

UNITED STATES DISTRICT COURT 2013 JUL -8 PM 4:26
FOR THE NORTHERN DISTRICT OF TEXAS

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UNITED STATES OF AMERICA,

Plaintiff,

v.

EXPERT GLOBAL SOLUTIONS, INC., f/k/a
NCO GROUP, INC., a corporation,
NCO FINANCIAL SYSTEMS, INC., a corporation,
ALW SOURCING, LLC, a limited liability
company, TRANSWORLD SYSTEMS INC.,
a corporation,

Defendants.

Civil Action No.

3-13 CV 2611-M

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

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

JURISDICTION AND VENUE

1. This is an action arising under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a), and the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §§ 1692-1692p, to obtain monetary civil penalties, a permanent injunction, restitution, disgorgement, and other equitable relief for violations of the FDCPA and Section 5 of the FTC Act by Expert Global Solutions, Inc., ALW Sourcing, LLC, NCO Financial Systems, Inc., and Transworld Systems, Inc.

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

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

PLAINTIFFS

4. This action is brought by the United States of America on behalf of the Federal Trade Commission. The Commission is an independent agency of the United States government given statutory authority and responsibility by the FTC Act, *as amended*, 15 U.S.C. §§ 41-58. The Commission is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce, and the FDCPA, 15 U.S.C. §§ 1692-1692p, which imposes duties upon debt collectors.

DEFENDANTS

5. Defendant Expert Global Solutions, Inc., formerly known as NCO Group, Inc., is a Delaware corporation with its principal place of business located at 5085 W. Park Boulevard, Suite 300, Plano, TX 75093. At all times relevant to this Complaint, Expert Global Solutions, Inc. has transacted business in this District and throughout the United States. Expert Global Solutions and its subsidiaries are collectively the largest debt collector in the United States. In 2011, its revenue from accounts receivable management exceeded \$1.2 billion. It has over 32,000 employees.

6. Expert Global Solutions, Inc. is a "debt collector" as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

7. Defendant NCO Financial Systems, Inc., (“NCOFS”) is a Pennsylvania corporation with its principal place of business located in Horsham, Pennsylvania. At all times relevant to this Complaint, NCOFS has transacted business in this District and throughout the United States.

8. NCOFS is a “debt collector” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

9. Defendant ALW Sourcing, LLC, (“ALW”) is a Maryland corporation with its principal place of business located in Jessup, Maryland. At all times relevant to this Complaint, ALW has transacted business in this District and throughout the United States.

10. ALW is a “debt collector” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

11. Defendant Transworld Systems Inc., (“TWS”) is a California corporation with its principal place of business located in Santa Rosa, California. At all times relevant to this Complaint, TWS has transacted business in this District and throughout the United States.

12. At times relevant to this complaint, TWS transacted business under the name North Shore Agency.

13. TWS is a “debt collector” as defined in Section 803(6) of the FDCPA, 15 U.S.C. § 1692a(6).

DEFINITIONS

14. The term “consumer,” as used in this Complaint means any natural person obligated or allegedly obligated to pay any debt, as “debt” is defined in Section 803(5) of the FDCPA, 15 U.S.C. § 1692a(5).

15. The term "location information," as used in this Complaint means a consumer's place of abode and the consumer's telephone number at such place, or the consumer's place of employment, as defined in Section 803(7) of the FDCPA, 15 U.S.C. § 1692a(7).

COMMERCE

16. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS PRACTICES

17. From their offices throughout the United States and in Canada, Barbados, India, the Philippines, and Panama, Expert Global Solutions, Inc., ALW, NCOFS, and TWS (collectively "Defendants") engage in consumer debt collection activities throughout the United States.

18. Defendants regularly attempt to collect debts by contacting consumers by telephone, U.S. mail, and other instrumentalities of interstate commerce.

19. In numerous instances, when Defendants call persons to collect a debt, the persons tell Defendants that they are not the individuals who owe the debts that Defendants are attempting to collect. For example, they frequently inform Defendants that they do not owe the debt, that they are not the individuals Defendants are attempting to contact, or that the individuals Defendants are attempting to contact cannot be reached at that number. In numerous of these instances, despite being so informed, Defendants continue to call these persons frequently in an attempt to collect the debts. In numerous of these instances, Defendants do so without obtaining new or additional information bearing on whether placing additional calls to

that telephone number will result in reaching the consumer Defendants are trying to reach.

20. In numerous instances, when Defendants contact persons to collect debts, Defendants represent to those persons that they will no longer contact them to collect the debts at issue or that they will take steps to ensure that they will no longer do so. For example, Defendants often have represented that they will remove the phone numbers from their call lists and/or database, or that they will look into why they were calling the wrong number. In numerous instances, Defendants do not take the necessary steps, or do not take the promised steps, and Defendants continue to contact many of these same persons even after representing that they will not do so. Some consumers to whom Defendants make these representations do not invoke their rights under Section 805(c) of the FDCPA, 15 U.S.C. § 1692c, to demand that Defendants cease further communication with them with respect to such debts.

21. In numerous instances, Defendants telephone persons other than the consumers more than once for the purposes of acquiring location information for consumers, even though: (i) the persons have not requested additional calls; and (ii) it is not reasonable for Defendants to believe that the person's previous denial of knowledge of the consumer or the consumer's location was erroneous or incomplete or that the person subsequently obtained correct or complete location information.

22. In numerous instances, Defendants call persons repeatedly or continuously with the intent to annoy, harass, or abuse. For example, Defendants: (i) continue to call even after being told, either orally or in writing, to stop; (ii) call multiple times per day or frequently over an extended period of time (for example, calling some persons three or more times per day); and (iii) call at the person's places of employment, even though the collectors know or should know

that it is inconvenient for them to receive calls there.

23. In numerous instances, Defendants call consumers at their places of employment, even though Defendants know or should know that the consumers' employers prohibit the consumers from receiving personal telephone calls at work.

24. In numerous instances, Defendants leave messages on the voicemail, answering machine, or messaging service of persons, in which Defendants divulge that: (1) they are a debt collector, are attempting to collect a debt, or that the consumer owes a debt; and (2) the name of the consumer. For example, in numerous instances, Defendants have left such messages for consumers even though the voicemail, answering machine, or messaging service greeting either does not give the name of any person (e.g., "You have reached 867-5309. Please leave a message.") or announces that the voicemail, answering machine, or messaging service is for a person other than the consumer whom the Defendants are trying to reach. In many instances, individuals other than the consumer hear the message, thereby disclosing consumers' alleged debts to persons other than the consumer without the prior consent of the consumer.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

25. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive acts or practices in or affecting commerce." Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I

Unsubstantiated Representations about Owing a Debt

26. In numerous instances, during telephone calls to consumers who had previously

told Defendants that they did not owe the debt that Defendants were attempting to collect, Defendants have represented, directly or indirectly, expressly or by implication, that the consumers owed the debt.

27. In truth and in fact, in numerous instances, Defendants have not had a reasonable basis for the representations described in Paragraph 26 at the time the representations were made.

28. Therefore, the making of the representations set forth in Paragraph 26 constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

Deceptive Representations About Future Calls

29. In numerous instances, through the means described in Paragraph 20, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. They will take steps to prevent the placement of calls to telephone numbers to collect debts, after the persons at those numbers stated that the numbers are not consumers' numbers; and
- b. They will not place calls to telephone numbers to collect debts, after the persons at those numbers stated that the numbers are not consumers' numbers.

30. In truth and in fact,

- a. In numerous instances, Defendants have not taken the steps they promised to take to prevent the placement of calls to numbers to collect debts, after the persons at those numbers stated that the numbers are not consumers' numbers; and

- b. In numerous instances, Defendants have placed calls to telephone numbers to collect debts, after the persons at those numbers stated the numbers are not consumers' numbers.

31. Defendants' representations as set forth in Paragraph 29 were and are false or misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE FAIR DEBT COLLECTION PRACTICES ACT

32. In 1977, Congress passed the FDCPA, 15 U.S.C. §§1692-1692p, which became effective on March 20, 1978, and has been in force since that date. Section 814 of the FDCPA, 15 U.S.C. § 1692l, authorizes the Commission to use all of its functions and powers under the FTC Act, to enforce compliance with the FDCPA by any debt collector, irrespective of whether that debt collector is engaged in commerce or meets any other jurisdictional tests set by the FTC Act. The authority of the Commission in this regard includes the power to enforce the provisions of the FDCPA in the same manner as if the violations of the FDCPA were violations of a Federal Trade Commission trade regulation rule.

COUNT III

False or Misleading Representations

33. Section 807 of the FDCPA, 15 U.S.C. § 1692e, prohibits debt collectors from using any false, deceptive, or misleading representation or means in connection with the collection of any debt.

34. In numerous instances, through the means described in Paragraph 20, in connection with the collection of debts, Defendants, directly or indirectly, have used false,

deceptive, or misleading representations or means.

35. Defendants' representations as set forth in Paragraph 34 constitute false, deceptive, or misleading representations or means, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e.

36. The acts and practices alleged in Paragraphs 34-35 constitute violations of Section 807 of the FDCPA, 15 U.S.C. § 1692e. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraphs 34-35 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT IV

Unlawful Location Communication – Multiple Communications

37. Section 804 of the FDCPA, 15 U.S.C. § 1692b, governs the manner in which debt collectors may communicate with any person other than the consumer for purposes of acquiring location information about the consumer. Section 804(3) specifically prohibits debt collectors from communicating with any person about a consumer more than once unless requested by the person or unless the debt collector reasonably believes that the earlier response of such person is erroneous or incomplete and that such person now has correct or complete information.

38. In numerous instances, through the means described in Paragraph 21, in connection with the collection of debts, Defendants, directly or indirectly, have communicated more than once with persons other than the consumer for the purpose of obtaining location information about the consumer without a reasonable belief that the person's previous denial of knowledge of the consumer or the consumer's location was erroneous or incomplete and that such person now has correct or complete location information.

39. The acts and practices alleged in Paragraph 38 constitute violations of Section 804(3) of the FDCPA, 15 U.S.C. § 1692b(3). Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 38 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT V

Unlawful Communications at Unusual or Inconvenient Time or Place

40. Section 805 of the FDCPA, 15 U.S.C. § 1692c, governs communications in connection with a debt generally. Section 805(a)(1) specifically prohibits communications with a consumer in connection with the collection of any debt at a time or place known or which should be known to be inconvenient to the consumer, and Section 805(a)(3) specifically prohibits communications with a consumer at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communication.

41. In numerous instances, through the means described in Paragraphs 22 and 23, in connection with the collection of debts, Defendants, directly or indirectly, have communicated with consumers in connection with the collection of debts at a time or place known by Defendants or which should be known by Defendants to be inconvenient to the consumer.

42. In numerous instances, through the means described in Paragraph 23, in connection with the collection of debts, Defendants, directly or indirectly, have communicated with consumers at the consumers' places of employment even though Defendants know or have reason to know that the consumers' employers prohibit the consumers from receiving such communication.

43. The acts and practices alleged in Paragraphs 41-42 constitute violations of Section 805(a) of the FDCPA, 15 U.S.C. § 1692c(a). Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraphs 41-42 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VI

Unlawful Third-Party Communications

44. Section 805 of the FDCPA, 15 U.S.C. § 1692c, governs communications in connection with a debt generally. Section 805(b) specifically prohibits communications about a debt with any person other than the consumer, a consumer reporting agency, the creditor, or their attorneys except as allowed by Section 804 or with the permission of the consumer, or a court of competent jurisdiction, or as reasonably necessary to effectuate postjudgment relief.

45. In numerous instances, through the means described in Paragraph 24, in connection with the collection of debts, Defendants, directly or indirectly, have communicated about a debt with persons other than the consumer, a consumer reporting agency, the creditor, or their attorneys without the permission of the consumer, or as otherwise allowed by Section 804.

46. The acts and practices alleged in Paragraph 45 constitute violations of Section 805(b) of the FDCPA, 15 U.S.C. § 1692c(b). Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 45 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VII

Unlawful Failure to Cease Communications

47. Section 805 of the FDCPA, 15 U.S.C. § 1692c, governs communications in

connection with a debt generally. Section 805(c) specifically prohibits communication with a consumer with respect to a debt if the consumer has notified the debt collector in writing that the consumer refuses to pay a debt or that the consumer wishes the debt collector to cease further communication with the consumer except to advise the consumer that the debt collector's further efforts are being terminated, to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor, or to notify the consumer that the debt collector or creditor intends to invoke a specified remedy.

48. In numerous instances, through the means described in Paragraph 22, in connection with the collection of debts, Defendants, directly or indirectly, have communicated with consumers with respect to a debt after the consumers have notified Defendants in writing that the consumers wish Defendants to cease further communication. Such communications are not made to advise the consumers that Defendants' further efforts were being terminated, to notify the consumers that Defendants or creditors may invoke specified remedies which are ordinarily invoked, or to notify the consumers that Defendants or creditors intended to invoke a specified remedy.

49. The acts and practices alleged in Paragraph 48 constitute violations of Section 805(c) of the FDCPA, 15 U.S.C. § 1692c(c). Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraph 48 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VIII

Annoying, Abusive, or Harassing Telephone Calls

50. Section 806 of the FDCPA, 15 U.S.C. § 1692d, prohibits debt collectors from

engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of a debt. Section 806(5) specifically prohibits debt collectors from causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.

51. In numerous instances, through the means described in Paragraphs 19 through 23, in connection with the collection of debts, Defendants, directly or indirectly, have engaged in conduct the natural consequence of which is to harass, oppress, or abuse persons.

52. In numerous instances, through the means described in Paragraph 22, in connection with the collection of debts, Defendants, directly or indirectly, have caused telephones to ring or engaged persons in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass the persons at the called numbers, and the natural consequence of such calls has been to harass, oppress or abuse persons.

53. The acts and practices alleged in Paragraphs 51-52 constitute violations of Section 806 of the FDCPA, 15 U.S.C. § 1692d. Pursuant to Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), the acts and practices alleged in Paragraphs 51-52 also constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

INJUNCTION FOR VIOLATIONS OF THE FTC ACT AND FDCPA

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

EQUITABLE RELIEF FOR VIOLATIONS OF THE FTC ACT AND THE FDCPA

55. Under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, this Court is authorized to issue all equitable and ancillary relief as it may deem appropriate in the enforcement of the FDCPA and the FTC Act, including the ability to order the disgorgement of ill-gotten monies.

CIVIL PENALTIES FOR VIOLATIONS OF THE FDCPA

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

57. Each instance within five (5) years preceding the filing of this Complaint, in which Defendants failed to comply with the FDCPA in one or more of the ways described above, constitutes a separate violation for which Plaintiff seeks monetary civil penalties.

58. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), Section 814(a) of the FDCPA, 15 U.S.C. § 1692l(a), and Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, authorizes the Court to award monetary civil penalties of not more than \$11,000 for each violation of the FDCPA before February 10, 2009, and not more than \$16,000 for each violation of the FDCPA after that date.

PRAYER FOR RELIEF


WHEREFORE, Plaintiff United States of America, pursuant to 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 1692l, and the Court's own equitable powers, requests that the Court:

1. Enter judgment against Defendants and in favor of Plaintiff for each law violation alleged in this Complaint;

2. Enter a permanent injunction to prevent future violations of the FTC Act and the FDCPA by Defendants;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the FDCPA, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies;
4. Award Plaintiff monetary civil penalties for each violation of the FDCPA occurring within five (5) years preceding the filing of this Complaint; and
5. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

DATED:

OF COUNSEL:



Christopher T. Koegel
Jason D. Schall
Robin F. Thurston
Attorneys
Division of Financial Practices
Federal Trade Commission
600 Pennsylvania Avenue, N.W.
Washington, D.C. 20580
Phone: 202-326-2761 (Christopher Koegel)
Fax: 202-326-3768
Email: ckoegel@ftc.gov (Christopher Koegel)

FOR PLAINTIFF:

THE UNITED STATES OF AMERICA
STUART DELERY
Acting Assistant Attorney General
Civil Division
U.S. DEPARTMENT OF JUSTICE

MICHAEL S. BLUME
Director
Consumer Protection Branch

RICHARD GOLDBERG
Assistant Director
Consumer Protection Branch
U.S. Department of Justice, P.O. Box 386
Washington, D.C. 20044
PHONE: 202-307-2532
FAX: 202-514-8742
Richard.Goldberg@usdoj.gov

SARAH R. SALDAÑA
United States Attorney



Stephen P. Fahey
Assistant U.S. Attorney
Northern District of Texas
1100 Commerce Street, Third Floor
Dallas, Texas 75242-1699
Illinois Bar No.: 6274893
Tel: 214-659-8600
Fax: 214-659.8807
Email: Steve.P.Fahey@usdoj.gov