UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts *ex rel.* Maura Healey, Attorney General,

Plaintiffs,

v.

Commonwealth Equity Group, LLC (d/b/a Key Credit Repair) and Nikitas Tsoukales (a/k/a Nikitas Tsoukalis),

Defendants.

Case No. 1:20-cv-10991-RWZ

PLAINTIFFS' STATEMENT OF THE MATERIAL FACTS

Plaintiffs Bureau of Consumer Financial Protection and the Commonwealth of Massachusetts *ex rel.* Maura Healey, Attorney General, submit this Statement of the Material Facts, per Local Rule 56.1 and as to which Plaintiffs contend there is no genuine issue to be tried, in support of their Motion for Summary Judgment on all Counts of the Amended Complaint against Defendants Commonwealth Equity Group, LLC (d/b/a Key Credit Repair) (Key Credit) and Nikitas Tsoukales (a/k/a Nikitas Tsoukalis).

The Defendants

1. Defendant Key Credit is a limited-liability company incorporated in Massachusetts in 2007. The company was originally incorporated as Global Mortgage Brokers LLC, then changed its name to Commonwealth Equity Group, LLC, in 2008, and finally adopted the name Key Credit Repair in 2015 then Commonwealth Equity Group, LLC D/B/A Key Credit Repair in 2017. Its principal

place of business is or was located at 686 Morton Street, Suite 2, Boston, MA, 02126. (Ex. 1 at ¶¶ 5-8 (Decl. of Dani Schneider dated July 28, 2023); Ex. 2 (Massachusetts Secretary of State Incorporation Documents); ECF 56 at ¶ 6 (Defs.' Answer to Am. Compl.); Ex. 4 at 13:21-14:2 (Dep. of Key Credit under Fed R. Civ. P. 30(b)(6) with Tsoukales testifying, Oct. 18, 2022)).

2. Defendant Tsoukales founded Key Credit and is Key Credit's Chief Executive Officer, President, "VP of Sales and Marketing" and sole shareholder. (Ex. 1 at ¶ 5-8 (Schneider Decl.); Ex. 2 (Massachusetts Secretary of State Incorporation Documents); ECF 56 at ¶ 8 (Defs.' Answer to Am. Compl.); Ex. 3 at 30 ([redacted] KCR_0025502); Ex. 4 at 11:24-12:2, 20:2-10 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 5 at 7:18-9:9 (Dep. of Tsoukales, Oct. 18, 2022); Ex. 6 at 20:22-21:9 (Investigational Hearing (IH) of Tsoukales, May 16, 2019)).

Key Credit is a Credit-Repair Service Provider

3. Key Credit purports to provide credit-repair or credit-improvement services to consumers. (ECF 56 at ¶¶ 6, 14 (Defs.' Answer to Am. Compl.)); Ex. 7 at Nos. 2, 3 (Defs' Resp. to Pls.' Req. for Admis.)).

4. Tsoukales describes the company's credit-repair services as "[a]ssisting clients in improving their credit scores" and "[d]oing the leg work for them to remove inaccurate records" from their credit reports. (Ex. 6 at 29:15-30:13 (Tsoukales IH)).

5. The services that Key Credit purports to provide to consumers include evaluating consumers' credit profiles, analyzing consumers' consumer-report information, and advising consumers on steps to remove information that is not accurate, complete, or verifiable. (Ex. 7 at Nos. 7-9 (Defs' Resp. to Pls.' Req. for Admis.)); Ex. 4 at 33:5-16 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

6. Key Credit began marketing and selling credit-repair services in 2008 and began offering credit-

repair services over the telephone in 2010. (ECF 56 at ¶ 19 (Defs.' Answer to Am. Compl.)); Ex. 7 at No. 3 (Defs' Resp. to Pls.' Req. for Admis.); Ex. 4 at 11:24-12:2, 20:2-10 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 5 at 7:18-9:9 (Tsoukales Dep.); Ex. 6 at 20:22-21:9 (Tsoukales IH)).

7. Consumers who enroll with Key Credit are looking to improve their credit in order to purchase a home or get access to other consumer financing like a student loan. (Ex. 6 at 44:15-25 (Tsoukales IH); Ex. 1 (Schneider Decl. at ¶¶ 9-20) (explanation and summary of consumer complaints)).

8. Key Credit's [redacted] (Ex. 3 at 17-18 ([redacted], KCR_0025502)).

9. Since its inception, Key Credit has enrolled tens of thousands of consumers nationwide in its credit-repair services, including nearly 40,000 consumers nationwide from 2016 through 2019. (ECF 56 at ¶ 19 (Defs.' Answer to Am. Compl.); Ex. 6 at 47:11-12, 47:20-48:6 (Tsoukales IH)).

Key Credit's Advertising and Marketing Practices

10. To attract potential customers, Key Credit relies predominantly on consumers searching the Internet for ways to improve their credit. Key Credit's top source of customer leads since at least 2017 is Google. (Ex. 4 at 81:1-7 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

11. Key Credit [redacted] its website. (Ex. 3 at 19 ([redacted], KCR_0025502)).

12. Key Credit [redacted]

[redacted] (Ex. 3 at 19 ([redacted], KCR_0025502)).

13. Key Credit also [redacted] (Ex. 3 at 20-21 ([redacted])); (Ex. 6 at 41:15-23 (Tsoukales IH)).

14. [redacted] Key Credit's [redacted]." (Ex. 8 ([redacted], KCR_0001750) ([redacted])).

15. Key Credit uses similar methods to attract consumers through [redacted]. (Ex. 8 ([redacted], KCR_0001750); (Ex. 4 at 77-78 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

16. Key Credit also pays third-party lead generators to conduct digital marketing campaigns to reach consumers across the country and generate inbound and outbound telephone sales. Ex. 7 at Nos. 1, 3 (Defs.' Resp. to Pls.' Req. for Admis.); ECF 56 at ¶ 16 (Defs.' Answer to Am. Compl.); Ex. 4 at 93:1-94:7; 123:13-20, 146:17-147:11, 149:14-154:3, 160:10-15 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 6 at 48:7-48:25, 51:9-52:8; 55:15-22; 71:14-18 (Tsoukales IH); Ex. 12 ([redacted], KCR_0019187); Ex. 11 ([redacted] KCR_0018756); Ex. 21 ([redacted] KCR_0020652); Ex. 9 ([redacted] KCR_0008793); Ex. 13 ([redacted]

[redacted], KCR_0009024); Ex. 10 ([redacted] KCR_0016006); Ex. 14 ([redacted]" KCR_0020375); Ex. 15 ([redacted] KCR_0021218); Ex.16 ([redacted], KCR_0026285); Ex. 17 ([redacted] KCR_0008644); Ex. 18 ([redacted]" KCR_0008647); Ex. 19 ([redacted] (KCR_0015241)); Ex. 20 ([redacted] (KCR_0021196)); Ex. 22 ([redacted], KCR_0020373).

17. Consumers who find Key Credit through Internet searches are redirected to the company's website. (Ex. 6 at 41:15-25 (Tsoukales IH)).

18. Key Credit's website URL is keycreditrepair.com. (ECF 56 at ¶ 22 (Defs.' Answer to Am. Compl.); Ex. 4 at 85:8-9 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 6 at 80:3-5 at (Tsoukales IH)).

19. From March 26, 2016, until December 8, 2018, Key Credit's website landing page and/or "free consultation" page prominently displayed representations about Key Credit's ability to improve consumers' credit scores by 90 points, including:

    a. "90+ Point Average Credit Score Increase In The First 90 Days";

    b. "Average 90 Point Increase In 90 Days"; and

    c. "Most of our customers see a 90-Point Increase in 90-Days."

(Ex. 23 at KCR_0027417 (website capture of free consultation page from Mar. 26, 2016, KCR_0027415)); Ex. 24 at KCR_0028430-31 (website capture of free consultation page from Apr. 28, 2017, KCR_0028428); Ex. 25 at KCR_0028733-34 (website capture of free consultation page from May 18, 2017, KCR_0028731); Ex. 26 at KCR_0027857-58 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 27 at KCR_0028842 (website capture of landing page from July 29, 2017, KCR_0028840); Ex. 28 at KCR_0029043 (website capture of landing page from Sept. 30, 2017, KCR_0029041); Ex. 29 at KCR_0029238-40 (website capture of free consultation page from Dec. 15, 2017, KCR_0029236); Ex. 30 at KCR_0029409 (website capture of landing page from June 30, 2018, KCR_0029407); Ex. 31 at KCR_0029673-74 (website capture of free consultation page from Oct. 18, 2018, KCR_0029670); Ex. 32 at KCR_0029689 (website capture of landing page from Oct. 20, 2018, KCR_0029687); Ex. 33 at KCR_0029706 (website capture of landing page from Nov. 3, 2018, KCR_0029704); Ex. 34 at KCR_0029719 (website capture of landing page from Dec. 1, 2018, KCR_0029717); Ex. 35 at KCR_0029724 (website capture of landing page from Dec. 8, 2018, KCR_0029722)).

20. From April 28, 2017, until March 9, 2019, Key Credit's website landing page and/or "free consultation" page prominently displayed representations regarding Key Credit's ability to

remove negative items from consumers' credit reports, including:

a. "We can also fix Unlimited Items in your credit file";

b. "Clean Up Unlimited Negative Records"; and

c. "We Fix Unlimited Negative Items."

(Ex. 24 at KCR_0028430 (website capture of free consultation page from Apr. 28, 2017, KCR_0028428)); Ex. 25 at KCR_0028733 (website capture of free consultation page from May 18, 2017, KCR_0028731); Ex. 26 at KCR_0028757 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 27 at KCR_0028842 (website capture of landing page from July 29, 2017, KCR_0028840); Ex. 28 at KCR_0029043 (website capture of landing page from Sept. 30, 2017, KCR_0029041); Ex. 29 at KCR_0029238 (website capture of free consultation page from Dec. 15, 2017, KCR_0029236); Ex. 30 at KCR_0029409 (website capture of landing page from June 30, 2018, KCR_0029407); Ex. 31 at KCR_0029672 (website capture of free consultation page from Oct. 18, 2018, KCR_0029670); Ex. 32 at KCR_0029689 (website capture of landing page from Oct. 20, 2018, KCR_0029687); Ex. 33 at KCR_0029706 (website capture of landing page from Nov. 3, 2018, KCR_0029704); Ex. 34 at KCR_0029719 (website capture of landing page from Dec. 1, 2018, KCR_0029717); Ex. 35 at KCR_0029724 (website capture of landing page from Dec. 8, 2018, KCR_0029722); Ex. 36 at KCR_0029729 (website capture of landing page from Dec. 22, 2018, KCR_0029727); Ex. 37 at KCR_0029879 (website capture of landing page from Feb. 9, 2019, KCR_0029877); Ex. 38 at KCR_0029899 (website capture of landing page from Mar. 9, 2019, KCR_0029897)).

21. For example, on July 29, 2017, Key Credit displayed the following image at the top of its website landing page:



(Ex. 27 at KCR_0028842 (website capture of landing page from July 29, 2017, KCR_0028840)).

22. Key Credit's website displayed purported customer testimonials that included the following statements:

a. "Key Credit Repair removed all of my negative records and I have only been with them for 2 months;" and

b. "Within two weeks of speaking to you, my FICO score jumped 110 points."

(Ex. 24 at KCR_0028430, 32 (website capture of free consultation page from Apr. 28, 2017, KCR_0028428)); Ex. 39 at KCR_0028393 (website capture of landing page from May, 1 2017, KCR_0028390); Ex. 25 at KCR_0028733, 35 (website capture of free consultation page from May 18, 2017, KCR_0028731); Ex. 26 at KCR_0028757, 61 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 29 at KCR_0029238, 39 (website capture of free consultation page from Dec. 15, 2017, KCR_0029236); Ex. 31 at KCR_0029672, 74 (website capture of free consultation page from Oct. 18, 2018, KCR_0029670)).

23. The years during which Key Credit made the representations in ¶¶ 19-21 above—2017 and 2018—corresponded to Key Credit's highest years of revenue. (Ex. 40 at No. 1 (Defs' Answers to Interrogs.)).

Key Credit's Telemarketing Practices

24. Key Credit's website instructs consumers to call a toll-free number for a "free consultation" or to fill out a "free consultation" form on the website with information that enables the company's sales agents to call consumers. (Ex. 4 at 146:20-147:2 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); *see e.g.* Ex. 23 at KCR_0027417 (website capture of free consultation page from Mar. 26, 2016, KCR_0027415); Ex. 26 at KCR_0027857-58 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 31 at KCR_0029672 (website capture of free consultation page from Oct. 18, 2018, KCR_0029670); Ex. 38 at KCR_0029899 (website capture of landing page from Mar. 9, 2019, KCR_0029897)).

25. Key Credit participates in interstate telephone calls in connection with its credit-repair services. (Ex. 7 at No. 1 (Defs' Resp. to Pls' Req. for Admis.); *see also* (Ex. 6 at 47:3-48:9 (Tsoukales IH)).

26. To enroll in Key Credit's services, consumers must speak to one of the company's sales agents. (Ex. 6 at 48:7-9, 67:14-17 (Tsoukales IH) (consumers enroll over the phone except the few who live local to the company in Massachusetts)).

27. To handle its call volume, Key Credit contracts with Castellum Pro Services, a company located in Central America to conduct all or nearly all of its telephone sales calls with consumers throughout the United States. (Ex. 4 at 20:14-16, 27:9-12 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); (Ex. 6 at 56:6- 59:7 (Tsoukales IH)); Ex.117 ([redacted]).

28. When a consumer calls Key Credit or when a sales agent returns a call to a consumer who submitted a "free consultation" form on the company's website, Key Credit's sales agents use sales scripts, including scripts created by Tsoukales. (Ex. 6 at 52:5-55:14, 65:11-19 (Tsoukales IH)).

29. Key Credit's [redacted]:

> [redacted]
>
> [redacted]
>
> [redacted]
>
> [redacted]
>
> [redacted]]."

(Ex. 52 at KCR_0007769 ([redacted], KCR_0007769); *see also* Ex. 53 at KCR_0007911 ([redacted], KCR_0007911)).

30. During calls with consumers, [redacted]:

a. "[redacted]

b. "[redacted]

[redacted]"; and

c. "[redacted]."

(Ex. 54 at 11:23-12:13 ([redacted] KCR_0001838); Ex. 56 at 2:11-15 ([redacted], KCR_0001879) Ex. 55 at 25:7-14 ([redacted], KCR_0007782)).

31. During calls with consumers, Key Credit's [redacted]." (Ex. 52 ([redacted], KCR_0007769); see also Ex. 57 ([redacted], KCR_0015851); Ex. 58 at KCR_0001780 ([redacted], KCR_0001779); Ex. 59 at ([redacted], KCR_0015828); Ex. 56 at 26:1-5, 29:10-12 ([redacted], KCR_0007782); Ex. 60 at 17:1-9 ([redacted], KCR_0014169); Ex. 61 at 11:17-12:14 ([redacted], KCR_0001844); Ex. 55 at 13:22-14:5 ([redacted], KCR_0001879) ("[redacted]")).

32. When consumers ask [redacted]" (Ex. 52 ([redacted], KCR_0007769)).

33. Key Credit provides [redacted]. (Ex. 62 ([redacted] KCR_0019812); Ex. 63 ([redacted], KCR_0001777)).

34. In a 2017 email [redacted]"

[redacted]:

"[redacted]."

(Ex. 62 ([redacted] KCR_0019812)).

35. In 2021, a [redacted] (Ex. 63 ([redacted], KCR_0001777)).

36. During calls with consumers, Key Credit's [redacted]," (Ex. 61 at 23:1-4 ([redacted] KCR_0001844); Ex. 55 at 13:4-8 ([redacted], KCR_0001879); *see also* Ex. 60 at 24:5-7 ([redacted], KCR_0014169); Ex. 64 at 11:25-12:3 ([redacted], KCR_0017956) Ex. 65 at 5:25-6:1 ([redacted], KCR_0019581); Ex. 66 at 8:18-20 ([redacted], KCR_0020918)).

37. During calls with consumers, Key Credit's [redacted]." (Ex. 61 at 5:12-13, 11:21-24 ([redacted], KCR_0001844); Ex. 55 at 2:11-13, 7:21-24 (C[redacted], KCR_0001879); Ex. 56 at 25:10-14, 26:3-5, 28:23-25, 29:10-12 ([redacted] KCR_0007782); Ex. 67 at 5:12-15, 6:21-7:2, 12:21-24 (C[redacted], KCR_0007797); Ex. 68 at 11:21-23 ([redacted], KCR_0019585); Ex. 69 at 3:4-

5:17, 6:16-21 (, KCR_0020918); Ex. 70 at 8:18-20 (KCR_0020923)).

38. Key Credit also ." (Ex. 118 at KCR_0015823 ( ); Ex. 53 at KCR_0007914 ( )).

Key Credit's Fee Structure

39. Key Credit offers customers two or three programs with differing levels of service depending on which programs were available when the customer enrolled:

a. Basic: Key Credit disputes five items a month with one credit bureau at a time;

b. Unlimited (sometimes called Standard): Key Credit disputes all negative items on a customer's credit report with all three major credit bureaus and provides purported "credit coaching"; and

c. Unlimited Plus (sometimes called Prime or Accelerated): In addition to the services included in the Unlimited program, for consumers with debts in collections, Key Credit provides cease and desist letters, debt-settlement templates, and sometimes sends debt-validation letters to debt collectors.

(Ex. 53 at KCR_0007912-13 ( ); Ex. 52 at KCR_0007771 ( ); Ex. 119 at KCR_0015852 (KCR_0015852); Ex. 71 at KCR_0000335 (, KCR_0000320); Ex. 74 at 3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023270, 74 (2019 Service Agreement, KCR_0023268); Ex. 72 at

KCR_0057371, 75 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057343 (2021 Service Agreement, KCR_0057340); *see also* Ex. 6 at 114:13-121:15 (Tsoukales IH)).

40. Key Credit charges a "First Work Fee" ranging from $99.95 to at least $289.95 then a monthly service fee ranging from $99.95 to at least $189.95, depending on the program selected. (Ex. 6 at 32:11-33:6, 114:13-121:15 (Tsoukales IH); Ex. 58 at KCR_0001779 ([redacted]); Ex. 53 at KCR_0007912-13 ([redacted], KCR_0007911); Ex. 59 at KCR_0015829-30 ([redacted], KCR_0015828); Ex. 71 at KCR_0000327, 335 ([redacted], KCR_0000320); Ex. 101 at KCR_0015855 ([redacted]); Ex. 73 at KCR_0057365 (2016 Service Agreement, KCR_0057364); Ex. 74 at 3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023270, 74 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057371, 75 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057343 (2021 Service Agreement, KCR_0057340)).

41. Sales agents [redacted] (Ex. 54 at 5:17-19, 17:4-8 ([redacted], KCR_0001838); Ex. 61 at 22:11-23:22 ([redacted], KCR_0001844); Ex. 56 at 39:1-40:3 ([redacted] KCR_0007782); Ex. 60 at 30:6-24 ([redacted], KCR_0014169); Ex. 68 at 42:5-19 ([redacted], KCR_0019585); Ex. 69 at 27:1-28:25 ([redacted] KCR_0020918); Ex. 70 at 28:2-30:1([redacted], KCR_0020923)).

42. The company processes payments for the first-work fees five days to two weeks after enrollment or on a specific date selected by the customer. Ex. 73 at KCR_0057364-65 (2016 Service Agreement, KCR_0057364); Ex. 74 at 2-3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023269-70 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057369, 71 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057341, 43 (2021 Service

Agreement, KCR_0057340); (Ex. 71 at KCR_0000328 ([redacted],
KCR_0000320)("[redacted]"); *see e.g.*, Ex. 61 at 17:14-19:1 ([redacted]
[redacted] KCR_0001844)([redacted]); Ex. 55 at 14:6-15:14,
18:17-24 ([redacted], KCR_0001879).

43. Consumers are required to authorize Key Credit to automatically charge or debit both the first-work fees and the monthly fees. (Ex. 73 at KCR_0057364-65 (2016 Service Agreement, KCR_0057364); Ex. 74 at 3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023268, 70 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057369, 71 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057341, 43 (2021 Service Agreement, KCR_0057340); Ex. 47, Attach. A at 4 (Decl. of Antionette Blunt with attachs. dated October 26, 2022)).

44. Key Credit charges consumers monthly fees until the customer cancels or, in some instances, the company tells consumers that the monthly fees will cease after a given number of payments are made. (Ex. 71 at KCR_0000328 ([redacted] KCR_0000320); Ex. 59 at KCR_0015832
([redacted], KCR_0015828); Ex. 54 at 12:15-19 ([redacted]
[redacted], KCR_0001838); Ex. 56 at 31:4-5 ([redacted], KCR_0007782); Ex. 60 at 16:8-10; 20:4-14 ([redacted], KCR_0014169); Ex. 65 at 6:18-7:1 ([redacted]
[redacted], KCR_0019581; Ex. 68 at 20:10-12 ([redacted], KCR_0019585); Ex. 69 at 7:9-19, 8:11-12 ([redacted], KCR_0020918); *see also* Ex. 73 at KCR_0057365 (2016 Service Agreement, KCR_0057364); Ex. 74 at 3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023270 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057371 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057342-43 (2021 Service Agreement, KCR_0057340)).

45. Key Credit's monthly charge is typically a static fee—it does not change and it is not related to the credit improvements achieved for customers. (Ex. 73 at KCR_0057365 (2016 Service Agreement, KCR_0057364); Ex. 74 at 3 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023270 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057371 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057343 (2021 Service Agreement, KCR_0057340); *see also* Ex. 53 at KCR_0007912-13 ([redacted]); Ex. 52 at KCR_0007771 ([redacted] Ex. 119 at KCR_0015852 ([redacted], KCR_0015852); Ex. 71 at KCR_0000335 ([redacted], KCR_0000320)).

46. Key Credit does not set a timeframe in which all of the credit-repair services will be provided to a customer. (Ex. 4 at 50:20-55:5, 74:13-15 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 7 at No. 16 (Def's Resp. to Pls.' Req. for Admis.); *but see* Ex. 73 at KCR_0057364 (2016 Service Agreement, KCR0057364) (setting a one-year period); Ex. 72 at KCR_0057369 (2019 Service Agreement, KCR_0057368) ("Client's credit report(s) will cease reflecting 10% of the entries Client had indicated are being inaccurately reported . . . within 90 days"; Ex. 75 at KCR_0023268 (2019 Service Agreement, KCR_0023268)(same)).

47. Defendants charge consumers before they have provided a consumer report demonstrating that any results have been achieved, such report having been issued more than six months after achieving the results. Ex. 7 at Nos. 5, 14-15 (Def's Resp. to Pls.' Req. for Admis.); ECF 56 at ¶ 26 (Defs.' Answer to Am. Compl.); Ex. 6 33:1-6, 39:8-12, 114:13-116:1-9 (Tsoukales IH); Ex. 47 (Blunt Decl. with attachs.); Ex. 48 (Decl. of Robert Finney with attachs. dated October 27, 2022); Ex. 49 (Decl. of Clinton Perrow with attach. dated November 1, 2022); Ex. 50 (Decl. of Jeffrey Vess dated March 13, 2023); *see also* service agreements showing the company processes payments for the first-work fees five days to two weeks after enrollment (*see, e.g.* Ex.

74 at 2-3 (2018 Service Agreement, IH Ex 8); Ex. 72 at KCR_0057369, 71 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057341, 43 (2021 Service Agreement, KCR_0057340)).

Key Credit's Service Agreements and the Work it Performs for Consumers

48. Key Credit [redacted]." (*See, e.g.*, Ex. 53 at KCR_0007912 ([redacted] 7.18.19, KCR_0007911); Ex. 52 at KCR_0007771 ([redacted] KCR_0007769); Ex. 39 at KCR_0028393 (website capture of landing page from May, 1 2017, KCR_0028390); Ex. 25 at KCR_0028733 (website capture of free consultation page from May 18, 2017, KCR_0028731); Ex. 26 at KCR_0028757 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 29 at KCR_0029238 (website capture of free consultation page from Dec. 15, 2017, KCR_0029236); Ex. 54 at 5:11-13, 12:15-19 ([redacted] KCR_0001838); Ex. 56 at 31:4-5 ([redacted], KCR_0007782); Ex. 60 at 16:8-10 ([redacted], KCR_0014169); Ex. 68 at 20:7-8; 36:11 ([redacted], KCR_0019585); Ex. 69 at 6:13-14, 7:1-3, 8:6-12 ([redacted] KCR_0020918); Ex. 70 at 8:13-23 ([redacted], KCR_0020923); Ex. 79 at 5:17-19, 6:5 ([redacted], KCR_0020933); Ex. 80 at 7:5-22 ([redacted] KCR_0020938); *see also* Ex. 3 at 10 ([redacted] KCR_0025502).

49. Key Credit requires consumers to sign a service agreement to enroll in services. (*See, e.g.*, Ex. 3 at 25 ([redacted] KCR_0025502); Ex. 58 at KCR_0001781 ([redacted]); Ex. 4 at 53:15-21(Key Credit 30(b)(6) Dep. (Tsoukales testimony)); see also Ex. 6 at 53:15-17; 107:4-19 (Tsoukales IH).

50. Between 2016 and 2021, Key Credit used multiple versions of a service agreement with slight variations between them. (Ex. 73 (2016 Service Agreement, KCR_0057364); Ex. 74 (2018

Service Agreement, IH Ex 8); Ex. 75 (2019 Service Agreement, KCR_0023268); Ex. 72 (2019 Service Agreement, KCR_0057368); Ex. 76 (2021 Service Agreement, KCR_0057340)).

51. Key Credit provides the service agreement [redacted]. (Ex. 3 at 25, 28 ([redacted], KCR_0025502); Ex. 56 at 38:25-39:5 ([redacted], KCR_0007782); Ex. 60 at 30:2-24 ([redacted], KCR_0014169); Ex. 68 at 36:10-20 ([redacted] KCR_0019585); Ex. 66 at 26:16-24 ([redacted], KCR_0020918); Ex. 70 at 25:10-18, 27:21-25 ([redacted], KCR_0020923); Ex. 72 at KCR_0057376 (2019 Service Agreement, KCR_0057368)).

52. Consumers are asked to sign and return the agreement while still on the phone with Key Credit's sales agents. (*See* Ex. 59 at ___ ([redacted], KCR_0015828); Ex. 58 at KCR_0001779 ([redacted]); Ex. 68 at 36:10-42:25 ([redacted], KCR_0019585); Ex. 56 at 39:1-40:7 ([redacted], KCR_0007782); Ex. 69 at 26:16-28:24 ([redacted], KCR_0020918); Ex. 70 at 25:10-29:23 ([redacted], KCR_0020923)).

53. Key Credit's service agreements state that it offers these types of services:

a. "[the company] agrees to evaluate Client's current credit profile and will advise Client on necessary steps to legally remove information";

b. "[the company] agrees to provide unlimited advice and credit coaching to Client" or "agrees to provide unlimited advice to Client regarding their credit report"; and

c. "[the company] will prepare all necessary correspondence in dispute of all inaccurate and unverifiable information on Client's credit reports;"

Ex. 73 at KCR_0057364 (2016 Service Agreement, KCR_0057364); Ex. 74 at 1 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023268 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057369 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057341 (2021 Service Agreement, KCR_0057340)).

54. The service agreements disavow Key Credit's prior representations by stating that it will not "assist Client on improving Client's credit rating or record" and it "cannot and will not remove any derogatory information (defined as accurate information appearing on a Client's credit report)" because "[a]ccurately reported items on a credit reports (sic) cannot be removed." Ex. 74 at 1 (2018 Service Agreement, IH Ex 8); Ex. 75 at KCR_0023268 (2019 Service Agreement, KCR_0023268); Ex. 72 at KCR_0057369 (2019 Service Agreement, KCR_0057368); Ex. 76 at KCR_0057341 (2021 Service Agreement, KCR_0057340); *see also* Ex. 73 at KCR_0057364 (2016 Service Agreement, KCR_0057364)).

55. The services [redacted]). (Ex. 3 at 10 ([redacted]); *see also* Ex. ___ at 29:15-25, 33:7-35:9 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)); Ex. 4 at KCR_0007911-13 ([redacted], KCR_0007911); Ex. 52 at KCR_0007769-70 ([redacted], KCR_0007769).

56. On its website, Key Credit describes the work it performs by stating that it: (1) analyzes consumers' credit reports by "looking for negative items like collections, charge-offs, tax liens, judgments and late payments that may be hurting your score"; (2) "write[s] to each of the 3 credit agencies (Transunion, Experian and Equifax) as well as the actual creditors" sending "letters [that] include disputes, appeals, validation requests and goodwill interventions"; (3) does

this for "all of the negative items on [consumers'] reports"; and (4) "repeat[s] the process" whereby it " analyze[s] the items not yet removed and generate[s] new letters addressing them again" and it "will do this every 30-45 days until you are happy with the number of removals and/or the credit score increase you have as a result." Ex. 26 at KCR_0028758 (website capture of free consultation page from June 22, 2017, KCR_0028755); Ex. 25 at KCR_0028734 (website capture of free consultation page from May 18, 2017, KCR_0028731).

Key Credit's Advertising and Marketing Claims are False or Unsubstantiated

57. Key Credit could not identify a customer who gained at least a ninety-point increase in their credit scores within ninety days. (Ex. 40 at No. 7 (Def. Key Credit's Answer to Pls' Interrogs.)).

58. Key Credit's basis for its representation that consumers will see a "90 point average credit score increase in the first 90 days," is Tsoukales's personal observation. (Ex. 40 at 35:9-17; 175:20-177:21 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

59. On behalf of Key Credit, Tsoukales testified that the 90-point representation came from "data" not based on "an algorithm or a spreadsheet," but in his mind from when he "was working with people closely. . . when [the] company was smaller." (Ex. 4 at 177:2-6. (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

60. Key Credit does not track or calculate either the (1) the average credit score changes of its customers or (2) its customers' credit score improvements in the first 90 days of services. (Ex. 4 at 174:22-178:23 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)). Ex. 6 at 92:2-93:16 (Tsoukales IH)).

61. Tsoukales testified that Key Credit cannot remove negative items that are accurate and within the limitations period. (Ex. 4 at 178:24-179:16 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

62. Key Credit does not track whether its services result in the removal of, or permanent removal of, negative items from customers' credit reports. (Ex. 4 Depo: 178:12-20. (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

63. Customers complain that Key Credit's services did not result in an increase to their credit scores or in the removal of negative items on their credit reports and consumers have reported being distressed and vulnerable when they sought assistance from Key Credit. (Ex. 1 at ¶ 14-20 (Schneider Decl.); Ex. 47 (Blunt Decl. with attachs.); Ex. 48 (Finney Decl. with attachs.); Ex. 49 (Perrow Decl. with attachs.); Ex. 50 (Vess Decl.)).

Tsoukales is Involved in Every Aspect of the Company's Business Activities and has Managerial Responsibility Over the Company

64. Tsoukales personally "created thousands of documents" related to Key Credit's business activities and he oversees "everything" at the company. (Ex. 4 at 56:2-8 56:11-62:14 (Key Credit 30(b)(6) Dep. (Tsoukales testimony); Ex. 6 at 27:7-28:1(Tsoukales IH).

65. Tsoukales is responsible for Key Credit's marketing. (Ex. 4 at 108:14-109:12 (Key Credit 30(b)(6) Dep. (Tsoukales testimony); Ex. 5 at 15:25-16:9 (Tsoukales Dep.); Ex. 6 at 80:13-82:3 (Tsoukales IH); Ex. 21 ([redacted] KCR_0020652); Ex. 81 ([redacted] KCR_0008230); Ex. 82 ([redacted], KCR_0001812).

66. Tsoukales leads Key Credit's relationships with its marketing partners, including lead generators and search engines, such as Google. (Ex. 4 at 108:14-109:12 (Key Credit 30(b)(6) Dep. (Tsoukales testimony); Ex. 81 at KCR_0008230 ([redacted]); Ex. 121 at KCR_0008793 ([redacted]

[redacted]).

67. Tsoukales is responsible for the content of Key Credit's website. (Ex. 4 at 86:24-87:25, 94:14-96:22 (Key Credit 30(b)(6) Dep. (Tsoukales testimony); Ex. 83 at KCR_0019586) ([redacted]); Ex. 84 at KCR_0021134 ([redacted]).

68. Tsoukales conducts marketing on behalf of Key Credit including creating and appearing in videos and sharing personal testimonials about Key Credit's credit-repair services. (Ex. 85 at KCR_0027341 (Tsoukales video on Key Credit's website); Ex. 86 at KCR_0027346 (Tsoukales "insider credit tips" on Key Credit's website; Ex. 87 at KCR_0039534 (Tsoukales testimonial on Key Credit's website telling consumers "[f]eel free to contact me").

69. Tsoukales has directly engaged with consumers in the marketing and sale of Key Credit's credit-repair services and states that he has conducted more than 15,000 sales consultations himself. (Ex. 4 at 49:13-18, 55:9-56:8 (Key Credit 30(b)(6) Dep. (Tsoukales testimony); Ex. 5at 7:18-9:9 at (Tsoukales Dep.); Ex. 89 at KCR_14170 (email exchange telling a consumer that Tsoukales will handle the consumer's Key Credit consultation because "our owner handles the majority of the consultations to ensure that you get the best service levels possible").

70. Tsoukales receives and reviews consumer complaints, responds to Better Business Bureau (BBB) complaints, and guides staff on how to respond to other consumer complaints. (Ex. 5 at 24:13-25 (Tsoukales Dep.); Ex. 90 at KCR_0002497) (2017 consumer complaint sent to Tsoukales) Ex. 91 at KCR_0006728 (2019 consumer complaint sent to Tsoukales); Ex. 92 at KCR_0007379 (2020 consumer complaint sent to Tsoukales; Ex. 93 at KCR_0019375 (2016 consumer complaint sent to Tsoukales); Ex. 94 at KCR_0021114 (2019 consumer compliant sent to Tsoukales; (Ex. 1 at ¶ 14-20 (Schneider Decl.)).

71. Tsoukales drafts and reviews Key Credit's sales scripts, including scripts used by third-party lead generators, and gives tips to sales agents on how to sell Key Credit's services. (Ex. 5 at 16:14-22 (Tsoukales Dep.); Ex. 6 at 52:5-10 (Tsoukales IH); Ex. 95([redacted]KCR_0000577); Ex. 96 ([redacted], KCR_0001785); Ex. 97 at ([redacted]," KCR_0015241); Ex. 10 ([redacted] at KCR_0016006); Ex. 22 ([redacted]KCR_0020373); Ex. 15 ([redacted]KCR_0021218); Ex. 18 ([redacted]," KCR_0008647); Ex. 102 ([redacted]KCR_0019016); Ex. 103 ([redacted], KCR_0019812).

72. Tsoukales monitors Defendants' inbound and outbound call volume, participates in the hiring and training of Defendants' sales agents and customer representatives, reviews sale agents' calls, and monitors and guides their work, compensation, bonuses, and commissions. (Ex. 5 at 16:18-17:3, 19:21-20:17, 29:3-5 (Tsoukales Dep.); Ex. 104 ([redacted] KCR_0009024) Ex. 105 (Tsoukales [redacted] KCR_0000539); Ex. __ (Tsoukales [redacted]" KCR_0000592); Ex. 107 (email exchange w[redacted]

[redacted]," KCR_0011778); Ex. 108 (email [redacted]," KCR_0001757); Ex. 109 (email [redacted], KCR_0001814); Ex. 110 (email [redacted], KCR_0008854); Ex. 99 (email [redacted], KCR_0010606); Ex. 14 (Tsoukales [redacted]" KCR_0020375); Ex. 112 (Tsoukales [redacted], KCR_0002291); Ex. 113 (Tsoukales [redacted], KCR_0003084); Ex. 114 (Tsoukales [redacted] KCR_0009911); Ex. 115 (Tsoukales [redacted], KCR_0010041); Ex. 116 (Tsoukales [redacted], KCR_0010314).

73. Tsoukales plays a role in determining the fees charged to consumers and authored the company's service agreements, which set out the company's fee structure. (Ex. ___ at 17:21-24, *compare to* 27:6-15 (Tsoukales Dep.); Ex. 5 at 51:18-52:17 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

74. Tsoukales was responsible for setting up Key Credit's bank accounts, is a signatory on all the accounts, has a role in determining the fees charged to consumers, and bases his income on the profits of the company. (Ex. 5 at 10:20-11:13; 12:4-10 (Tsoukales Dep.)).

Harm to Consumers

75. Credit repair is Key Credit's only product or service and "99.9 percent of [its] revenues are from credit repair services." (Ex. 6 at 29:15-30:13 (Tsoukales IH); Ex. 4 at 164:20-165:2 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

76. Key Credit provided its annual gross revenue figures for each year from 2008 to 2021, and for 2022 it provided its gross revenue from January 1, 2022, through March 22, 2022. (Ex. 40 at No. 1 (Defs' Answers to Interrogs.)).

77. To capture the amount of gross revenue attributable to telemarketing, the Bureau added the gross revenue amounts from 2011 (the first full year during which Key Credit engaged in telemarketing) through March 22, 2022, which totals $31,723,003:

a. 2011: $539,425.00

b. 2012: $899,904.00

c. 2013: $1,299,689.00

d. 2014: $1,928,116.00

e. 2015: $2,031,084.00

f. 2016: $3,136,907.00

g. 2017: $4,467,380.00

h. 2018: $5,016,892.00

i. 2019: $3,996,726.00

j. 2020: $3,524,671.00

k. 2021: $3,949,966.81

l. 2022 through March 22, 2022: $932,242.35

(Ex. 40 at No. 1 (Defs' Answers to Interrogs.); Ex. 7 at No. 3 (Def's Resp. to Pls.' Req. for

Admis.) (Key Credit began offering credit-repair services to consumers over the telephone in 2010)).

Massachusetts Surety Bond and Trust Account

78. Defendants do not maintain a trust account as required by Massachusetts. (Ex. 4 at 62:15-63:2 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

79. Defendants' service agreements do not disclose (a) a statement asserting the buyer's right to proceed against the surety bond or trust account required § 68B of the MA-CSO or (b) the name and business address of any such surety company and trust-account depository, together with the name of the trustee and the account number. (*See* Ex. 73 (2016 Service Agreement, KCR_0057364); Ex. 74 (2018 Service Agreement, IH Ex 8); Ex. 75 (2019 Service Agreement, KCR_0023268); Ex. 72 (2019 Service Agreement, KCR_0057368); Ex. 76 (2021 Service Agreement, KCR_0057340); Ex. 4 at 67:7-76:7 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).

80. Defendants' service agreements do not disclose (a) a complete and detailed description of the services to be performed by the company and the total cost to the buyer for such services or (b) the terms and conditions of payment, including the total of all payments to be made by the buyer. (*See* Ex. 73 (2016 Service Agreement, KCR_0057364); Ex. 74 (2018 Service Agreement, IH Ex 8); Ex. 75 (2019 Service Agreement, KCR_0023268); Ex. 72 (2019 Service Agreement, KCR_0057368); Ex. 76 (2021 Service Agreement, KCR_0057340); Ex. 4 at 67:7-76:7 (Key Credit 30(b)(6) Dep. (Tsoukales testimony)).