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

16 UNITED STATES OF AMERICA,)
17)
18 Plaintiff,)
19 v.)
20 DC CREDIT SERVICES, INC.,)
a corporation; and)
21 DAVID COHEN,)
individually and as an)
22 officer of said)
corporation,)
23)
24 Defendants.)

Case No. **02-5115**

COMPLAINT FOR CIVIL PENALTIES, **MAILED**
INJUNCTIVE, AND OTHER RELIEF **FMOX**

25 Plaintiff, the United States of America, acting upon
26 notification and authorization to the Attorney General by the
27 Federal Trade Commission ("Commission"), by its undersigned
28 attorneys, for its complaint alleges as follows:

JUN 27 12 35 PM '02
CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.

FILED

JURISDICTION AND VENUE

1
2 1. This is an action arising under §§ 5(a), 13(b), and 16(a)
3 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.
4 §§ 45(a), 53(b), and 56(a), the Fair Credit Reporting Act
5 ("FCRA"), 15 U.S.C. §§ 1681-1681u, and the Fair Debt Collection
6 Practices Act ("FDCPA"), 15 U.S.C. § 1692, to secure permanent
7 injunctive and other relief for violations of the FTC Act, the
8 FCRA and the FDCPA, and to obtain monetary civil penalties for
9 violations of the FCRA and the FDCPA.

10 2. This Court has jurisdiction over this matter under 28
11 U.S.C. §§ 1331, 1337, 1345, and 1355, and under 15 U.S.C.
12 §§ 45(a), 45(m)(1)(A), 53(b), 57b, 1681s and 1692l. This action
13 arises under 15 U.S.C. § 45(a)(1), 15 U.S.C. § 1681s and 15 U.S.C.
14 § 1692l.

15 3. Venue is proper in the United States District Court for
16 the Central District of California under 28 U.S.C. §§ 1391(b-c)
17 and 1395(a), and 15 U.S.C. § 53(b).

PLAINTIFF

18
19 4. This action is brought by the United States on behalf of
20 the Federal Trade Commission. The Commission is an independent
21 agency of the United States Government given statutory authority
22 and responsibility by the FTC Act, as amended, 15 U.S.C. §§ 41-58.
23 The Commission is charged, inter alia, with enforcing § 5(a) of
24 the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or
25 deceptive acts or practices in or affecting commerce, the FCRA, 15
26 U.S.C. § 1681-1681u, which imposes duties upon consumer reporting
27 agencies and those who furnish information to a consumer reporting
28 agency or use information obtained from a consumer reporting

1 agency, and the FDCPA, 15 U.S.C. § 1692, which imposes duties upon
2 debt collectors.

3 DEFENDANTS

4 5. Defendant DC Credit Services, Inc. ("DCCSI") is a
5 for-profit corporation organized, existing, and doing business
6 under the laws of the State of California. Its principal place of
7 business is located at 7445 Topanga Canyon Boulevard, Canoga Park,
8 California 91303-2358. At all times relevant to this complaint,
9 defendant DCCSI has transacted business in this district.

10 6. Defendant David Cohen ("Cohen") is president and co-
11 owner, with his spouse, of DCCSI. Cohen resides at 6330 Germania
12 Court, Agoura Hills, California 91301. Individually and in his
13 capacity as president of, and in concert with, DCCSI, defendant
14 Cohen has formulated, directed and controlled the acts and
15 practices of DCCSI, including the acts and practices alleged
16 herein. At all times relevant to this complaint, defendant Cohen,
17 individually and acting through DCCSI, has transacted business in
18 this district.

19 7. Defendants DCCI and Cohen are "debt collectors" as
20 defined in Section 803(6) of the FDCPA, 15 U.S. C. § 1692a(5).

21 8. Defendants are enjoined from violating various provisions
22 of the FDCPA by virtue of consent orders entered by this Court in
23 1992 in Civil Action No. 92-3778-AWT(Bx) and in Civil Action No.
24 92-3777-ER (Sx).

25 9. As part of its debt collection activities, defendants
26 furnish information to consumer reporting agencies. As such,
27 defendants are subject to Section 623 of the FCRA, 15 U.S.C.
28 § 1681s-2, which imposes a series of duties and prohibitions upon

1 any person or entity that furnishes information to a consumer
2 reporting agency.

3 COMMERCE

4 10. At all times material to this complaint, defendants have
5 maintained a course of trade in commerce, as "commerce" is defined
6 in Section 4 of the FTC Act, 15 U.S.C. § 44.

7
8 VIOLATIONS OF THE FAIR CREDIT REPORTING ACT

9 FIRST COUNT

10 11. Section 623(a)(1)(A) of the FCRA provides that a person
11 shall not furnish information relating to any consumer to a
12 consumer reporting agency if the person knows or consciously
13 avoids knowing that the information is inaccurate.

14 12. Section 623(a)(1)(C) provides, however, that such person
15 shall not be subject to Section 623(a)(1)(A) if such person
16 clearly and conspicuously specifies to a consumer an address for
17 mailing notices disputing the accuracy of said information.

18 13. In numerous instances, in the course and conduct of
19 their business, defendants have furnished information relating to
20 consumers to a consumer reporting agency when defendants knew or
21 consciously avoided knowing that the information was inaccurate.

22 14. In numerous instances alleged in Paragraph 12 in which
23 defendants furnished credit information regarding consumers which
24 they knew or consciously avoided knowing was inaccurate,
25 defendants did not, clearly and conspicuously, specify to the
26 consumers an address for mailing notices disputing the accuracy of
27 said information.

28 15. The acts and practices alleged in Paragraph 12 under,

1 the circumstances alleged in Paragraph 13, constitute violations
2 of Section 623(a)(1)(A) of the FCRA, 15 U.S.C. § 1681s-2(a)(1)(A).
3 Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C.
4 § 1681s(a)(1), the acts and practices alleged in Paragraphs 12 and
5 13 also constitute unfair or deceptive acts or practices in
6 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7 SECOND COUNT

8 16. Section 623(a)(2) of the FCRA provides that a person who
9 (A) regularly and in the ordinary course of business furnishes
10 information to one or more consumer reporting agencies about the
11 person's transactions or experiences with any consumer; and (B)
12 has furnished to a consumer reporting agency information that the
13 person determines is not complete and accurate, shall promptly
14 notify the consumer reporting agency of that determination and
15 provide to the agency any corrections to that information, or any
16 additional information, that is necessary to make the information
17 provided by the person to the agency complete and accurate, and
18 shall not thereafter furnish to the agency any of the information
19 that remains not complete and accurate.

20 17. Defendants are persons who regularly and in the ordinary
21 course of business furnish information to one or more consumer
22 reporting agencies about the person's transactions or experiences
23 with any consumer.

24 18. In numerous instances in which defendants have furnished
25 to a consumer reporting agency information that defendants
26 determine is not complete and accurate, defendants have failed to
27 promptly notify the consumer reporting agency of that
28 determination and provide to the agency any corrections to that

1 information, or any additional information, that is necessary to
2 make the information provided by the person to the agency complete
3 and accurate; and defendants thereafter furnished to the agency
4 information that remained not complete and accurate.

5 19. The acts and practices alleged in Paragraph 16, under
6 the circumstances alleged in Paragraph 17, constitute violations
7 of Section 623(a)(2) of the FCRA, 15 U.S.C. § 1681s-2(a)(2).

8 Pursuant to Section 621(a)(1) of the FCRA, 15 U.S.C.

9 § 1681s(a)(1), the acts and practices alleged in Paragraph 16,

10 under the circumstances alleged in Paragraph 17, also constitute
11 unfair or deceptive acts or practices in violation of Section 5(a)
12 of the FTC Act, 15 U.S.C. § 45(a).

13 THIRD COUNT

14 20. Section 623(a)(3) of the FCRA provides that if the
15 completeness or accuracy of any information furnished by any
16 person to any consumer reporting agency is disputed by a consumer,
17 the information must be noted as disputed in the information
18 reported by such person to any consumer reporting agency. This
19 provision does not require consumer disputes to be in writing.

20 21. In numerous instances in which consumers have informed
21 defendants, over the telephone and/or in writing, that they
22 dispute information furnished by defendants to a consumer
23 reporting agency, defendants have not reported the disputes to any
24 or all of the consumer reporting agencies to which they furnish or
25 have furnished the information.

26 22. The acts and practices alleged in Paragraph 20
27 constitute violations of Section 623(a)(3) of the FCRA, 15 U.S.C.
28 § 1681s-2(a)(3). Pursuant to Section 621(a) of the FCRA, 15

1 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph
2 29 also constitute unfair or deceptive acts or practices in
3 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

4 FOURTH COUNT

5 23. Section 623(a)(5) of the FCRA requires anyone furnishing
6 information to a consumer reporting agency regarding a delinquent
7 account placed for collection, charged to profit or loss, or
8 subjected to any similar action, to provide to the consumer
9 reporting agency, not later than 90 days after furnishing the
10 information, the month and year of the commencement of the
11 delinquency that immediately preceded the action.

12 24. In numerous instances, in the course and conduct of
13 their business, defendants have reported information about debts
14 to consumer reporting agencies using a date of delinquency other
15 than the month and year of the delinquency that immediately
16 preceded the action.

17 25. The acts and practices alleged in Paragraph 23
18 constitute violations of Section 623(a)(5) of the FCRA, 15 U.S.C.
19 § 1681s-2(a)(5). Pursuant to Section 621(a)(1) of the FCRA, 15
20 U.S.C. § 1681s(a)(1), the acts and practices alleged in Paragraph
21 23 also constitute unfair or deceptive acts or practices in
22 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23
24 VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

25 FIFTH COUNT

26 26. On numerous occasions, in connection with the collection
27 of debts, defendants have engaged in conduct the natural
28 consequence of which is to harass, oppress, or abuse a person, in

1 violation of Section 806 of the FDCPA, 15 U.S.C. § 1692d,
2 including but not limited to using obscene or profane language, or
3 language the natural consequence of which is to abuse the hearer,
4 in violation of Section 806(2) of the FDCPA, 15 U.S.C. § 1692d(2).

5 SIXTH COUNT

6 27. On numerous occasions, in connection with the collection
7 of debts, defendants have used false, deceptive, or misleading
8 representations or means, in violation of Section 807 of the
9 FDCPA, 15 U.S.C. § 1692e, including but not limited to the
10 following:

- 11 a) communicating to persons, including consumer
12 reporting agencies, adverse credit information
13 regarding consumers that was known or should have
14 been known by defendants to be false, in violation
15 of Section 807(8) of the FDCPA, 15 U.S.C.
16 § 1692e(8);
- 17 b) threatening to communicate to persons, including
18 consumer reporting agencies, adverse credit
19 information regarding consumers that was known or
20 should have been known by defendants to be false,
21 in violation of Section 807(8) of the FDCPA, 15
22 U.S.C. § 1692e(8); and
- 23 c) in connection with a debt reported by defendants to
24 a consumer reporting agency, failing to communicate
25 to such consumer reporting agency that the debt has
26 been disputed, after it has been disputed, orally
27
28

1 or in writing, by the debtor to defendants, in
2 violation of Section 807(8) of the FDCPA, 15
3 U.S.C. § 1692e(8).
4

5 CIVIL PENALTIES AND INJUNCTION FOR VIOLATIONS OF THE FCRA

6 28. Except as to violations of Section 623(a)(1), 15 U.S.C.
7 § 1681s-2(a)(1), each instance in which each defendant has
8 violated the FCRA since September 30, 1997, the date that the
9 amended FCRA went into effect providing for civil penalties for
10 violations of the law, constitutes a separate violation of the
11 FCRA for which plaintiff seeks monetary civil penalties under
12 Section 621 of the FCRA, 15 U.S.C. § 1681s.

13 29. Section 621 of the FCRA authorizes the Court to award
14 monetary civil penalties of not more than \$2,500 per violation for
15 violations occurring after September 30, 1997.

16 30. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
17 this Court is authorized to issue a permanent injunction
18 prohibiting defendants from violating the FTC Act and the FCRA,
19 including violations of Section 623(a)(1).
20

21 CIVIL PENALTIES AND INJUNCTION FOR VIOLATIONS OF THE FDCPA

22 31. Defendants have violated the FDCPA as described above,
23 with actual knowledge or knowledge fairly implied on the basis of
24 objective circumstances, as set forth in Section 5(m)(1)(A) of the
25 FTC Act, 15 U.S.C. § 45(m)(1)(A).

26 32. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C.
27 § 45(m)(1)(A), Section 814(a) of the FDCPA, 15 U.S.C. § 1692l and
28 Section 4 of the Federal Civil Penalties Inflation Adjustment Act

1 of 1990, 28 U.S.C. § 2461, as amended, authorize the Court to
2 award monetary civil penalties of not more than \$10,000 (\$11,000
3 after November 20, 1996) for each violation of the FDCPA.

4 33. Each instance within five years preceding the filing of
5 this complaint, in which each defendant has failed to comply with
6 the FDCPA in one or more of the ways described above, constitutes
7 a separate violation for which plaintiff seeks monetary civil
8 penalties.

9 34. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
10 this Court is authorized to issue a permanent injunction to ensure
11 that defendants will not continue to violate the FDCPA.

12 PRAYER FOR RELIEF

13 WHEREFORE, plaintiff requests that this Court, pursuant to 15
14 U.S.C. §§ 45(a), 45(m)(1)(A), and 53(b), 1681s. and 1692, and
15 pursuant to this Court's own equity powers:

16 1. Award plaintiff such preliminary injunctive and ancillary
17 relief as may be necessary to avert the likelihood of consumer
18 injury during the pendency of this action;

19 2. Enter judgment against defendants and in favor of
20 plaintiff for each violation alleged in this complaint;

21 3. Award plaintiff monetary civil penalties for each
22 violation of the FCRA as alleged in this complaint, except as to
23 violations of Section 623(a)(1), 15 U.S.C. § 1681s-2(a)(1);

24 4. Award plaintiff monetary civil penalties for each
25 violation of the FDCPA as alleged in this complaint;

26 5. Enjoin defendants from violating the FDCPA, the FCRA and
27 the FTC Act;

28 6. Award such relief as the Court finds necessary to redress

1 injury to consumers resulting from the defendants' violations of
2 the FDCPA, the FCRA and the FTC Act, including but not limited to
3 rescission of contracts, the refund of monies paid, and the
4 disgorgement of ill-gotten monies;

5 7. Permanently enjoin defendant David Cohen from engaging,
6 directly or indirectly, in the occupation of debt collector; and

7 . . . Award plaintiff the costs of bringing this action, as
8 well as such additional relief as the Court may deem just and
9 proper.

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DATED: June 27, 2002

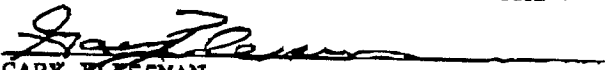
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