



# **FEDERAL TRADE COMMISSION**

## **FTC Debt Collection Initiatives** **November 19, 2014**

**Division of Financial Practices**  
**Bureau of Consumer Protection**

**Dan Dwyer**  
**Staff Attorney**



## Disclaimer

The views expressed in this presentation are my own, and do not necessarily reflect the views of the Commission or any individual Commissioner.



# Consumer Complaints

~204,644 consumer complaints in 2013

- 192,211 complaints: third-party debt collection
  - 13,277 complaints: creditor debt collection
- (some overlap btw categories)





## Overview

1. **FTC's Authority and Process**
2. FTC's Enforcement Actions
3. FTC's Policy Initiatives & CFPB coordination
4. Predictions on FTC Future Initiatives



# FTC's Authority & Process

- **FTC Authority**
  - Various entities
  - FTC Act; FDCPA; others
- **FTC Process**
  - Investigating does not mean we'll definitely sue.
  - May go to company; may go directly to court





# FTC's Authority & Process

## Equitable Relief

- TROs
  - Asset Freeze
  - Receiver
  - Financial Disclosures
- Redress/ Restitution/ Disgorgement
- Bans
- Injunctions

## Civil Penalty

- DOJ files or declines





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# FTC Enforcement Actions

22 debt collection cases  
since January 1, 2012



Monetary judgments totaling  
more than \$180 million





# FTC Enforcement Actions

- 2014: 10 cases
  - Equitable Relief (National Check Registry, Federal Check Processing, William Scott & Associates, RTB Enterprises, Centro Natural, Cornerstone & Co., & Bayview Solutions)
  - Civil Penalties (Credit Smart, Regional Adjustment Bureau, & Consumer Portfolio Services)



# FTC Enforcement Actions

## Equitable Relief

FTC v. National Check Registry  
(w/ NY AG)

FTC v. Federal Check Processing

FTC v. William Scott & Associates



# FTC Enforcement Actions

## Allegations:

- False threats of arrests or lawsuits
- Posing as law firms/att'ys/gov.
- Claims that consumers have committed a crime
- Unsubstantiated claims that consumers owe debts



# FTC Enforcement Actions

## Equitable Relief cont'd:

FTC v. Cornerstone & Co., LLC

FTC v. Bayview Solutions, LLC

FTC v. Centro Natural Corp.

FTC v. RTB Enterprises, Inc.

(non-TRO case)



# FTC Enforcement Actions

## Civil Penalties

United States v. Consumer  
Portfolio Services

United States v. Regional  
Adjustment Bureau

United States v. Credit Smart



# FTC Enforcement Actions

## Consumer Portfolio Services

### Allegations:

- Unlawful calls (repeated; 3<sup>rd</sup> party; work; spoofing)
- Unauthorized debits
- False threats of car repossession

Order: \$5.5 million (\$3.5m in refunds; \$1m in FDCPA civ penalties; \$1m FCRA civ penalties)

(Side point: FTC & CFPB jdx over auto)



# FTC Enforcement Actions

## Regional Adjustment Bureau

### Allegations:

- Unlawful calls (repeated to 3<sup>rd</sup> parties and putative debtors/ work)
- Unauthorized withdrawals (add'l amounts)

Order: total \$1.5 mil civil penalty; conduct relief, etc.



# FTC Enforcement Actions

## Credit Smart

### Allegations:

- Misrepresentations re lawsuits, wage garnishment, & arrest
  - Often regarding time-barred debt
- Unsubstantiated claims re interest & debts

Order: \$1.2 million (suspended to \$490k based on inability to pay); *Asset*-like disclosure





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# FTC's Policy Initiatives

DEBT COLLECTION  
& the Latino  
Community

An FTC-CFPB  
roundtable



## FTC's Policy Initiatives

### Joint Amicus Brief in *Hernandez* (9th Cir.)

Issue: Do downstream collectors need to send a validation notice under 15 U.S.C. § 1692g?

Our position: Yes.



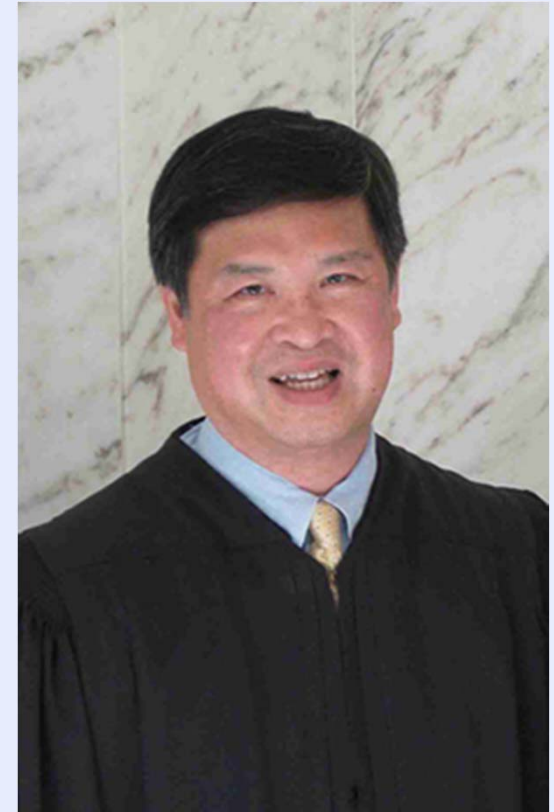


## FTC's Policy Initiatives

### Joint Amicus Brief in *Sykes* (2d Cir.)

Issue: Does the FDCPA apply to affidavits filed as part of a lawsuit?

Our position: Yes.





## FTC's Policy Initiatives

### Joint Amicus Brief in *Delgado* (7th Cir.)

Issue: As a matter of law, can a letter offering a settlement to resolve a time-barred debt mislead the least sophisticated consumer into believing he could be sued for the debt?

The Seventh Circuit's conclusion (and FTC/CFPB's position): Yes.





## FTC's Policy Initiatives

### Joint Amicus Brief in *Buchanan* (6th Cir.)

Issue: Same as *Delgado*

Our position: Same as  
*Delgado*.





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# FTC's Future Initiatives



**EGREGIOUS PRACTICES**

**NEW TECHNOLOGY**

**TARGETED/VULNERABLE POPULATIONS**

**DATA INTEGRITY**







## FTC Resources

### FTC Business Center

➤ [http:// business.ftc.gov](http://business.ftc.gov)

### News Releases and Links to Debt Collection Enforcement and Policy Materials

➤ <http://www.ftc.gov/opa/reporter/finance/debtcollection.shtml>



*Consumer Finance*



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