UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION, Plaintiff, v. PRO CREDIT GROUP, LLC, e*t al.*, Defendants.	**Case No. 8:12-cv-586-T35-EAJ**

STIPULATED FINAL JUDGMENT AND ORDER FOR
PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF
AS TO DEFENDANT BRETT FISHER

Plaintiff, the Federal Trade Commission ("Commission" or "FTC"), filed its Complaint on March 19, 2012 for a permanent injunction and other equitable relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq*. The Court entered an Amended Complaint on November 14, 2012. The Commission and Defendant Brett Fisher stipulate to the entry of this Order for Permanent Injunction and Other Equitable Relief ("Order") to resolve all matters in dis

1. This Court has jurisdiction over the subject matter and the parties.
2. Venue is proper in the Middle District of Florida.

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b. improve, or arrange to improve, any consumer's credit record, credit history, or credit rating;

c. provide advice or assistance to any consumer with regard to any activity or service the purpose of which is to improve a consumer's credit record, credit history, or credit rating;

d. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving a loan or other extension of credit;

e. provide any consumer, arrange for any consumer to receive, or assist any consumer in receiving any service represented, expressly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of any debt or obligation between a consumer and one or more secured or unsecured creditors, servicers, or debt collectors.

5. **"Settling Defendant"** and **"Defendant"** mean Brett Fisher.

6. **"Telemarketing"** means any plan, program or campaign that is conducted to induce the purchase of goods or services by means of the use of one or more telephones, and which involves a telephone call, whether or not covered by the Telemarketing Sales Rule, 16 C.F.R. Part 310.

ORDER

I.
PERMANENT BAN REGARDING TELEMARKETING

IT IS THEREFORE ORDERED that Settling Defendant is permanently restrained and enjoined from engaging or participating in telemarketing, directly or through an intermediary, including, but not limited to, by consulting, brokering, planning, investing, marketing, or by providing customer service or billing or payment services.

Section IV shall not be construed as an exception to this Section I.

II.
PERMANENT BAN REGARDING FINANCIAL-RELATED GOODS OR SERVICES

IT IS FURTHER ORDERED that Settling Defendant is permanently restrained and enjoined from advertising, marketing, promoting, or offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale of any Financial-Related Goods or Services.

Section IV shall not be construed as an exception to this Section II.

III.
PERMANENT BAN REGARDING DEBT COLLECTION

IT IS FURTHER ORDERED that Settling Defendant, whether acting directly or indirectly, is permanently restrained and enjoined from engaging in debt collection or assisting others engaged in debt collection.

Section IV shall not be construed as an exception to this Section III.

IV.
PROHIBITED BUSINESS ACTIVITIES

C. any other material fact, including, but not limited to: any material restrictions, limitations, or conditions; or any material aspect of the performance, efficacy, nature, or central characteristics of the good or service.

V.
MONETARY JUDGMENT

A. Judgment in the amount of **Twenty-Five Million, Two Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars ($25,283,238.00)** is entered in favor of the Commission against Settling Defendant as equitable monetary relief. Settling Defendant is ordered to pay forthwith to plaintiff the sum of **Twenty-Five Million, Two Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars ($25,283,238.00)**, representing equitable monetary relief.

B. Settling Defendant stipulates and agrees that the judgment ordered by this Section is not dischargeable in bankruptcy and agrees to the concurrent filing by the Commission in the Fisher Bankruptcy, within ten (10) days of the date of entry of this Order, of: (1) a Complaint to Determine Nondischargeability of Debt Owed to the Federal Trade Commission (in the form attached hereto as Attachment A), and (2) a Stipulated Judgment for Nondischargeability of Debt owed to the Federal Trade Commission (in the form attached hereto as Attachment B), which Settling Defendant shall execute concurrently with his execution of this Order, determining that the judgment ordered by this Section will be nondischargeable pursuant to Section 523 of the Bankruptcy Code, 11 U.S.C. § 523.

C. Settling Defendant further stipulates and agrees, pursuant to Section 502 of the Bankruptcy Code, 11 U.S.C. § 502, to the allowance of a general unsecured claim in the Fisher Bankruptcy in favor of the FTC in the amount **Twenty-Five Million, Two Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars ($25,283,238.00)**, and that the FTC is entitled to participate in any payments in the Fisher Bankruptcy paid on account of such allowed general unsecured claim.

D. The facts alleged in the Amended Complaint will be taken as true, without further proof, in any subsequent civil litigation by or on behalf of the Commission, including in a proceeding to enforce its rights to any payment or monetary judgment pursuant to this Order, such as a nondischargeability complaint in any bankruptcy case.

E. The facts alleged in the Amended Complaint establish all elements necessary to sustain an action by the Commission pursuant to Section 523 of the Bankruptcy Code, 11 U.S.C. § 523, and this Order will have collateral estoppel effect for such purposes.

F. Settling Defendant acknowledges that his Taxpayer Identification Number (Social Security Number), which Settling Defendant previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. §7701.

G. All money paid to the Commission pursuant to this Order may be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Settling Defendant's practices alleged in the Amended Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement. Settling Defendant has no right to challenge any actions the Commission or its representatives may take pursuant to this Subsection.

VI.
LIFTING OF ASSET FREEZE

IT IS FURTHER ORDERED

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

VIII.
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Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest; and (c) describe in detail Defendant's involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 10 years following entry of this Order, Settling Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Settling Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, Settling Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which Defendant performs services whether as an employee or otherwise and any entity in which Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Settling Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on:_____" and supplying the date, signatory's full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: FTC v. Pro Credit Group, LLC, Matter No. X120037.

XI.
RECORDKEEPING

IT IS FURTHER ORDERED that Settling Defendant must create certain records for 10 years after entry of the Order, and retain each such record for 5 years. Specifically, Settling Defendant, for any business in which he is a majority owner or directly or indirectly controls, must maintain the following records:

A. Accounting records showing the revenues from all goods or services sold, all costs incurred in generating those revenues, and the resulting net profit or loss;

B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person's: name, addresses, and telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;

C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;

D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and

E. A copy of each advertisement or other marketing material.

XII.
COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of monitoring Settling Defendant's compliance with this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, Settling Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

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XIII.
RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

IT IS SO STIPULATED:

KORIN EWING FELIX
JULIA SOLOMON ENSOR

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orcement | Division of Enfc
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Attorneys for Plaintiff

BRETT FISHER

DONE and ORDERED in Tampa, Florida, on this 5th day of September, 2013, at 10:33 a.m.

MARY S. SCRIVEN
UNITED STATES DISTRICT JUDGE