

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ACDI GROUP, LLC, a limited liability
company,

SOLUTIONS TO PORTFOLIOS, LLC, a
limited liability company,

and

ANTHONY SWATSWORTH, individually
and as an officer of ACDI GROUP, LLC and
SOLUTIONS TO PORTFOLIOS, LLC,

Defendants.

Case No.

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission, for its Complaint alleges:

1. The FTC brings this action under 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*, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, other equitable relief and civil penalties for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FDCPA, 15 U.S.C. §§ 1692-1692p, in connection with Defendants’ deceptive debt collection practices.

JURISDICTION AND VENUE

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

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

PLAINTIFF

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

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the FDCPA, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), and 1692l(a). Section 814 of the FDCPA further authorizes the FTC to use all of the functions and powers under the FTC Act to enforce compliance by any person with the FDCPA. 15 U.S.C. § 1692l.

DEFENDANTS

6. Defendant ACDI Group, LLC (“ACDI”), is a limited liability company organized in North Carolina with its principal place of business at 10020 Monroe Rd., Suite 170-261, Matthews, NC 28105. ACDI transacts or has transacted business in this district and throughout the United States.

7. Defendant Solutions to Portfolios, LLC (“STP”), is a limited liability company organized in North Carolina with its principal place of business at 1805 Sardis Rd N., Suite 100, Charlotte, NC 28270-1497. STP transacts or has transacted business in this district and throughout the United States.

8. Defendant Anthony Swatsworth is the sole owner and managing member of ACDI and STP. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of ACDI and STP, including the acts and practices set forth in this Complaint. Defendant Swatsworth resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

9. ACDI and STP have conducted the business practices described below through an interrelated network with common ownership, officers, managers, business functions, and office locations, and have commingled funds. Because ACDI and STP have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendant Swatsworth has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of ACDI and STP that constitute the common enterprise.

COMMERCE

10. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS PRACTICES

11. At all times relevant to this complaint, ACDI and STP were businesses owned and operated by Swatsworth. ACDI purchased consumer debt, and STP collected on consumer debts.

12. On or about July 24, 2014, ACDI purchased a portfolio of purported past-due payday loans with an aggregate unpaid balance of \$992,490 (the “Portfolio”). The sale of the Portfolio was arranged through a debt broker, United Debt Holding, LLC (“UDH”), and was sold to ACDI by SQ Capital, LLC (“SQ Capital”).

13. The Portfolio contained 2,335 records of purported debts owed by consumers, with each consumer record including, *inter alia*, the consumer's name, address, social security number, telephone number, email address, loan amount, amount due, bank name, and bank account number. The lender for each of these purported debts was identified as www.500fastcash.com. "500FastCash" is a registered trademark of Red Cedar Services, Inc. ("Red Cedar") used in advertising high-fee, short-term "payday" loans offered at various websites, including 500fastcash.com.

14. Immediately after their purchase of the Portfolio, Defendants began contacting consumers to collect on the purported debts. In numerous instances, consumers contacted by Defendants protested that they did not owe the debts for which Defendants demanded payment, and several provided specific evidence that they had never authorized a payday loan from 500FastCash or did not have an outstanding balance with 500FastCash. ACDI reported the high volume of complaints to UDH, the broker that arranged ACDI's purchase of the Portfolio from SQ Capital.

15. UDH told Defendants in or about August 2014 to stop collecting on debts in the Portfolio because multiple consumers were complaining that they had never taken out the loans listed in the Portfolio. In or about September 2014, Defendants received a complete refund of the money paid for the Portfolio.

16. Despite the high volume of consumer complaints, the instruction to cease collecting on the debts, and the complete refund of money paid for the Portfolio, Defendants continued to collect on the fake debts for at least seven more months.

17. The Portfolio was counterfeit. As alleged in the Plaintiff FTC's complaint in *FTC v. Joel Tucker, et al.*, No. 16-02816 (D. Kan. 2016), SQ Capital marketed, distributed, and sold

counterfeit debt portfolios purporting to identify consumers who defaulted on payday loans. The Portfolio bought by Defendants listed loans that the identified lender, 500FastCash, had not, in fact, made to the identified consumers. Furthermore, SQ Capital had not purchased, or otherwise obtained, any rights to collect loans originated by 500FastCash, nor had it engaged in any transaction that authorized them to collect, sell, distribute, or transfer any valid loans originated under the 500FastCash name. In fact, Red Cedar and the servicer of 500FastCash loans, AMG Services, Inc. (“AMG”), have never authorized any other person to collect, or sell rights to collect, loans made or serviced under the name 500FastCash.

18. Because many consumers in the Portfolio did not take the subject loans, and in any event, because the seller of the Portfolio, SQ Capital, did not own or have the authority to convey loans made under the name 500FastCash, Defendants had no right to collect on those loans. Nevertheless, Defendants ACDI and STP used information in the Portfolio to contact consumers, demand payments, and receive payments.

19. Since at least 2014, Defendants have collected and processed at least thirty thousand dollars in payments for alleged debts that consumers do not owe or that Defendants have no authority to collect. Defendants have not refunded consumers any money paid on the counterfeit debts.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

21. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act. 15 U.S.C. § 45(a).

COUNT I

22. In numerous instances, during telephone calls with consumers, Defendants have represented, directly or indirectly, expressly or by implication, that consumers owe debts that Defendants have the authority to collect.

23. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 22 of this Complaint, these representations have been false or have not been substantiated at the time the representations were made.

24. Therefore, Defendants' representations as set forth in Paragraph 22 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

25. In 1977, Congress passed the FDCPA, 15 U.S.C. §§ 1692-1692p, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. § 1692l, provides that a violation of the FDCPA shall be deemed an unfair or deceptive act or practice in violation of the FTC Act.

26. Defendant STP is a "debt collector" as defined by Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

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

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

COUNT II

29. In numerous instances, in connection with the collection of debts, Defendants have used false, deceptive, or misleading representations or means, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including falsely representing the character, amount, or legal status of any debt, in violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A).

CONSUMER INJURY

30. Consumers have suffered, or are likely to suffer, substantial injury as a result of Defendants' violation of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by the Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

31. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

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

- B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;
- C. Award equitable monetary relief, including but not limited to, restitution, refund of monies paid, and disgorgement of ill-gotten monies; and
- D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: June 22, 2017

Respectfully submitted,

DAVID SHONKA
Acting General Counsel

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