F.R. Part 310, and CROA, 15 U.S.C. § 1679 *et seq.*

8 **JURISDICTION AND VENUE**

9 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
10 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b, 1679h(b), 6102(c),
11 and 6105(b).

12 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), (b)(3),
13 (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

14 **PLAINTIFF**

15 4. The FTC is an independent agency of the United States Government
16 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
17 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
18 affecting commerce. The FTC also enforces the Telemarketing Act, 15 U.S.C. §§
19 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces
20 the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing
21 acts or practices. The FTC also enforces CROA, 15 U.S.C. § 1679h(a), which
22 prohibits unfair or deceptive advertising and business practices by credit repair
23 organizations.

24 5. The FTC is authorized to initiate federal district court proceedings, by
25 its own attorneys, to enjoin violations of the FTC Act, the TSR, and CROA and to
26 secure such equitable relief as may be appropriate in each case, including
27 rescission or reformation of contracts, restitution, the refund of monies paid, and
28

1 the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A),
2 56(a)(2)(B), 57b, 1679h(b), 6102(c), and 6105(b).

3 **DEFENDANTS**

4 6. Defendant DebtPro 123 LLC (“DebtPro”) is a California limited
5 liability company with its principal place of business at 3972 Barranca Parkway,
6 Suite J-212, Irvine, CA. DebtPro was organized in or about 2008. At times
7 material to this Complaint, acting alone or in concert with others, DebtPro has
8 advertised, marketed, distributed, or sold services that purported to resolve
9 consumer debts (“debt resolution programs” or “the program”) in this district and
10 throughout the United States.

11 7. Defendant Allstar Processing Corp. (“Allstar Processing”), formerly
12 known as Hagalean Corporation, is a Wyoming corporation that operated from
13 3972 Barranca Parkway, Suite J-212, Irvine, CA. Allstar Processing’s registered
14 agent, WyomingRegisteredAgent.com, Inc., is located at 2510 Warren Avenue,
15 Suite 3708, Cheyenne, Wyoming. Allstar Processing also lists this Wyoming
16 address as its principal place of business. At times material to this Complaint,
17 acting alone or in concert with others, Allstar Processing has advertised, marketed,
18 distributed, or sold debt resolution programs to consumers in this district and
19 throughout the United States.

20 8. Defendant Allstar Debt Relief LLC (“Allstar Debt (TX)”) is a Texas
21 limited liability company whose registered agent for service of process is located at
22 100 Congress Avenue, Suite 200, Austin, TX. At times material to this Complaint,
23 acting alone or in concert with others, Allstar Debt (TX) has advertised, marketed,
24 distributed, or sold debt resolution programs to consumers in this district and
25 throughout the United States.

26 9. Defendant Allstar Debt Relief LLC (“Allstar Debt (CA)”) is a
27 California limited liability company located at 5620 Paseo Del Norte #127-439,
28 Carlsbad, CA. At times material to this Complaint, acting alone or in concert with

1 others, Allstar Debt (CA) advertised, marketed, distributed, or sold debt resolution
2 programs to consumers in this district and throughout the United States.

3 10. Defendant Redwave Management Group, Inc. ("Redwave") is a
4 Nevada corporation that asserted in its Nevada corporate papers that all of its
5 officers received mail at 3972 Barranca Parkway, Suite J-212, Irvine, CA. At
6 times material to this Complaint, acting alone or in concert with others, Redwave
7 has advertised, marketed, distributed, or sold debt resolution programs to
8 consumers in this district and throughout the United States.

9 11. Defendant BET Companies, Inc. ("BET"), also d/b/a Defendant
10 DebtPro, is a California corporation with its principal place of business at 3972
11 Barranca Parkway, Suite J-212, Irvine, CA. At times material to this Complaint,
12 acting alone or in concert with others, BET, also d/b/a Defendant DebtPro, has
13 advertised, marketed, distributed, or sold debt resolution programs to consumers in
14 this district and throughout the United States.

15 12. Defendant Bryan E. Taylor, a/k/a B. Edward Taylor, ("Taylor"), is the
16 Owner and Manager of DebtPro; the Owner, Director, President, Secretary, and
17 Treasurer of Allstar Processing; the Manager and Registered Agent of Allstar Debt
18 (TX); the Agent of Service of Process for Allstar Debt (CA); the Director,
19 President, and Treasurer of Redwave; and the Owner, Director, Chief Executive
20 Officer, Chief Financial Officer, Secretary, and President of BET. At all times
21 material to this Complaint, acting alone or in concert with others, he has
22 formulated, directed, controlled, had the authority to control, or participated in the
23 acts and practices of DebtPro, Allstar Processing, Allstar Debt (TX), Allstar Debt
24 (CA), Redwave, and BET, including the acts and practices set forth in this
25 Complaint. Defendant Taylor, in connection with the matters alleged herein,
26 transacts or has transacted business in this district and throughout the United
27 States.

1 13. Defendant Ryan E. Foland, a/k/a R. Eugene Foland, ("Foland"), is the
2 President and Managing Director of DebtPro; the Director of Allstar Processing;
3 the Manager of Allstar Debt (TX); and the Director and President of Redwave. At
4 times material to this Complaint, acting alone or in concert with others, he has
5 formulated, directed, controlled, had the authority to control, or participated in the
6 acts and practices of DebtPro, Allstar Processing, Allstar Debt (TX), Allstar Debt
7 (CA), Redwave, and BET, including the acts and practices set forth in this
8 Complaint. Defendant Foland, in connection with the matters alleged herein,
9 transacts or has transacted business in this district and throughout the United
10 States.

11 14. Defendant Stacey Frion ("Frion"), was the Office Manager of DebtPro
12 and is the Secretary of Redwave. At times material to this Complaint, acting alone
13 or in concert with others, she has formulated, directed, controlled, had the authority
14 to control, or participated in the acts and practices of DebtPro, Allstar Processing,
15 Allstar Debt (TX), Allstar Debt (CA), Redwave, and BET, including the acts and
16 practices set forth in this Complaint. Defendant Frion, in connection with the
17 matters alleged herein, transacts or has transacted business in this district and
18 throughout the United States.

19 15. Defendant Kara Taylor, a/k/a Kara Wilbur, a/k/a Kara Lynn, ("Kara
20 Taylor") is a Manager of DebtPro and President of Redwave. At times material to
21 this Complaint, acting alone or in concert with others, she has formulated, directed,
22 controlled, had the authority to control, or participated in the acts and practices of
23 DebtPro, Allstar Processing, Allstar Debt (TX), Allstar Debt (CA), Redwave, and
24 BET, including the acts and practices set forth in this Complaint. Defendant Kara
25 Taylor, in connection with the matters alleged herein, transacts or has transacted
26 business in this district and throughout the United States.

1 **COMMON ENTERPRISE**

2 16. Defendants DebtPro, Allstar Processing, Allstar Debt (TX), Allstar
3 Debt (CA), Redwave, and BET (collectively, “Corporate Defendants”) have
4 operated as a common enterprise while engaging in the deceptive acts and
5 practices and other violations of law alleged below. Corporate Defendants have
6 conducted the business practices described below through an interrelated network
7 of companies that have common ownership, officers, managers, business functions,
8 employees, and office locations; that routinely commingled funds via bank
9 transfers and writing checks for expenses on behalf of the others; and that held
10 themselves out to consumers as being the same company. Because these Corporate
11 Defendants have operated as a common enterprise, each of them is jointly and
12 severally liable for the acts and practices alleged below. Defendants Taylor and
13 Kara Taylor have also maintained personal bank accounts using the same business
14 address as the Corporate Defendants. Moreover, Defendants Taylor, Foland,
15 Frion, and Kara Taylor have formulated, directed, controlled, had the authority to
16 control, or participated in the acts and practices of the Corporate Defendants that
17 constitute the common enterprise.

18 **COMMERCE**

19 17. At all times material to this Complaint, Defendants have maintained a
20 substantial course of business in the advertising, marketing, promoting, offering for
21 sale and sale of debt resolution services, in or affecting commerce, including the
22 acts and practices alleged herein, as “commerce” is defined in Section 4 of the FTC
23 Act, 15 U.S.C. § 44.

24 **DEFENDANTS’ BUSINESS ACTIVITIES**

25 18. Since at least October 1, 2008, Defendants have engaged in a scheme
26 to defraud consumers by marketing, promoting, and/or selling services that
27 purported to resolve consumer debts. Defendants offered several debt resolution
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1 programs that were functionally identical, regardless of the specific Corporate
2 Defendant involved.

3 19. Defendants promoted and sold their debt resolution programs to
4 consumers via inbound and outbound telemarketing calls, as well as through
5 promotional materials such as Internet websites, videos, telephone scripts, broker
6 kits, affiliate trainings, flyers, and information packets. Defendants provided these
7 materials to prospective purchasers, as well as to paid third-party sales offices
8 and/or sales representatives (“affiliates”).

9 20. The affiliates signed contracts with Defendants, in which they agreed
10 to sell Defendants’ program to the exclusion of any other debt resolution programs.
11 Defendants provided training, telemarketing scripts, informational packets, as well
12 as other marketing materials to the affiliates. Defendants also gave affiliates
13 access to a centralized consumer records management database.

14 21. Affiliates used a variety of methods to connect consumers with
15 Defendants, including but not limited to: speaking with consumers and forwarding
16 their contact information for Defendants to call consumers; disseminating
17 Defendants’ promotional materials to consumers and giving them Defendants’
18 phone number; and helping consumers complete and submit Defendants’
19 enrollment forms.

20 22. Following enrollment, Defendants communicated directly with
21 consumers. Thereafter, Defendants discouraged their affiliates from continuing to
22 communicate with enrolled consumers about Defendants’ program.

23 23. Regardless of the sales method, Defendants promised to provide the
24 relevant services, including, among other things, negotiating settlements with
25 consumers’ creditors, providing customer service, and administering customer
26 accounts.

1 *Defendants' Pitch*

2 24. Defendants represented that their debt resolution program would
3 completely resolve consumers' credit card and other unsecured debts (including
4 department store accounts, personal loans, medical bills, student loans, and
5 accounts with collection agencies). Defendants promised to resolve these debts at
6 substantial discounts, claiming they would resolve a typical consumer's debt for
7 between 30% to 70% of the amount owed within 18, 24, or 36 months.

8 Defendants' claims include:

- 9 a. "In as little as 18 months become debt free and enjoy financial
10 independence."
11 b. "Based upon what you are able to pay each month in your
12 settlement account, we can determine how many months you will
13 be part of the program, and ultimately be debt free."
14 c. "Okay (client's name), you'd be looking at resolving your total
15 debt of (see worksheet) for a resolution amount of approximately
16 (see worksheet), you'd be debt free in (see worksheet) months or
17 less."
18 d. "On average, Debt Pro will reduce a Client's total debt by 70 to 80
19 percent on average including all fees."
20 e. "With settlements as low as 10%, this means when all is said and
21 done, a client's savings could be as much as 20 cents on the dollar
22 including our fees."
23 f. "DebtPro123 works diligently and professionally with your
24 creditors on your behalf to reduce your current unsecured debt
25 down 10-30% by arbitrating an agreed settlement amount with
26 your creditors."
27 g. "With honest and informative advice, outstanding customer
28 service, and a proven debt settlement process we can ensure our

1 clients become debt free quickly and comfortably and get back on
2 the path of financial freedom.”

3 25. Defendants reinforced these claims with their “Debt Calculator.” The
4 Debt Calculator showed an individual consumer’s debt and set forth the amount a
5 consumer must pay to resolve his debts. The Debt Calculator set out a payment
6 schedule and set forth how much of each payment Defendants kept for “fees” and
7 “processing” and how much they promised to put aside in the “Creditor Fund” or a
8 “Settlement Account” to resolve the consumer’s debt. Defendants and their
9 affiliates told consumers that the consumer’s Creditor Fund/Settlement Account
10 was similar to an escrow account.

11 26. Defendants told consumers that there were two phases to the program.
12 In “Phase One,” typically the first four months of the program, Defendants
13 represented that the consumer would build up the money in his Creditor
14 Fund/Settlement Account, which Defendants needed prior to any negotiations with
15 the consumer’s creditors. In “Phase Two,” typically the remaining fourteen to
16 thirty-two months, Defendants stated, “this is usually the ‘transitional period’
17 where the terms and conditions of the creditors are being changed.” Typically, the
18 consumer paid Defendants a smaller monthly payment in Phase Two than in Phase
19 One. In both phases, however, the monthly payment consisted of both fees and
20 money for the consumer’s Creditor Fund/Settlement Account.

21 27. The materials Defendants created and distributed to affiliates and
22 consumers represented that Defendants’ program was able to “obtain more
23 aggressive ‘resolutions’ than traditional Debt Settlement companies” because
24 Defendants had attorneys who provided legal services to the consumers.
25 Defendants repeatedly stated that their “Legal Department” and “legal in house
26 counsels” would analyze the consumers’ debts and negotiate the terms of their
27 resolution. For example:
28

- 1 a. "By working with our organization, you hire the attorneys
2 directly."
- 3 b. "The attorneys will communicate directly with your creditors and
4 debt collectors via the mail and telephone. They will audit your
5 bills and the collection methods being used by the creditors to
6 determine if your consumer rights have been violated. They will
7 leverage their existing relationships with all of the major creditors
8 to negotiate the best possible resolutions of your enrolled debts. If
9 necessary and applicable, the attorneys will sue your creditors on
10 your behalf should a violation of your consumer rights be
11 identified."

12 28. Defendants also represented that they would improve consumers'
13 credit:

- 14 a. "Upon completion of the process, most if not all negative or
15 adverse items are REMOVED from clients all three major
16 reporting credit bureaus."
- 17 b. "Expect some negatives on your credit report for about 18 months.
18 Mark you [sic] calendar 12 months ahead, when that day comes,
19 pull a credit report on yourself from all three of the agencies and
20 send them to us. Because we changed the terms and conditions of
21 the contract and made it more favorable for you we are able to get
22 the negatives removed and your credit report corrected."

23 *The Consumer Experience*

24 29. As part of Defendants' enrollment process, consumers received
25 Defendants' "Getting it Started" packet, which included a "Debt Resolution
26 Agreement," and a sign-up form automatically allowing Defendants to withdraw
27 funds from the consumer's checking or savings account. Defendants typically
28 required consumers to make all payments by automatic withdrawal.

1 30. Defendants also sent consumers a “Welcome Packet” after the
2 consumer had submitted the documents in the “Getting it Started” packet. The
3 “Welcome Packet” further described the program, giving the clients a payment
4 schedule, a fee schedule, and additional instructions regarding creditor
5 communications.

6 31. At no point did Defendants provide any of the written disclosures
7 required under the Credit Repair Organizations Act (“CROA”), 15 U.S.C. § 1679c.
8 For instance, Defendants did not disclose that: credit bureaus are permitted to
9 report accurate information; consumers can obtain free credit reports; consumers
10 can sue credit repair organizations for violating CROA; consumers can cancel any
11 contract with a credit repair organization within 3 days of signing; credit bureaus
12 are required to take steps to ensure they report only accurate information; and
13 consumers can, on their own, challenge the accuracy of their credit report.

14 32. Defendants charged their clients a nonrefundable fee. The fee was a
15 percentage of the amount of the debt that the consumer owed his unsecured
16 creditors at the beginning of the program. Since the program started, the fee
17 increased from 10% to over 20% of the consumer’s total debt.

18 33. Defendants collected their fees as a portion of the monthly payments,
19 front-loading the fees. For many consumers, more than half of their monthly
20 payment went towards Defendants’ fees. For consumers who were in the program
21 longer than eighteen months, Defendants also charged a \$49 monthly
22 “maintenance fee.”

23 34. Defendants instructed consumers to stop paying their creditors and to
24 stop all communications with their creditors. Defendants further instructed
25 consumers to keep a call log with the dates and times they received calls from their
26 creditors. Defendants told consumers that the phone log would help in
27 negotiations because if Defendants could establish that the creditor had violated the
28 Fair Debt Collection Practices Act, Defendants could use that as leverage to reduce

1 the consumer's debt. Defendants also instructed consumers to send them all
2 original correspondence from the creditors, including statements, collections
3 letters, and lawsuits.

4 35. Defendants told consumers that they could not make direct payments
5 to their creditors in lieu of paying Defendants for the debt resolution program.
6 Moreover, even if a consumer came into sufficient money to pay the remaining
7 amount required to build up their Creditor Fund/Settlement Account in advance of
8 their scheduled monthly payments, Defendants required the consumer to pay
9 Defendants' fees for the entirety of the program before putting this money into the
10 Creditor Fund/Settlement Account.

11 36. Defendants required each consumer to submit a notarized "Limited
12 Power of Attorney," in order to give Defendants the power to negotiate the
13 consumer's debts on behalf of the consumer. Defendants also required consumers
14 to submit notarized Assignment of Debt forms for each of their debts, which
15 Defendants represented would assign the liability of the debt to Defendants.

16 ***Defendants' Failure to Fulfill Their Promises***

17 37. Despite their claims, Defendants did not reduce the typical
18 consumer's debt for between 30% to 70% of the amount owed in the 18-36
19 months.

20 38. In many instances, Defendants did not commence settlement
21 negotiations immediately, or even at the start of Phase Two. Instead, to the extent
22 that Defendants initiated negotiations with any of their clients' creditors, they did
23 not do so until after the consumer had received letters from creditors warning of an
24 impending lawsuit for failure to make payments on their debts.

25 39. To the extent Defendants negotiated a settlement on behalf of a
26 consumer, they rarely, if ever, negotiated settlements with all of a consumer's
27 creditors.

1 40. Even when Defendants succeeded in negotiating a settlement on a
2 consumer's account, the amount Defendants agreed to pay was, in many instances,
3 significantly higher than 30% to 70% of the amount owed to the creditor at the
4 time the consumer enrolled in Defendants' program. Instead, Defendants agreed to
5 pay the full amount owed, in installments over the course of a few months.
6 Moreover, because Defendants always instructed consumers to cease paying their
7 creditors upon enrollment, the total amount of the debt was usually higher than the
8 amount the client owed the creditor at the time he or she enrolled in the program.

9 41. Following any such settlement agreement with a creditor, Defendants
10 immediately sent a letter or email to the consumer, informing him that the account
11 was "resolved." In many instances, however, Defendants failed to make all of the
12 settlement's payments to the creditor. In numerous instances, the creditor then
13 sued, or re-sued, the consumer for failure to pay on the "resolved" debt.

14 42. When consumers learned that Defendants had not resolved their
15 accounts, they frequently requested a refund. Defendants then created multiple
16 obstacles to prevent and/or delay consumers' refund requests. Defendants required
17 clients to file a form that cancelled the contract in order to seek the return of any
18 money, regardless of whether the consumer had paid all of the money owed as set
19 forth in their Debt Calculator. In addition, the consumers had to file a notarized
20 Revocation of the Power of Attorney form and a notarized Revocation of the
21 Assignment of Debt form for each account enrolled in the program.

22 43. Even after consumers submitted all of these forms, and Defendants
23 told them in emails and over the phone that a refund was forthcoming, in numerous
24 instances, consumers received no refunds.

25 44. After weeks of waiting, without response to their emails or receipt of
26 a refund, some frustrated clients submitted complaints to their states' attorneys
27 general or the Better Business Bureau, and Defendants again represented to these
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1 agencies and organizations that a refund was forthcoming. In numerous instances,
2 however, Defendants failed to return any money to consumers.

3 45. Regardless of whether Defendants resolved any of a consumer's
4 debts, in many instances, Defendants kept all the money given to them by that
5 consumer, including money earmarked for the consumer's Creditor
6 Fund/Settlement Account.

7 46. Therefore, Defendants failed to (a) ensure that the consumer
8 continued to own the funds given to Defendants for purposes of fees and
9 settelement; (b) give consumers any interest that accrued on the funds (to the
10 extent that there was any interest); (c) allow the consumer to withdraw the funds
11 they had given to Defendants without penalty; and (d) return to consumers all
12 funds in the account, other than funds earned by Defendants, within seven days of
13 a consumer's request.

14 47. Despite Defendants' promises to provide "honest and informative
15 advice" and "outstanding customer service," Defendants often failed to answer or
16 even acknowledge consumers' telephone calls and emails. Instead, consumers
17 who wanted to know which accounts, if any, were resolved and how much money
18 remained in their Creditor Fund/Settlement Account, had difficulty obtaining any
19 accurate information from Defendants.

20 48. Contrary to their claims, Defendants did not have a "Legal
21 Department," "legal in house counsels," or any attorneys on staff. Despite this,
22 when creditors sued consumers for failure to pay their debts, Defendants sent the
23 consumers legal "Answers" to file in court in response to their creditors'
24 complaints. Defendants instructed consumers to fill in their names, to sign the
25 documents, and to pay the court filing fee. In emails accompanying these
26 documents, Defendants wrote, "[t]his filing is of the utmost importance for your
27 case and if not done in the timeframe given a default judgment could be awarded
28 against you for failure to comply."

- c. Defendants had attorneys who would provide legal services to consumers.
- d. Defendants' debt resolution program would improve the typical consumer's credit record, credit history, or credit rating, including by removing consumers' negative items.
- e. Defendants had resolved specific accounts.
- f. Defendants would provide refunds.

55. In truth and in fact, in numerous of these instances:

- a. Defendants' debt resolution program did not resolve all of the typical consumer's debts enrolled in the program by the time that consumer completed the program.
- b. Defendants did not resolve the typical consumer's debt for a fraction of what that consumer owed to his creditors, such as 30% to 70% of the total amount owed.
- c. Defendants did not have attorneys providing legal services to consumers.
- d. Defendants' debt resolution program did not improve the typical consumer's credit record, credit history, or credit rating, nor did it remove consumers' negative items.
- e. Defendants had not resolved specific accounts.
- f. Defendants did not provide refunds.

56. Therefore, the making of the representations, as set forth in Paragraph 54 of this Complaint, constitutes deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

57. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of their debt resolution program, Defendants or their agents represented, directly or indirectly, expressly or by implication, that

1 Defendants possessed and relied upon a reasonable basis that substantiated the
2 representations set forth in Paragraph 54(a), (b), and (d) of this Complaint at the
3 time the representations were made.

4 58. In truth and in fact, Defendants did not possess and rely upon a
5 reasonable basis that substantiated the representations set forth in Paragraph 54(a),
6 (b), and (d) of this Complaint at the time the representations were made.
7 Therefore, the making of the representations set forth in Paragraph 57 of this
8 Complaint, constitutes deceptive acts or practices in violation of Section 5(a) of the
9 FTC Act, 15 U.S.C. § 45(a).

10 COUNT III

11 59. In numerous instances in connection with the advertising, marketing,
12 promotion, offering for sale, or sale of their debt resolution program, Defendants
13 have distributed to affiliates promotional materials that contained false and
14 misleading representations, including but not limited to the false or unsubstantiated
15 representations described in Paragraph 54(a)-(d) of this Complaint. In so doing,
16 Defendants have provided the means and instrumentalities for the commission of
17 deceptive acts and practices.

18 60. Therefore, Defendants' practices, as described in Paragraph 59 of this
19 Complaint, constitute deceptive acts and practices in violation of Section 5(a) of
20 the FTC Act, 15 U.S.C. § 45(a).

21 VIOLATIONS OF THE TELEMARKETING SALES RULE

22 61. Congress directed the FTC to prescribe rules prohibiting abusive and
23 deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15
24 U.S.C. §§ 6101-6108, in 1994. The FTC adopted the original TSR in 1995,
25 extensively amended it in 2003, and amended certain sections thereafter.

26 62. The TSR prohibits sellers and telemarketers from misrepresenting
27 directly or by implication, in the sale of goods or services, any material aspect of
28

1 the performance, efficacy, nature, or central characteristics of the goods or services
2 that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

3 63. In 2010, the FTC amended the TSR to address the telemarketing of
4 debt relief services. The amendments, effective September 27, 2010, prohibit
5 sellers or telemarketers from misrepresenting, directly or by implication, in the sale
6 of goods or services, any material aspect of any debt relief service, including, but
7 not limited to, the amount of money or the percentage of the debt amount that a
8 customer may save by using such service; the amount of time necessary to achieve
9 the represented results; the amount of money or the percentage of each outstanding
10 debt that the customer must accumulate before the provider of the debt relief
11 service will initiate attempts with the customer's creditors or debt collectors or
12 make a bona fide offer to negotiate, settle, or modify the terms of the customer's
13 debt; the effect of the service on a customer's creditworthiness; the effect of the
14 service on collection efforts of the customer's creditors or debt collectors; the
15 percentage or number of customers who attain the represented results; and whether
16 a debt relief service is offered or provided by a non-profit entity. 16 C.F.R. §
17 310.3(a)(2)(x).

18 64. Separate amendments effective October 27, 2010, prohibit sellers and
19 telemarketers from requesting or receiving payment of any fees or consideration
20 for any debt relief service until and unless:

- 21 a. The seller or telemarketer has renegotiated, settled, reduced, or
22 otherwise altered the terms of at least one debt pursuant to a
23 settlement agreement, debt management plan, or other such valid
24 contractual agreement executed by the customer;
- 25 b. The customer has made at least one payment pursuant to that
26 settlement agreement, debt management plan, or other valid
27 contractual agreement between the customer and the creditor or
28 debt collector; and

1 c. To the extent that debts enrolled in a service are renegotiated,
2 settled, reduced, or otherwise altered individually, the fee or
3 consideration either:

4 i. Bears the same proportional relationship to the total fee for
5 renegotiating, settling, reducing, or altering the terms of the
6 entire debt balance as the individual debt amount bears to
7 the entire debt amount. The individual debt amount and the
8 entire debt amount are those owed at the time the debt was
9 enrolled in the service; or

10 ii. Is a percentage of the amount saved as a result of the
11 renegotiation, settlement, reduction, or alteration. The
12 percentage charged cannot change from one individual debt
13 to another. The amount saved is the difference between the
14 amount owed at the time the debt was enrolled in the service
15 and the amount actually paid to satisfy the debt. 16 C.F.R. §
16 310.4(a)(5)(i).

17 65. The amendments effective October 27, 2010, permit sellers and
18 telemarketers to request or require the customer to place funds in an account to be
19 used for the debt relief provider's fees and for payments to creditors or debt
20 collectors in connection with the renegotiation, settlement, reduction, or other
21 alteration of the terms of payment or other terms of debt, provided that: (A) the
22 funds are held in an account at an insured financial institution; (B) the customer
23 owns the funds held in the account and is paid accrued interest on the account, if
24 any; (C) the entity administering the account is not owned or controlled by, or in
25 any way affiliated with, the debt relief service; (D) the entity administering the
26 account does not give or accept any money or other compensation in exchange for
27 referrals of business involving the debt relief service; and (E) the customer may
28 withdraw from the debt relief service at any time without penalty, and must receive

1 all funds in the account, other than funds earned by the debt relief service in
2 compliance with § 310.4(a)(5)(i)(A)-(C), within seven business days of the
3 customer's request. 16 C.F.R. § 310.4(a)(5)(ii).

4 66. Defendants are "seller[s]" or "telemarketer[s]" engaged in
5 "telemarketing" as defined by the TSR, 16 C.F.R. § 310.2(aa), (cc), and (dd).
6 Under the TSR, a "telemarketer" means any person who, in connection with
7 telemarketing, initiates or receives telephone calls to or from a customer or donor.
8 16 C.F.R. § 310.2(cc). A "seller" means any person who, in connection with a
9 telemarketing transaction, provides, offers to provide, or arranges for others to
10 provide goods or services to a customer in exchange for consideration. *Id.* §
11 310.2(aa).

12 67. Defendants are also sellers or telemarketers of "debt relief services" as
13 defined by the TSR, 16 C.F.R. § 310.2(m).

14 68. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C.
15 § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation
16 of the TSR constitutes an unfair or deceptive act or practice in or affecting
17 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

18 **COUNT IV**

19 69. In numerous instances, in connection with the telemarketing of goods
20 and services, Defendants misrepresented, directly or indirectly, expressly or by
21 implication, material aspects of the performance, efficacy, nature, or central
22 characteristics of such goods and services, including, but not limited to:

- 23 a. Defendants' debt resolution program would resolve all of the
24 typical consumer's debts enrolled in the program by the time that
25 consumer completed the program.
- 26 b. Defendants would resolve the typical consumer's debt for a
27 fraction of what that consumer owed to his creditors, such as 30%
28 to 70% of the total amount owed.

- 1 c. Defendants had attorneys who would provide legal services to their
2 debt resolution clients.
- 3 d. Defendants' debt resolution program would directly or indirectly
4 improve the typical consumer's credit record, credit history, or
5 credit rating.

6 70. Defendants' acts and practices, as described in Paragraph 69 of this
7 Complaint, are deceptive telemarketing acts or practices that violate Section
8 310.3(a)(2)(iii) of the TSR. 16 C.F.R. § 310.3(a)(2)(iii).

9 **COUNT V**

10 71. In numerous instances on or after September 27, 2010, in connection
11 with the telemarketing of debt relief services, Defendants misrepresented, directly
12 or indirectly, expressly or by implication, material aspects of the debt relief
13 services, including, but not limited to:

- 14 a. Defendants' debt resolution program would resolve all of the
15 typical consumer's debts enrolled in the program by the time that
16 consumer completed the program.
- 17 b. Defendants would resolve the typical consumer's debt for a
18 fraction of what that consumer owed to his creditors, such as 30%
19 to 70% of the total amount owed.
- 20 c. Defendants had attorneys who would provide legal services to their
21 debt resolution clients.
- 22 d. Defendants' debt resolution program would directly or indirectly
23 improve the typical consumer's credit record, credit history, or
24 credit rating.

25 72. Defendants' acts and practices, as described in Paragraph 71 of this
26 Complaint, are deceptive telemarketing acts or practices that violate Section
27 310.3(a)(2)(x) of the TSR. 16 C.F.R. § 310.3(a)(2)(x).

1 COUNT VI

2 73. In numerous instances on or after October 27, 2010, in the course of
3 telemarketing debt relief services, Defendants requested or received payment of a
4 fee or consideration for debt relief services:

- 5 a. before (1) they had renegotiated, settled, reduced, or otherwise
6 altered the terms of at least one debt pursuant to a settlement
7 agreement, debt management plan, or other such valid contractual
8 agreement executed by the customer; and (2) the customer had
9 made at least one payment pursuant to that agreement; and/or
10 b. when, to the extent that debts enrolled in a service were
11 renegotiated, settled, reduced, or otherwise altered individually, the
12 fee or consideration either (1) did not bear the same proportional
13 relationship to the total fee for renegotiating, settling, reducing, or
14 altering the terms of the entire debt balance as the individual debt
15 amount bore to the entire debt amount, or (2) was not a percentage
16 of the amount saved as a result of the renegotiation, settlement,
17 reduction, or alteration and that percentage did not change from
18 one individual debt to another; and/or
19 c. when, to the extent consumer funds were held in an account to be
20 used for the debt relief provider's fees and for payments to
21 creditors or debt collectors in connection with the renegotiation,
22 settlement, reduction, or other alteration of the terms of payment or
23 other terms of a debt, (1) the consumer did not own the funds held
24 in the account; (2) the consumer was not paid any interest that
25 accrued on his or her funds held in the account; (3) the consumer
26 was not able to withdraw the funds from the debt relief service at
27 any time without penalty; and/or (4) the consumer did not receive
28 all the funds in the account, other than funds earned by the debt

1 relief service in compliance with § 310.4(a)(5)(i)(A)-(C), within
2 seven business days of the consumer's request.

3 74. Defendants' acts or practices, as described in Paragraph 73 of this
4 Complaint, are abusive telemarketing acts or practices that violate section
5 310.4(a)(5) of the TSR. 16 C.F.R. § 310.4(a)(5).

6 **VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT**

7 75. The purposes of CROA, according to Congress, are:

8 (1) To ensure that prospective buyers of the services of
9 credit repair organizations are provided with the information
10 necessary to make an informed decision regarding the
11 purchase of such services; and (2) to protect the public from
12 unfair or deceptive advertising and business practices by
13 credit repair organizations. 15 U.S.C. § 1679(b).

14 76. Defendants use instrumentalities of interstate commerce or mails to
15 communicate with consumers and creditors.

16 77. Defendants sell, provide or perform (or represent that they can or will
17 sell, provide, or perform) services in return for payment of money for the express
18 or implied purpose of improving consumers' credit record, credit history, or credit
19 rating.

20 78. Therefore, Defendants are "credit repair organizations" as that term is
21 defined in CROA, 15 U.S.C. § 1679a(3).

22 79. CROA prohibits credit repair organizations from charging or
23 receiving any money or other valuable consideration for services that the credit
24 repair organization has agreed to perform before such service is fully performed.
25 15 U.S.C. § 1679b(b).

26 80. CROA prohibits all persons from making or using any untrue or
27 misleading representation of the services of the credit repair organization. 15
28 U.S.C. § 1679b(a)(3).

1 15 U.S.C. § 1681c. The FCRA also prohibits creditors from knowingly reporting
2 false information, 15 U.S.C. § 1681s-2(a)(1), and thus prohibits creditors from
3 changing accurate information they have previously reported.

4 87. Therefore, Defendants' acts or practices, as described in Paragraph 85
5 of this Complaint, violated Section 404(a)(3) of CROA, 15 U.S.C. § 1679b(a)(3).

6 **COUNT IX**

7 88. In numerous instances, in connection with the performance of services
8 for consumers by a credit repair organization, as that term is defined in Section
9 403(3) of CROA, 15 U.S.C. § 1679a(3), Defendants or their agents have failed to
10 provide to the consumer the required written disclosures that they must give to
11 consumers as a credit repair organization, prior to the execution of any contract or
12 agreement.

13 89. Therefore, Defendants' acts or practices, as described in Paragraph 88
14 of this Complaint, violated Section 405 of CROA, 15 U.S.C. § 1679c.

15 **CONSUMER INJURY**

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

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

22 91. Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b,
23 Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and Section 410(b) of
24 the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), empower this Court to
25 grant injunctive and such other relief as the Court may deem appropriate to halt
26 and redress violations of any provision of law enforced by the FTC. The Court, in
27 the exercise of its equitable jurisdiction, may award ancillary relief, including
28 rescission or reformation of contracts, restitution, the refund of monies paid, and

1 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,
5 15 U.S.C. § 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. §
6 6105(b), Section 410(b) of CROA, 15 U.S.C. § 1679h(b), and the Court's own
7 equitable powers, requests that the Court:

8 A. Enter a permanent injunction to prevent future violations of the FTC
9 Act, the TSR and CROA by Defendants;


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

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

17
18 Respectfully submitted,

19 Jonathan E. Nuechterlein
20 General Counsel

21
22 Dated: 5/11/14

23 
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