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19 **UNITED STATES DISTRICT COURT**
20 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

21 _____)
22 **FEDERAL TRADE COMMISSION,**)
23)
24 Plaintiff,)
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2 Plaintiff Federal Trade Commission (“FTC”) commenced this civil action on
3 September 12, 2011, pursuant to Sections 13(b) and 19 of the Federal Trade
4 Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and Section 814 of the
5 Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692l, to obtain
6 preliminary and permanent injunctive and other equitable relief for Defendants’
7 violations of Section 5 of the FTC Act, 15 U.S.C. § 45, and the FDCPA, 15 U.S.C.
8 §§ 1692-1692p, in connection with the marketing and sale of debt collection
9 services, and the collection of debts. On September 13, 2011, the Court entered a
10 temporary restraining order against Defendants. On September 27, 2011, the Court
11 entered a preliminary injunction against Defendants.
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16 The FTC and defendant Kevin Medley (“Settling Defendant”) having agreed
17 in the Stipulation for Final Judgment
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- 1 1. This is an action by the FTC instituted under Sections 13(b) and 19 of the
2 FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 814 of the FDCPA, 15
3 U.S.C. § 1692*l*. The Complaint seeks both permanent injunctive relief and
4 equitable monetary relief for Defendants' deceptive and abusive acts or
5 practices as alleged therein.
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- 7 2. The FTC has the authority under Sections 13(b) and 19 of the FTC Act and
8 Section 814 of the FDCPA to seek the relief it has requested, and the
9 Complaint states a claim upon which relief can be granted against Settling
10 Defendant.
11
- 12 3. This Court has jurisdiction over the subject matter of this case and has
13 jurisdiction over Settling Defendant. Venue in the Central District of
14 California is proper.
15
- 16 4. The activities of Settling Defendant, as alleged in the Complaint, are in or
17 affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
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- 19 5. The FTC and Settling Defendant stipulate and agree to entry of this Order,
20 without trial or final adjudication of any issue of fact or law, to settle and
21 resolve all matters in dispute arising from the conduct alleged in the
22 Complaint to the date of entry of this Order. This settlement does not settle
23 and resolve any matters not alleged in the Complaint. Settling Defendant
24 does not admit any of the allegations set forth in the Complaint, other than
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1 jurisdictional facts or as provided in Section IV.D, merely by stipulating and
2 agreeing to the entry of this Order.
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4 6. Settling Defendant waives all rights to seek judicial review or otherwise
5 challenge or contest the validity of this Order. Settling Defendant also
6 waives any claim that he may have held under the Equal Access to Justice
7 Act, 28 U.S.C. § 2412, concerning the prosecution of this action to the date
8 of this Order. Each settling party shall bear its own costs and attorneys'
9 fees.
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12 7. This action and the relief awarded herein are in addition to, and not in lieu
13 of, other remedies as may be provided by law, including both civil and
14 criminal remedies.
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16 8. Entry of this Order is in the public interest.
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18 **DEFINITIONS**

19 For the purposes of this Order, the following definitions shall apply:

- 20
21 1. "Assisting others" includes, but is not limited to:
22 A. performing customer service functions, including, but not limited to,
23 receiving or responding to consumer complaints;
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25 B. performing debt collection or debt collection marketing services of
26 any kind;
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8. “Debt collector” means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. Notwithstanding the exclusion provided by the last clause of the immediately-preceding sentence, the term includes any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is collecting or attempting to collect such debts.

9. “

1 personal, family, or household purposes, whether or not such obligation has
2 been reduced to judgment.
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4 12. “Financial-related product or service” means any product, service, plan, or
5 program represented, expressly or by implication, to:

6
7 A. provide any consumer, arrange for any consumer to receive, or assist
8 any consumer in receiving, an extension of consumer credit;

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10 B. provide any consumer, arrange for any consumer to receive, or assist
11 any consumer in receiving, credit repair services;

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13 C. provide any consumer, arrange for any consumer to receive, or assist
14 any consumer in receiving, mortgage assistance relief services;

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16 D. provide any consumer, arrange for any consumer to receive, or assist
17 any consumer in receiving, debt relief services; or

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19 E. provide, or arrange for a customer to receive, assistance in the
20 collection of any outstanding debt or financial obligation owed to that
21 customer by a third party.

22 13. “Material fact” means any fact that is likely to affect a person’s choice of,
23 or conduct regarding, goods or services.
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25 14. “Mortgage assistance relief service” means any service, plan, or program,
26 offered or provided to a consumer in exchange for consideration, that is
27 represented, expressly or by implication, to assist or attempt to assist the
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1 16. "Settling Defendant" means defendant Kevin Medley.

2 **ORDER**

3 **DEBT COLLECTION BAN**

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5 **I. IT IS THEREFORE ORDERED** that Settling Defendant, whether acting
6 directly or through any other person, is permanently restrained and enjoined
7 from:
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9 A. Engaging in debt collection activities or assisting others engaged in
10 debt collection activities;
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12 B. Advertising, marketing, promoting, offering for sale, or selling any
13 debt collection products or services; and
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15 C. Assisting others engaged in advertising, marketing, promoting,
16 offering for sale, or selling any debt collection products or services;
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18 **Provided, however,** that nothing in this Order shall be read as an exception
19 to this Section I.

20 **PROHIBITED MARKETING MISREPRESENTATIONS**

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22 **II. IT IS FURTHER ORDERED** that Settling Defendant and his officers,
23 agents, servants, employees, and attorneys, and those persons or entities in
24 active concert or participation with him who receive actual notice of this
25 Order by personal service, facsimile transmission, email, or otherwise,
26 whether acting directly or through any corporation, subsidiary, division, or
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1 other device, in connection with the marketing, sale, or advertisement of any
2 financial-related product or service, or any other product or service, are
3 hereby permanently restrained and enjoined from misrepresenting, or
4 assisting others in misrepresenting, expressly or by implication, any material
5 fact, including but not limited to:
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8 A. That Settling Defendant, whether acting directly or through any other
9 person, has identified assets, people, corporate entities, services, or
10 anything else that can be used to help the consumer, customer, or
11 potential customer in achieving their desired goal (*e.g.*, the
12 satisfaction or successful collection of an alleged debt, full or partial
13 relief from an outstanding debt obligation, relief from impending
14 foreclosure on a home or personal property, or improvement of a
15 consumer's credit score, credit history, credit rating, or credit report);
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18 B. That Settling Defendant, whether acting directly or through any other
19 person, will undertake certain actions (*e.g.*, such as the filing of a
20 lawsuit, the garnishment of wages, the seizure of assets, negotiation of
21 a debt settlement plan or mortgage foreclosure relief plan, or any other
22 action to help a consumer either receive a loan, satisfy or settle a debt,
23 collect a debt, or achieve any other desired financial goal) if the
24 consumer pays Settling Defendant a fee;
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1 **PROHIBITION AGAINST DISCLOSING CONSUMER INFORMATION**

2 **III. IT IS FURTHER ORDERED** that Settling Defendant and his successors,
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4 assigns, officers, agents, servants, employees, and attorneys, and those
5 persons or entities in active concert or participation with him who receive
6 actual notice of this Order by personal service, facsimile transmission, email,
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8 or otherwise, whether acting directly or through any corporation, subsidiary,
9 division, or other device, are permanently restrained and enjoined from:

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11 A. Disclosing, using, or benefitting from consumer information,
12 including the name, address, telephone number, email address, social
13 security number, other identifying information, or any data that
14 enables access to a consumer's account (including a credit card, bank
15 account, or other financial account) of any person that Settling
16 Defendant obtained prior to entry of this Order in connection with the
17 advertising, marketing, promotion, offering for sale, sale, or provision
18 of any financial-related product or service, and

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22 B. Failing to dispose of such consumer information in all forms in their
23 possession, custody, or control within thirty (30) days after entry of
24 this Order. Disposal shall be by means that protect against
25 unauthorized access to the consumer information, such as by burning,
26 pulverizing, or shredding any papers, and by erasing or destroying any
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1 G. Pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C.
2 § 1681b(1), any consumer reporting agency may furnish a consumer
3 report concerning Settling Defendant to the FTC, which shall be used
4 for purposes of collecting and reporting on any delinquent amount
5 arising out of this Order.
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8 **RIGHT TO REOPEN**

9 **V. IT IS FURTHER ORDERED** that the FTC's agreement to, and the Court's
10 approval of, this Order is expressly premised on the truthfulness, accuracy
11 and completeness of Settling Defendant's financial statements previously
12 submitted to the FTC. If, upon motion by the FTC, the Court finds that the
13 financial statement of Settling Defendant contains any material
14 misrepresentation or omission, the judgment entered in Section IV of this
15 Order shall be reinstated and become immediately due and payable as to
16 such Settling Defendant; *provided, however*, that in all other respects this
17 Order shall remain in full force and effect unless otherwise ordered by the
18 Court; and, *provided further*, that proceedings instituted under this provision
19 would be in addition to, and not in lieu of, any other civil or criminal
20 remedies as may be provided by law, including any other proceedings that
21 the FTC may initiate to enforce this Or
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1 Settling Defendant waives any right to contest any of the allegations in the
2 Complaint.
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4 **COOPERATION WITH FTC**

5 **VI. IT IS FURTHER ORDERED** that Settling Defendant Kevin Medley shall,
6 in connection with this action or any subsequent investigation or litigation
7 related to or associated with the transactions or the occurrences that are the
8 subject of the FTC's Complaint as it may be amended, cooperate in good
9 faith with the FTC and appear at such places and times as the FTC shall
10 reasonably request, after written notice, for interviews, conferences, pretrial
11 discovery, review of documents, and for such other matters as may be
12 reasonably requested by the FTC. If requested in writing by the FTC,
13 Settling Defendant Kevin Medley shall appear and provide truthful
14 testimony in any trial, deposition, or other proceeding related to or
15 associated with the transactions or the occurrences that are the subject of the
16 Complaint as it may be amended, without the service of a subpoena,
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ORDER ACKNOWLEDGMENTS

VII. IT IS FURTHER ORDERED that Settling Defendant obtain

acknowledgments of receipt of this Order:

A. Settling Defendant, within 7 days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 15 years after entry of this Order, Settling Defendant for any business that he, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls, must deliver a copy of this Order to: (1) all principals, officers, directors, and managers; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which Settling Defendant delivered a copy of this Order, Settling Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

COMPLIANCE REPORTING

VIII. IT IS FURTHER ORDERED that Settling Defendant make timely submissions to the FTC:

A. One year after entry of this Order, Settling Defendant must submit a compliance report, sworn under penalty of perjury.

1. Settling Defendant must: (a) designate at least one telephone number and an email, physical, and postal address as points of contact, which representatives of the FTC may use to communicate with Settling Defendant; (b) identify all of Settling Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Settling Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how Settling Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC;

1 2. Additionally, Settling Defendant must: (a) identify all
2 telephone numbers and all email, Internet, physical, and postal
3 addresses, including all residences; (b) identify all titles and
4 roles in all business activities, including any business for which
5 Settling Defendant performs services whether as an employee
6 or otherwise and any entity in which Settling Defendant has any
7 ownership interest; and (c) describe in detail Settling
8 Defendant's involvement in each such business, including title,
9 role, responsibilities, participation, authority, control, and any
10 ownership.

11 B. For 20 years following entry of this Order, Settling Defendant must
12 submit a compliance notice, sworn under penalty of perjury, within 14
13 days of any change in the following:

14 1. Settling Defendant must report any change in: (a) any
15 designated point of contact; or (b) the structure of any entity
16 that Settling Defendant has any ownership interest in or directly
17 or indirectly controls that may affect compliance obligations
18 arising under this Order, including: creation, merger, sale, or
19 dissolution of the entity or any subsidiary, parent, or affiliate
20 that engages in any acts or practices subject to this Order.
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1 2. Additionally, Settling Defendant must report any change in: (a)
2 name, including aliases or fictitious name, or residence address;
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4 or (b) title or role in any business activity, including any
5 business for which Settling Defendant performs services
6 whether as an employee or otherwise and any entity in which
7 Settling Defendant has any ownership interest, and identify its
8 name, physical address, and Internet address, if any.
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11 C. Settling Defendant must submit to the FTC notice of the filing of any
12 bankruptcy petition, insolvency proceeding, or any similar proceeding
13 by or against Settling Defendant within 14 days of its filing.
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15 D. Any submission to the FTC required by this Order to be sworn under
16 penalty of perjury must be true and accurate and comply with 28
17 U.S.C. § 1746, such as by concluding: “I declare under penalty of
18 perjury under the laws of the United States of America that the
19 foregoing is true and correct. Executed on:_____” and supplying the
20 date, signatory’s full name, title (if applicable), and signature.
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23 E. Unless otherwise directed by a FTC representative in writing, all
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1 Protection, Federal Trade Commission, 600 Pennsylvania Avenue
2 NW, Washington, DC 20580. The subject line must begin: *FTC v.*
3 *Forensic Case Management Services, Inc., et al.*, X110053.
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5 **RECORDKEEPING**

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7 **IX. IT IS FURTHER ORDERED** that Settling Defendant must create certain
8 records for 20 years after entry of the Order, and retain each such record for
9 5 years. Specifically, for any business in which Settling Defendant,
10 individually or collectively with any other Defendants, is a majority owner
11 or directly or indirectly controls, Settling Defendant must maintain the
12 following records:
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- 15 A. Accounting records showing the revenues from all goods or services
16 sold, all costs incurred in generating those revenues, and the resulting
17 net profit or loss;
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19 B. Personnel records showing, for each person providing services,
20 whether as an employee or otherwise, that person's: name, addresses,
21 and telephone numbers; job title or position; dates of service; and, if
22 applicable, the reason for termination;
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24 C. Customer files obtained after entry of this Order showing the names,
25 addresses, telephone numbers, dollar amounts paid, and the quantity
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1 and description of goods or services purchased, to the extent such
2 information is obtained in the ordinary course of business;
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- 1 B. For matters concerning this Order, the FTC is authorized to
2 communicate directly with Settling Defendant. Settling Defendant
3 must permit representatives of the FTC to interview any employee or
4 other person affiliated with Settling Defendant who has agreed to such
5 an interview. The person interviewed may have counsel present.
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8 C. The FTC may use all other lawful means, including posing, through
9 its representatives, as consumers, suppliers, or other individuals or
10 entities, to Settling Defendant or any individual or entity affiliated
11 with Settling Defendant, without the necessity of identification or
12 prior notice. Nothing in this Order limits the FTC's lawful use of
13 compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15
14 U.S.C. §§ 49, 57b-1.
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18 **RETENTION OF JURISDICTION**

19 **XI. IT IS FURTHER ORDERED** that this Court retains jurisdiction of this
20 matter for purposes of construction, modification, and enforcement of this
21 Order.
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24 **IT IS SO ORDERED**, this 14th day of March, 2012.

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26 
27 R. GARY KLAUSNER
28 UNITED STATES DISTRICT JUDGE