

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

RTB ENTERPRISES, INC.,
also d/b/a Allied Data Corporation, and

RAYMOND T. BLAIR, individually and as an
officer of RTB ENTERPRISES, INC.,

Defendants.

Case No. 4:14-cv-01691
JUDGE

**STIPULATED ORDER FOR PERMANENT INJUNCTION,
AND MONETARY JUDGMENT**

Plaintiff, the Federal Trade Commission (“Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief (“Complaint”), for a permanent injunction and other equitable relief in this matter, pursuant to Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and Section 814 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692*l*. The Commission and Defendants stipulate to the entry of this Stipulated Order for Permanent Injunction and Monetary Judgment (“Order”) to resolve all matters in dispute in this action between them.

THEREFORE, IT IS ORDERED as follows:

FINDINGS

1. This Court has jurisdiction over this matter.
2. The Complaint charges that Defendants participated in deceptive acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, in the collection of debts for third party creditors.

3. Defendants neither admit nor deny any of the allegations in the Complaint, except as specifically stated in this Order. Only for purposes of this action, Defendants admit the facts necessary to establish jurisdiction.

4. Defendants waive any claim that they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, concerning the prosecution of this action through the date of this Order, and agree to bear their own costs and attorney fees.

5. Defendants and the Commission waive all rights to appeal or otherwise challenge or contest the validity of this Order.

DEFINITIONS

For the purpose of this Order, the following definitions apply:

A. **“Debt collection”** means any activity the principal purpose of which is to collect or attempt to collect, directly or indirectly, debts owed, or asserted to be owed, or due.

B. **“Defendants”** means the Corporate Defendant and the Individual Defendant, individually, collectively, or in any combination.

1. **“Corporate Defendant”** means RTB Enterprises, Inc., also d/b/a Allied Data Corporation, and its successors and assigns.

2. **“Individual Defendant”** means Raymond T. Blair.

C. **“Transaction fee”** and **“convenience fee”** means a fee charged for credit card or debit card transactions, and a fee charged for check-by-phone transactions, respectively.

ORDER

I. INJUNCTION

IT IS ORDERED that Defendants, Defendants’ officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with collecting or attempting to collect debts are permanently restrained and enjoined from:

A. Making any material misrepresentation, expressly or by implication, to collect or attempt to collect a debt, including but not limited to falsely representing that:

1. collectors are calling on behalf of an attorney, such as by claiming to work in or with Corporate Counsel, a Litigation Department, a Pre-Litigation Department, a Legal Department, or the Harris County District Attorney's Office;
2. suit will be filed against consumers who fail to pay;
3. transaction fees and convenience fees are required, unavoidable fees;
4. consumers cannot send checks by regular U.S. Mail to avoid paying transaction fees and convenience fees, but instead are required to use costly alternatives such as Western Union, Express Mail, or Priority Mail;
5. transaction fees and convenience fees account only for out-of-pocket costs for these transactions;
6. recommendations to creditor clients have to be made by specific times or dates; and
7. potentially qualifying for a fictitious Hard-Ship Program is the reason collectors obtain information from consumers.

B. Failing to disclose to consumers clearly, truthfully, prominently and before consumers agree to pay any fee:

1. a fee will be charged,
2. the amount of the fee;
3. the number of times the fee will be charged;
4. the reason for the fee; and

5. how consumers can avoid paying the fee.

C. Using any false, deceptive, or misleading, representation or means in connection with the collection of any debt, including but not limited to:

1. Representing or implying that any action will be taken unless, at the time of the representation, such action is lawful and Defendants and the Creditor intend to take such action; and
2. Representing or implying that any action may be taken unless Defendants can show that, at the time of the representation that there is a reasonable likelihood such actions will be taken.

D. Violating the FDCPA, 15 U.S.C. §§ 1692-1692p, a copy of which is attached as **Attachment A**, including without limitation, Section 807, 15 U.S.C § 1692e.

II. **MONETARY JUDGMENT AND PARTIAL SUSPENSION**

IT IS FURTHER ORDERED that:

A. Judgment in the amount of FOUR MILLION (\$4,000,000) is entered in favor of the Commission against Defendants, jointly and severally, as equitable monetary relief.

B. Defendants are ordered to pay the Commission ONE HUNDRED THOUSAND DOLLARS (\$ 100,000) as equitable monetary relief, which, as Defendants stipulate, their undersigned counsel holds in escrow for no purpose other than payment to the Commission. Such payment must be made within 7 days of entry of this Order by electric fund transfer in accordance with instructions previously provided by a representative of the Commission. Upon such payment and the asset transfers required by Subsection C., the remainder of the judgment against the Defendants is suspended, subject to the Subsections below.

C. Defendant Raymond T. Blair is ordered to, within 7 days of entry of this Order to

transfer to a third party in an arms-length transaction, or surrender to lienholder, the Coach Monaco motor home, VIN # 1RF13561951030214. Defendant Raymond T. Blair must provide the Commission with written proof of the transfer or surrender, including the date of the event, and the name and contact information of the item's recipient.

D. The Commission's agreement to the suspension of part of the judgment is expressly premised upon the truthfulness, accuracy, and completeness of Defendants' sworn financial statements and related documents (collectively, Financial Attestations) submitted to the Commission, namely:

1. For Individual Defendant Raymond T. Blair: the Financial Statement of Raymond Thomas Blair, including attachments, signed on February 28, 2014, and sworn supplement signed by Raymond T. Blair on March 17, 2014; and

2. For Corporate Defendant RTB Enterprises, Inc. d/b/a Allied Data Corp., the Financial Statement of RTB Enterprises dba Allied Data Corp., including attachments, signed by Raymond T. Blair as President on February 28, 2014.

E. The suspension of the judgment will be lifted as to any Defendant if, upon motion by the Commission, the Court finds that Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the Financial Attestations identified above.

F. If the suspension of the judgment is lifted, the judgment becomes immediately due as to that Defendant in the amount specified in Subsection A. above (which the parties stipulate only for purposes of this Section represents the consumer injury and unjust enrichment; alleged in the Complaint), less any payment previously made pursuant to this Section, plus interest computed from the date of entry of this Order.

G. Defendants relinquish dominion and all legal and equitable right, title, and interest in all assets transferred pursuant to this Order and may not seek the return of any assets.

H. The facts alleged in the Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, including, but not limited to, a nondischargeability complaint in any bankruptcy case.

I. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

J. Defendants acknowledge that their taxpayer identifying numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

K. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Defendants have no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

III. CONSUMER INFORMATION

IT IS FURTHER ORDERED that Defendants, Defendants' officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, are permanently restrained and enjoined from directly or indirectly failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within 14 days.

IV. ORDER ACKNOWLEDGMENTS

IT IS FURTHER ORDERED that Defendants obtain acknowledgments of receipt of this Order:

A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 10 years after entry of this Order, Individual Defendant for any business that the Defendant, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

V. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that the Defendants make timely submissions to the Commission:

A. One hundred and eighty (180) days after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's involvement in each such

business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, including, but not limited to, by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____,” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *Federal Trade Commission vs. RTB Enterprises, Inc.* (Matter No. X-_____).

VI. RECORDKEEPING

IT IS FURTHER ORDERED that Defendants must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Corporate Defendant, in connection with debt collection, and Individual Defendant for any business that such Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

A. accounting records showing the revenues generated in connection with debt collection, including all fees charged to consumers, all costs incurred in generating those revenues, the disbursement of such revenues, and the resulting net profit or loss;

B. personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name; addresses; telephone numbers; job title or position; dates of service; and (if applicable) the reason for termination;

C. customer files containing the names, addresses, phone numbers, dollar amounts of debt owed, records of collection activity, and amounts collected, including any fees charged;

D. records of all consumer complaints, whether received directly or indirectly, such as through a third party, 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;
 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;
 3. all documents relating to the disposition of the complaint, including records of all contacts with the consumer, Defendant's response(s) to the complaint and the response date, whether the complaint was resolved, the date of resolution, and any action taken to correct the conduct complained about;
- E. copies of all scripts, training materials, form letters and emails, or other materials used in connection with communicating to consumers;
- F. copies of each unique advertisement and other marketing materials; and
- G. all records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission.

VII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Defendants' compliance with this Order, including the Financial Attestations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery,

without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Defendant. Defendant must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. The Commission may use all other lawful means, including posing, through its representatives as consumers, suppliers, or other individuals or entities, to Defendants or any individual or entity affiliated with Defendants, without the necessity of identification or prior notice. Nothing in this Order limits the Commission's lawful use of compulsory process, under Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

VIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

SO ORDERED this 19 day of June, 2014.


UNITED STATES DISTRICT JUDGE

SO STIPULATED AND AGREED:

FOR THE FEDERAL TRADE COMMISSION:



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THOMAS B. CARTER

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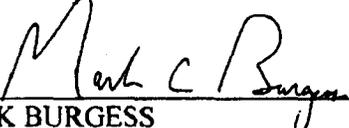
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FOR DEFENDANTS:



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DEFENDANT RTB ENTERPRISES, INC.



RTB ENTERPRISES, INC.
By Raymond T. Blair, as an officer of
RTB Enterprises, Inc.

Date: 4-1-2014

DEFENDANT RAYMOND T. BLAIR:



Raymond T. Blair, individually, and
as an officer of RTB Enterprises, Inc.

Date: 4-1-2014