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13  
14 UNITED STATES DISTRICT COURT  
15 FOR THE CENTRAL DISTRICT OF CALIFORNIA  
16 WESTERN DIVISION

17 UNITED STATES OF AMERICA,  
18 Plaintiff,  
19

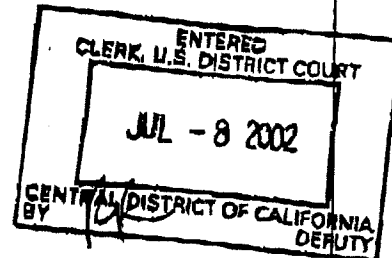
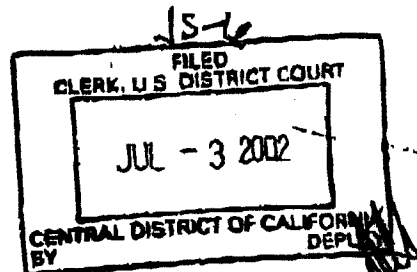
20 v.

21 DC CREDIT SERVICES, INC.,  
a corporation; and  
22 DAVID COHEN,  
individually and as an  
23 officer of said  
corporation,  
24 Defendants.  
25

Case No. 02-5115  
CONSENT DECREE

26 Docketed  
27 Copies / NTC Sent  
28 JS-5 / JS-6  
JS-2 / JS-3  
CLSD

26 WHEREAS, Plaintiff, the United States of America, has  
27 commenced this action by filing the Complaint herein; defendants  
28 have waived service of the Summons and Complaint; the parties have  
been represented by the attorneys whose names appear hereafter;



MAA  
FMOx

3

1 and the parties have agreed to settlement of this action upon  
2 the following terms and conditions, without adjudication of any  
3 issue of fact or law and without defendants admitting liability  
4 for any  
5 of the matters alleged in the Complaint;

6 THEREFORE, on the joint motion of plaintiff and defendants,  
7 it is hereby ORDERED, ADJUDGED, and DECREED as follows:  
8

9 Findings

10 1. This Court has jurisdiction of the subject matter and  
11 of the parties.

12 2. The Complaint states a claim upon which relief may be  
13 granted against the defendants under Sections 5(a)(1),  
14 5(m)(1)(A), 13(b), and 15(a) of the Federal Trade Commission Act  
15 ("FTCA"), 15 U.S.C. §§ 45(m)(1)(A), 49, 53(b), and 56(a); Section  
16 621 of the Fair Credit Reporting Act ("FCRA"), 15 U.S.C. § 1681s;  
17 and Section 814 of the Fair Debt Collection Practices Act  
18 ("FDCPA"), 15 U.S.C. § 16921.

19 3. The activities of the defendants are in or affecting  
20 commerce, as "commerce" is defined in Section 4 of the FTCA, 15  
21 U.S.C. § 44.

22 ORDER

23 I.

24 CIVIL PENALTY

25 Defendants DC Credit Services, Inc. ("DCCSI"), its  
26 successors and assigns, and David Cohen shall pay to plaintiff,  
27 pursuant to Section 621(a) of the FCRA, 15 U.S.C. § 1681s(a), and  
28 Section 5(m)(1)(A) of the FTCA, 15 U.S.C. § 45(m)(1)(A), a civil

1 penalty in the amount of three hundred thousand dollars  
2 (\$300,000.00), due and payable within five (5) days following  
3 entry of this Consent Decree. Unless otherwise directed, payment  
4 shall be made by electronic fund transfer in accordance with  
5 procedures specified by the Office of Consumer Litigation, Civil  
6 Division, United States Department of Justice, Washington, D.C.  
7 20530. In the event of any default in payment, which default  
8 continues for ten (10) days beyond the due date of payment, the  
9 entire unpaid penalty, together with interest, as computed  
10 pursuant to 28 U.S.C. § 1961 from the date of default to the date  
11 of payment, shall immediately become due and payable.

12 II.

13 INJUNCTION AGAINST FCRA VIOLATIONS

14 Defendant DCCSI, its successors and assigns, and its  
15 officers, agents, servants, employees and attorneys, and all  
16 persons in active concert or participation with any one or more  
17 of them who receive actual notice of this Consent Decree by  
18 personal service or otherwise, and David Cohen, individually and  
19 as an officer of said corporation, are hereby permanently  
20 enjoined, directly or through any corporation, subsidiary,  
21 division or other device from:

- 22 A. Furnishing information relating to any consumer to a  
23 consumer reporting agency if defendants know or consciously  
24 avoid knowing that the information is inaccurate, as  
25 provided in Section 623(a)(1)(A) of the FCRA, 15 U.S.C.  
26 § 1681s-2 (a)(1)(A);
- 27 B. Failing to promptly notify a consumer reporting agency, as  
28 required by Section 623(a)(2) of the FCRA, 15 U.S.C.

1 § 1681s-2(a)(2), when defendants have determined that  
2 information previously furnished about any consumer to the  
3 consumer reporting agency is not complete or accurate; and  
4 failing to provide to the agency any corrections to that  
5 information, or any additional information, that is  
6 necessary to make the information provided to the agency  
7 complete and accurate, and to not thereafter furnish to the  
8 agency any of the information that remains not complete or  
9 accurate;

10 C. Failing to report accounts as "disputed" to consumer  
11 reporting agencies, as required by Section 623(a)(3) of the  
12 FCRA, 15 U.S.C. § 1681s-2(a)(3), when consumers dispute  
13 accounts either in writing, orally, or by electronic means;

14 D. Failing to provide correct delinquency dates, as required by  
15 Section 623(a)(5) of the FCRA, 15 U.S.C. § 1681s-2(a)(5),  
16 for accounts that defendants report to consumer reporting  
17 agencies; and

18 E. Failing to comply in any other respect with the FCRA, as  
19 amended, or as may be amended in the future.

20 III.

21 INJUNCTION AGAINST FDCPA VIOLATIONS

22 Defendant DCCSI, its successors and assigns, and its  
23 officers, agents, servants and employees, and all persons in  
24 active concert or participation with any one or more of them who  
25 receive actual notice of this Consent Decree by personal service  
26 or otherwise, and David Cohen, individually and as an officer of  
27 said corporation, are hereby permanently enjoined, directly or  
28 through any corporation, subsidiary, division or other device, in

1 connection with the collection of a "debt" from a "consumer" as  
2 those terms are defined in Sections 803(3) and (5), respectively,  
3 of the FDCPA, 15 U.S.C. § 1692a(3) and (5), from:

4 A. Engaging in any conduct the natural consequence of which is  
5 to harass, oppress or abuse any person, in violation of  
6 Section 806 of the FDCPA, 15 U.S.C. § 1692d, including but  
7 not limited to using profane or obscene language, or  
8 language the natural consequence of which is to abuse the  
9 hearer or reader, in violation of Section 806(2) of the  
10 FDCPA, 15 U.S.C. § 1692d(2);

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

15 1. communicating to persons, including consumer reporting  
16 agencies, adverse credit information regarding  
17 consumers that is known or should be known by  
18 defendants to be false, in violation of Section 807(8)  
19 of the FDCPA, 15 U.S.C. § 1692e(8);

20 2. threatening to communicate to persons, including  
21 consumer reporting agencies, adverse credit information  
22 regarding consumers that is known or should be known by  
23 defendants to be false, in violation of Section 807(8)  
24 of the FDCPA, 15 U.S.C. § 1692e(8); and

25 3. failing, in connection with a debt reported by  
26 defendants to a consumer reporting agency, to promptly  
27 communicate to such consumer reporting agency that such  
28 debt has been disputed, if and when such debt is

1           disputed, either orally or in writing, by a consumer to  
2           defendants, in violation of Section 807(8) of the  
3           FDCPA, 15 U.S.C. § 1662e(8); and

4 C.       Failing to comply in any other respect with the FDCPA, as  
5           amended, or as may be amended in the future.

6    IV.

7                                    BAN ON DEBT COLLECTION

8       IT IS FURTHER ORDERED that:

9 A.       As of the date of entry of this Consent Decree, and  
10           continuing thereafter, defendant David Cohen is permanently  
11           restrained and enjoined from having, directly or indirectly,  
12           any contact, whether by telephone or otherwise, with any  
13           consumer whose account or debt is the subject of any  
14           collection activity by defendant DCCSI ; and

15 B.      Commencing on October 1, 2002, and continuing thereafter,  
16           defendant David Cohen is further permanently restrained and  
17           enjoined from owning, managing, engaging, participating in,  
18           or assisting in any manner or in any capacity whatsoever,  
19           whether directly or indirectly, in concert with others, or  
20           through any intermediary, third party, business entity or  
21           device, in any business engaging in activities falling  
22           within the definition of "debt collector," as that term is  
23           defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a.

24    V.

25                           CORRECTING AND UPDATING INFORMATION REGARDING CONSUMERS  
26                                    WITH CONSUMER REPORTING AGENCIES

27       IT IS FURTHER ORDERED that defendants DCCSI, and its  
28       successors and assigns, and David Cohen, within sixty (60) days

1 from the date of entry of this Consent Decree shall, with respect  
2 to all consumers as to whom defendants have furnished information  
3 to a consumer reporting agency within seven (7) years of the date  
4 of the entry of this Consent Decree, notify the consumer  
5 reporting agency that the information should be deleted from the  
6 consumers' file. Defendants may later notify consumer reporting  
7 agencies that adverse information may be reinserted only if:

8 A. defendants have conducted an investigation with respect  
9 to the information, such investigation to include a  
10 review of all relevant information (including, but not  
11 limited to, information from the consumer and the  
12 original creditor);

13 B. at the time defendants notify consumer reporting  
14 agencies of the proposed reinsertion, defendants notify  
15 the consumer reporting agencies of the month and year  
16 of the commencement of the delinquency that immediately  
17 preceded the original creditor's placing the consumer's  
18 account for collections ("date of delinquency"); and

19 C. defendants certify, in the same form and manner as in  
20 FCRA § 611(a)(1)(5)(B)(i), the completeness and  
21 accuracy of the information to be reinserted. This  
22 certification must include documentation of the date of  
23 delinquency of the original creditor.

24 VI.

25 RECORDKEEPING

26 IT IS FURTHER ORDERED that defendants DCCSI, and its  
27 successors and assigns, and David Cohen, individually and as an  
28 officer of said corporation, shall:

- 1 A. Maintain complete records of all certified mailings, return.  
2 receipts, responses, disputes, verifications, corrections  
3 and updatings of information to consumer reporting agencies,  
4 pursuant to Paragraph V of this Order; and
- 5 B. Maintain for a period of five (5) years from the date of  
6 entry of the Consent Decree, the following information with  
7 respect to any complaint by or on behalf of any consumer,  
8 alleging that either defendant has engaged in an act or  
9 practice that, if engaged in, would constitute a violation  
10 of the FCRA or the FDCPA:
- 11 1. The consumer's name, address, and telephone number;
  - 12 2 The creditor's name;
  - 13 3. Each complaint letter or other form of written  
14 communication received;
  - 15 4. The nature of the complaint, as reflected in any logs  
16 or notes, including a description of the conduct  
17 alleged;
  - 18 5. The name and position of each employee whose conduct is  
19 the subject of the complaint;
  - 20 6. The disposition of the complaint, including records of  
21 all contacts with the consumer, whether the complaint  
22 was resolved and any other records that relate to the  
23 disposition of the matter; and
  - 24 7. Any action taken to correct the alleged conduct that  
25 violates the FCRA or the FDCPA; and
- 26 C. Make such records available to representatives of the  
27 Federal Trade Commission and/or the United States Department  
28 of Justice upon request.



VII.

DISTRIBUTION OF CONSENT DECREE, THE FCRA AND THE FDCPA

IT IS FURTHER ORDERED, that defendants DCCSI, and its successors and assigns, and David Cohen, individually and as an officer of said corporation, shall provide copies of this Consent Decree, the FCRA and the FDCPA to each of their officers, directors, employees and other persons having responsibility for creating or implementing debt collection policies and procedures, and shall secure from each such person a signed statement acknowledging receipt of a copy of this Consent Decree, the FCRA and the FDCPA. Defendants shall comply with this provision, with respect to all persons within the scope of this Paragraph within thirty (30) days from the date of entry of this Consent Decree, and with respect to all new persons falling within the scope of this Paragraph during the ten (10) years from the date of entry of this Consent Decree, within thirty (30) days after such persons assume their responsibilities. Within thirty (30) days of first complying with this Paragraph, defendant shall file an affidavit with the Court and serve the Federal Trade Commission, by mailing a copy thereof, to the Regional Director, Western Region, Federal Trade Commission, 901 Market Street, San Francisco, California 94103, setting forth the fact and manner of their compliance.

VIII.

NOTICE TO EMPLOYEES: FDCPA RESPONSIBILITIES

IT IS FURTHER ORDERED that defendants DCCSI, and its successors and assigns, and David Cohen, individually and as an officer of said corporation, shall provide a copy of the following notice to all employees having responsibility with respect to the

1 collection of debts, within thirty (30) days of the date of entry  
2 of this Consent Decree, and to each such employee hired for a  
3 period of ten (10) years after that date, no later than the time  
4 the employee assumes responsibility with respect to the collection  
5 of debts, and shall secure from each such person a signed statement  
6 acknowledging receipt of a copy of the notice, which notice shall  
7 be maintained in the employee's personnel file, and made available  
8 upon request for inspection by the Federal Trade Commission.

9  
10 Debt collectors must comply with the  
11 federal Fair Debt Collection Practices Act,  
12 which limits our activities in trying to  
13 collect money from consumers. In particular,  
14 Section 806 of that Act states that you may not  
15 engage in any conduct the natural consequence  
16 of which is to harass, oppress or abuse any  
17 person in connection with the collection of a  
18 debt, including but not limited to the use of  
19 obscene or profane language. In addition,  
20 Section 807 of that Act states that you may not  
21 use any false, deceptive or misleading  
22 representation or means in connection with the  
23 collection of any debt, including but not  
24 limited to communicating or threatening to  
25 communicate to a consumer reporting agency  
26 information which is known or which should be  
27 known to be false, including the failure to  
28 communicate that a disputed debt is disputed.  
Finally, you should know that individual debt  
collectors may be financially liable for their  
violations of the Act.

IX.

NOTICE TO CONSUMERS

IT IS FURTHER ORDERED that defendants DCCSI, and its  
successors and assigns, and David Cohen, individually and as an  
officer of said corporation, shall, for a period of five (5) years  
from the date of entry of this Consent Decree, with respect to  
every consumer debt received for collection, make the following  
disclosure clearly and conspicuously on each initial written

1 collection communication that is sent to a consumer:

2  
3 This company must comply with a federal law  
4 that provides consumers with certain rights.  
5 One of these is the right to have us stop  
6 communicating with you about this debt. If  
7 you write to us and ask us to stop  
8 communicating with you about this debt, we  
9 will. But if you owe this debt, you will  
10 still owe it and the debt may still be  
11 collected from you. If you have a complaint  
12 about the way we are collecting this debt, you  
13 may write to the Federal Trade Commission, 901  
14 Market Street, San Francisco, California  
15 94103, or call the FTC at (415) 848-5100..

16 X.

17 COMPLIANCE REPORTS

18 IT IS FURTHER ORDERED that defendant DCCSI, and its successors  
19 and assigns, and David Cohen, individually and as an officer of  
20 said corporation, shall, within sixty (60) days of the date of the  
21 entry of this Consent Decree, and once each year thereafter for ten  
22 (10) years within thirty (30) days of the anniversary of that date,  
23 file with the Regional Director, Western Region, Federal Trade  
24 Commission, 901 Market Street, San Francisco, California 94103, a  
25 written report setting forth in detail the manner and form of their  
26 compliance with this Consent Decree.

27 XI.

28 ACCESS TO BUSINESS PREMISES

IT IS FURTHER ORDERED that for a period of five (5) years from  
the date of entry of this Order, defendants DCCSI, and its  
successors and assigns, and David Cohen, individually and as an  
officer of said corporation, shall within three (3) business days  
of receipt of written notice from the Federal Trade Commission,  
permit representatives of the Commission:

- 1 A. To have access during normal business hours to any office or  
2 facility of the defendants;
- 3 B. To have access to all computerized databases;
- 4 C. To inspect and copy (or have copied by a contract copying  
5 agency) all documents at the defendants' offices or facilities  
6 relevant to any matter within the Commission's jurisdiction;  
7 and
- 8 D. To interview the officers and employees of the defendants.  
9 The person interviewed may have counsel present if he or she  
10 desires.

11 XII.

12 NOTICE OF CHANGE IN CORPORATE STRUCTURE

13 IT IS FURTHER ORDERED that for a period of ten (10) years from  
14 the date of entry of this Consent Decree, defendant DCCSI, and its  
15 successors and assigns, shall notify the Regional Director, Western  
16 Region, Federal Trade Commission, 901 Market Street, San Francisco,  
17 California 94103, at least thirty (30) days prior to any change in  
18 the defendant's business including, but not limited to, merger,  
19 incorporation, dissolution, assignment, sale which results in the  
20 emergence of a successor corporation, the creation or dissolution  
21 of a subsidiary or parent, or any other change which may affect the  
22 defendant's obligations under this Consent Decree.

23 XIII.

24 COMPLIANCE REPORTING BY INDIVIDUAL

25 IT IS FURTHER ORDERED that for a period of five (5) years  
26 commencing with the date of entry of this Order, defendant David  
27 Cohen shall notify the Regional Director, Western Region, Federal  
28 Trade Commission, 901 Market Street, San Francisco, California

1 94103, of the following:

2 A. Any change in residence, mailing address or telephone number,  
3 within ten (10) days of such change;

4 B. Any change in employment status, including self-employment,  
5 within ten (10) business days of such change, such notice to  
6 include:

7 1. the name and address of each business with which  
8 defendant David Cohen is affiliated or employed,

9 2. a statement of the nature of the business, and

10 3. a statement of defendant David Cohen's duties and  
11 responsibilities in connection with the business; and

12 C. Any proposed change in the structure of any business entity  
13 owned or controlled by defendant David Cohen, such as  
14 creation, incorporation, dissolution, assignment, sale,  
15 creation or dissolution of subsidiaries, or any other changes  
16 that may affect compliance obligations arising under this  
17 Order, within thirty (30) days prior to the effective date of  
18 any proposed change; provided however, that with respect to  
19 any proposed change in structure of such business about which  
20 defendant David Cohen learns less than thirty (30) days prior  
21 to the date such action is to take place, he shall notify the  
22 Associate Director for Financial Practices, Federal Trade  
23 Commission as soon as practicable after learning of such  
24 proposed change.

25 XIV.

26 TAX IDENTIFICATION NUMBERS

27 IT IS FURTHER ORDERED that defendants shall, in accordance  
28 with 31 U.S.C. § 7701, furnish to the Federal Trade Commission

1 their respective taxpayer identification numbers (social security  
2 number or employee identification number) which shall be used for  
3 purposes of collecting and reporting on any delinquent amount  
4 arising out of such person's relationship with the government.

5  
6 **XV.**

7 **EFFECT OF PRIOR CONSENT DECREES**

8 IT IS FURTHER ORDERED that the prohibitions, obligations and  
9 duties, and all other provisions contained in this Consent Decree,  
10 are in addition to the prohibitions, obligations and duties, and  
11 all other provisions contained in the Consent Decrees denominated  
12 *United States v. David Cohen*, Civ. No. 92-3777 (C.D. California  
13 1992) and *United States v. D.C. Credit Services, Inc.*, Civ. No. 92-  
14 3778 (C.D. California 1992).

15  
16 **XVI.**

17 **CONTINUING JURISDICTION OF COURT**

18 IT IS FURTHER ORDERED that this Court shall retain  
19 jurisdiction of this matter for the purpose of enabling any of the  
20 parties to this Consent Decree to apply to the Court at any time  
21 for such further orders or directives as may be necessary or  
22 appropriate for the interpretation or modification of this Consent  
23 Decree, for the enforcement of compliance therewith, or for the  
24 punishment of violations thereof.

25 JUDGMENT IS THEREFORE ENTERED in favor of plaintiff and  
26 against defendants, pursuant to all the terms and conditions  
27 recited above.

28 Dated: June 28, 2002


*Margaret M. Marshall*  
United States District Judge


1 The parties, by their respective counsel, hereby consent to  
2 the terms and conditions of the Consent Decree as set forth above  
3 and consent to the entry thereof. Defendants waive any right that  
4 may arise under the Equal Access to Justice Act, 28 U.S.C. § 2412,  
5 amended by Pub. L. 104-121, 110 Stat. 847, 863-64 (1996).

6 FOR THE UNITED STATES OF AMERICA:

7 ROBERT D. McCALLUM, JR.  
8 Assistant Attorney General  
9 Civil Division  
10 United States Department of Justice

11 DEBRA W. WANG  
12 United States Attorney  
13 Central District of California


14   
15 GARY PLESSMAN  
16 Assistant United States Attorney

17   
18 SONDRA L. MILLS  
19 Trial Attorney  
20 Office of Consumer Litigation  
21 Civil Division  
22 United States Department of Justice  
23 P.O. Box 386, Ben Franklin Station  
24 Washington D.C. 20044  
25 Telephone: (202) 616-2375  
26 Facsimile: (202) 514-8742

27 FOR THE FEDERAL TRADE COMMISSION:

28 JOEL WINSTON  
Associate Director for Financial Practices

JEFFREY KLURFELD  
Regional Director  
Western Region  
Federal Trade Commission


29   
30 GERALD E. WRIGHT  
31 Attorney  
32 Federal Trade Commission  
33 Western Region-San Francisco  
34 901 Market Street, Suite 570  
35 San Francisco, CA 94103  
36 (415) 356-5292

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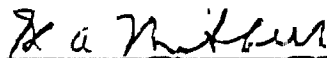
FOR THE DEFENDANTS:

FOR DC CREDIT SERVICES, INC:

By:   
DAVID COHEN, President  
DC Credit Services, Inc.

FOR DAVID COHEN:  
  
DAVID COHEN, individually

COUNSEL FOR DEFENDANTS:

  
GLENN A. MITCHELL, ESQ.  
Stein, Mitchell & Mezines, L.L.P.  
1100 Connecticut Avenue, N.W.  
Washington, D.C. 20036



## REASONS FOR SETTLEMENT

This statement accompanies the Consent Order executed by defendants DC Credit Services, Inc. and David Cohen, individually and as an officer of the corporation, in settlement of an action brought to recover penalties and equitable relief from defendant for engaging in acts or practices in violation of the Fair Credit Reporting Act, 15 U.S.C. §§ 1681-1681u, and the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.*

Pursuant to Section 5(m)(3) of the Federal Trade Commission Act, as amended (15 U.S.C. § 45(m)(3)), the Commission hereby sets forth its reasons for settlement by entry of a Consent Order and injunction:

On the basis of the allegations contained in the attached Complaint, and the fact that these allegations relate in part to practices addressed in a prior proceeding, the attached consent order includes a civil penalty of \$300,000 to be paid by defendants, injunctive provisions prohibiting violative conduct in the future, provisions for removal of inaccurate adverse information that remains on consumers' credit reports as a result of the violations alleged, and additional compliance reporting provisions. In addition, the consent order immediately bans the individual defendant, David Cohen, from further direct contact with consumers, and effective October 1, 2002, permanently bans Mr. Cohen from engaging in the occupation of "debt collector," as that term is defined in the Fair Debt Collection Practices Act.

The civil penalty should ensure compliance by the defendants and others who may be in violation of the law and/or the consent order. The occupational bans should further ensure Mr. Cohen's individual compliance. The provisions enjoining defendants from violating the Fair Credit Reporting Act and the Fair Debt Collection Practices Act constitute further effective means to assure defendants' and others' future compliance with the law and the consent order. The provisions for correction of consumers' credit reports will help ensure the future accuracy and integrity of such consumers' personal financial data. Additionally, with the entry of such a Consent Order, the time and expense of litigation will be avoided.

For the foregoing reasons, the Commission believes that the settlement by entry of the attached Consent Order with DC Credit Services, Inc., and David Cohen, individually and as an officer of said corporation, is justified and well within the public interest.