**IN THE UNITED STATES DISTRICT COURT**
**FOR THE DISTRICT OF MASSACHUSETTS**

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| BUREAU OF CONSUMER FINANCIAL PROTECTION and the COMMONWEALTH OF MASSACHUSETTS *ex rel.* Maura Healey, Attorney General,<br><br>Plaintiffs,<br><br>v.<br><br>COMMONWEALTH EQUITY GROUP, LLC d/b/a KEY CREDIT REPAIR and NIKITAS TSOUKALIS<br><br>Defendants. | No. 20-cv-10991<br><br>Judge Rya W. Zobel<br><br>**ORAL ARGUMENT REQUESTED** |

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT ON COUNTS I-V OF PLAINTIFFS' AMENDED COMPLAINT**

Pursuant to Federal Rule of Civil Procedure 56 and Local Rule 56.1, defendants Commonwealth Equity Group, LLC (d/b/a Key Credit Repair) ("Key Credit Repair") and Nikitas Tsoukalis (together "Key Credit") respectfully move for summary judgment on Counts I-V of the Amended Complaint.

Key Credit Repair is a licensed credit repair company that provides repair services and counseling to qualified customers who want to challenge inaccuracies on their credit reports and improve their credit. Plaintiffs Bureau of Consumer Financial Protection ("Bureau") and the Commonwealth of Massachusetts *ex rel.* Maura Healey ("Commonwealth") (together "Plaintiffs") allege Key Credit violated the Telemarketing Sales Rule ("TSR"), including the TSR's Advance Fee Provision, for allegedly not waiting six months before receiving agreed-upon payment in exchange for the contracted-for services that Key Credit Repair provided to its customers.

The summary judgment record, however, establishes that no genuine dispute of material fact exists that Key Credit Repair does not "promise results" to its customers – which is a requirement in order for the TSR's Advance Fee Provision to apply. Rather, Key Credit promises only to perform specific, contracted-for "services" without any promises or guarantees of a result or outcome – and only provided specified, contracted-for services. For this and other reasons set forth in its accompanying Memorandum in Support of Its Motion for Summary Judgment, the Court should grant summary judgment in favor of Key Credit on Counts I, III (as to alleged violations of section 310.4 of the TSR) and IV (same) of the Amended Complaint.

In addition, and as set forth more fully in Key Credit's Memorandum, Counts I through V fail as a matter of law because the Bureau's interpretation of the TSR places an unconstitutional content-based restriction on free speech in violation of the First Amendment, the TSR violates the Equal Protection Clause, and the Bureau's funding to bring this action was not Constitutionally appropriated.

In further support of this Motion, Key Credit respectfully submits the accompanying Memorandum of Law, Statement of Undisputed Facts, and the Affidavits of Nikitas Tsoukalis and Timothy Hudson, with attached Exhibits.

WHEREFORE, Key Credit respectfully request that this Court grant Key Credit Motion, enter summary judgment in its favor on Counts I through V of the Amended Complaint, and award such further relief as the Court deems necessary or just.

**REQUEST FOR ORAL ARGUMENT**

Key Credit respectfully requests oral argument on its Motion for Summary Judgment.

Dated: July 28, 2023

Respectfully Submitted,

COMMONWEALTH EQUITY GROUP, LLC d/b/a KEY CREDIT REPAIR and NIKITAS TSOUKALIS

By: /s/ Timothy A. Hudson
One of Their Attorneys

By: /s/ Stephanie R. Parker
One of Their Attorneys

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**CERTIFICATE OF COMPLIANCE WITH RULE 7.1**

I hereby certify that I conferred with counsel for Plaintiffs in a good faith attempt to resolve or narrow the issues for summary judgment.

/s/ Timothy A. Hudson
Timothy A. Hudson

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the ECF system and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on July 28, 2023.

/s/ Stephanie R. Parker
Stephanie R. Parker