

**IN THE CIRCUIT COURT OF COOK COUNTY
ILLINOIS COUNTY DEPARTMENT, CHANCERY DIVISION**

**Michael Cass and Derek Huggins, individually
and as the representative of a class of
similarly-situated persons,**

Plaintiffs,

v.

**AmeriDebt, Inc., DebtWorks, Inc., Infinity
Resources Group, Inc., Debicated Consumer
Counseling, Inc., The Ballenger Group, L.L.C.,
Ballenger Holdings, L.L.C., Andris Pukke, and
Eriks Pukke,**

Defendants.

**No. 01 CH 20350
Judge Quinn**

FEDERAL TRADE COMMISSION’S EMERGENCY PETITION TO INTERVENE

Petitioner, the Federal Trade Commission (“FTC” or “Commission”), by and through its undersigned attorneys, and, pursuant to paragraph 2-408 of the Illinois Code of Civil Procedure, 735 ILCS 5/2-408 (2004), moves this Honorable Court for leave to intervene in the above styled cause for the limited purpose of filing the attached Motion for Stay and Reconsideration of Order Preliminarily Approving Stipulation of Settlement and Release and Class Notice (“Preliminary Approval Order”) (Attachment 1). In support thereof, the FTC states as follows:

1. The FTC is an independent law enforcement agency whose mission is to promote the efficient functioning of the marketplace by protecting consumers from unfair or deceptive acts or practices and to increase consumer choice by promoting vigorous competition. The FTC’s primary legislative mandate is to enforce the FTC Act, which prohibits unfair methods of

competition and unfair or deceptive acts or practices in or affecting commerce. 15 U.S.C. § 45(a). Pursuant to this authority, the FTC routinely brings enforcement actions to further both its consumer protection and competition (antitrust) missions. FTC enforcement actions routinely seek monetary relief, including consumer redress. The FTC has extensive experience implementing redress programs, including the drafting and mailing of notices, the processing of consumer claims, and the payment of cash refunds to consumers. Since the fall of 1999, the FTC has dispensed more than \$100 million to consumers.

2. Based on the FTC's experience and interest in protecting consumers, the FTC frequently has filed *amicus* briefs objecting to class action settlements that provide inadequate relief for consumers. *See, e.g., Erikson v. Ameritech Corp.*, No. 99 CH 18873 (In the Circuit Court of Cook County, Illinois) (2002).

3. The FTC is currently in litigation with certain of the defendants in the above styled cause. On November 19, 2003, the Commission filed a law enforcement action against AmeriDebt, Inc., DebtWorks, Inc., and Andris Pukke (collectively, "defendants"), in the United States District Court for the District of Maryland. The Commission's complaint alleges, *inter alia*, that the defendants have engaged in deceptive practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). Specifically, the Commission's complaint alleges that the defendants misrepresent that AmeriDebt is a non-profit organization dedicated to assisting consumers with their personal finances; in fact, AmeriDebt operates to make money for affiliated for-profit companies and individuals, including DebtWorks and Andris Pukke. The Commission's complaint also alleges that defendants claim to teach consumers how to handle their credit and finances in the future, but in fact defendants provide no such services and simply

enroll all of their clients in costly debt management plans (“DMPs”). Further, the Commission’s complaint alleges that the defendants charge an up-front fee to consumers for enrolling in a DMP, despite claims to the contrary. The Commission alleges that the defendants operated as a common enterprise in deceiving consumers, and that AmeriDebt paid Mr. Pukke’s company, DebtWorks, over \$13 million in 2000 and \$27 million in 2001. A copy of the Commission’s complaint is attached (Attachment 2).

3. The above styled cause also names AmeriDebt, DebtWorks, and Mr. Pukke as defendants, and its factual allegations are virtually identical to the Commission’s. Both complaints seek monetary relief on behalf of consumers, as well as injunctive relief.

4. The Commission seeks intervention in this cause for the limited purpose of asking the Court to stay the notice mailing and reconsider the Preliminary Approval Order. This is an emergency petition because, according to plaintiffs’ counsel, the defendants plan to mail the notices within three weeks of the Preliminary Approval Order, which was entered on or about March 23, 2004. The Commission seeks a stay because the notice and questionnaire that are about to be sent are unnecessarily complex and muddled, and will potentially cause class members to release their claims through confusion or misunderstanding. Even if this Court denies final approval of the proposed settlement, as it should, defendants will no doubt use consumers’ answers to the questionnaire as a sword in future litigation. Moreover, as set forth in the attached motion, the Court should reconsider its order and stop the mailing of the notice because the proposed settlement is unfair, unreasonable, and inadequate. Finally, under the terms of the proposed settlement, the costs of mailing the notices will be paid out of the settlement fund, reducing the total amount of the settlement proceeds for consumers. Again, even if the

Court ultimately denies this settlement, the costs of mailing the notices will be substantial and will dissipate assets that ultimately should be used to redress consumers.

5. The Commission should be permitted to intervene under Section 2-408(b) of the Illinois Code of Civil Procedure, which provides that, upon timely application, “anyone may in the discretion of the court be permitted to intervene in an action . . . when an applicant’s claim or defense and the main action have a question of law or fact in common.” Clearly, the Commission’s claims and the claims in this action have common factual questions, namely whether the defendants deceived consumers into paying hundreds and thousands of dollars in “voluntary contributions.”

6. This Petition is also timely filed. The Commission did not learn of the Court’s Preliminary Approval Order until the day after its entry, on or about March 24, 2004.

7. Granting the Commission’s Petition will not cause undue delay or prejudice to the parties. Although the defendants apparently plan to mail the class notice soon, the Stipulation of Settlement (§ 23) allows up to sixty (60) days from the date of the Preliminary Approval Order to mail the notices.

WHEREFORE, the Commission prays this Honorable Court for leave to intervene for the limited purpose of filing the attached motion for stay and reconsideration of its Preliminary Approval Order.

Respectfully submitted,

FEDERAL TRADE COMMISSION
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