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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION, Plaintiff, v. M&T FINANCIAL GROUP, et al., Defendants.	Case No. 2:17-cv-06855-ODW-PLA Hon. Otis D. Wright II **DEFENDANTS' ANSWER, DEFENSE, AND AFFIRMATIVE DEFENSES TO PLAINTIFF'S COMPLAINT**

Defendants M&T Financial Group, American Counseling Center Corp., and Salar Tahour, by and through undersigned counsel, hereby file their Answer, Defense, and Affirmative Defenses to the Complaint filed by Plaintiff Federal Trade Commission, and state as follows:

ANSWER

1. Defendants admit that Plaintiff purports to bring this action to seek relief under the Federal Trade Commission Act, the Telemarketing and Consumer Fraud and Abuse Prevention Act, and the FTC's Telemarketing Sales Rule.

JURISDICTION AND VENUE

2. Paragraph 2 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 2 of the Complaint.

3. Paragraph 3 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 3 of the Complaint.

PLAINTIFF

4. With regard to the allegations contained in Paragraph 4 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

5. With regard to the allegations contained in Paragraph 5 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

DEFENDANTS

6. Defendants admit that M&T Financial Group is a corporation organized under the laws of the State of California, has a principal address 11766 Wilshire Boulevard, Suite 310, Los Angeles, California 90025, and transacted business in this

district,, and deny the remainder of the allegations contained in Paragraph 6 of the Complaint.

7. Defendants admit that American Counseling Center Corp. is a corporation organized under the laws of the State of California, has a principal address 11766 Wilshire Boulevard, Suite 310, Los Angeles, California 90025, and transacted business in this district, and deny the remainder of the allegations contained in Paragraph 7 of the Complaint.

8. Defendants admit that Salar Tahour is the sole owner and manager of M&T Financial Group and American Counseling Center Corp. Defendants further admit that Salar Tahour resides and transacted business in this district. Defendants deny the remainder of the allegations contained in Paragraph 8 of the Complaint.

9. Paragraph 9 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 9 of the Complaint.

COMMERCE

10. Paragraph 10 of the Complaint states a legal conclusion as to which no response is required. To the extent a response is required, Defendants deny the allegations contained in Paragraph 10 of the Complaint.

DEFENDANTS' DECEPTIVE STUDENT LOAN DEBT RELIEF OPERATION

11. Defendants deny the allegations contained in Paragraph 11 of the Complaint.

Background on Student Loan Forgiveness and Repayment Programs

12. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 13 of the Complaint.

14. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint.

15. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 15 of the Complaint.

16. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 16 of the Complaint.

17. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 17 of the Complaint.

18. Defendants deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 18 of the Complaint.

Defendants' Deceptive Marketing of Student Loan Debt Relief Services

19. Defendants deny the allegations contained in Paragraph 19 of the Complaint.

20. Defendants deny the allegations contained in Paragraph 20 of the Complaint.

21. Defendants deny the allegations contained in Paragraph 21 of the Complaint.

22. Defendants deny the allegations contained in Paragraph 22 of the Complaint.

23. Defendants deny the allegations contained in Paragraph 23 of the Complaint.

24. Defendants deny the allegations contained in Paragraph 24 of the Complaint.

Defendants' Advance and Monthly Fees

25. Defendants deny the allegations contained in Paragraph 25 of the Complaint.

26. Defendants deny the allegations contained in Paragraph 26 of the Complaint.

27. Defendants deny the allegations contained in Paragraph 27 of the Complaint.

Defendants' Contracts

28. Defendants deny the allegations contained in Paragraph 28 of the Complaint.

29. Defendants deny the allegations contained in Paragraph 29 of the Complaint.

30. Defendants deny the allegations contained in Paragraph 30 of the Complaint.

Cutting Off Consumers' Communications with Servicers and ED

31. Defendants deny the allegations contained in Paragraph 31 of the Complaint.

32. Defendants deny the allegations contained in Paragraph 32 of the Complaint.

33. Defendants deny the allegations contained in Paragraph 33 of the Complaint.

34. Defendants deny the allegations contained in Paragraph 34 of the Complaint.

35. Defendants deny the allegations contained in Paragraph 35 of the Complaint.

36. Defendants deny the allegations contained in Paragraph 36 of the Complaint.

Defendants' Unlawful Calls to Consumers

n [sic] the National Do Not Call Registry

37. Defendants deny the allegations contained in Paragraph 37 of the Complaint.

38. Defendants deny the allegations contained in Paragraph 38 of the Complaint.

39. Defendants deny the allegations contained in Paragraph 39 of the Complaint.

THE FTC ACT

40. With regard to the allegations contained in Paragraph 40 of the Complaint, Section 5(a) of the FTC Act speaks for itself, and Defendants respectfully refer the Court to Section 5(a) of the FTC Act for a complete and accurate statement of its contents.

41. With regard to the allegations contained in Paragraph 41 of the Complaint, Section 5(a) of the FTC Act speaks for itself, and Defendants respectfully refer the Court to Section 5(a) of the FTC Act for a complete and accurate statement of its contents.

VIOLATIONS OF THE FTC ACT

Count I

Deceptive Student Loan Debt Relief Representations

42. Defendants deny the allegations contained in Paragraph 42 of the Complaint.

43. Defendants deny the allegations contained in Paragraph 43 of the Complaint.

44. Defendants deny the allegations contained in Paragraph 44 of the Complaint.

THE TELEMARKETING SALES RULE

45. With regard to the allegations contained in Paragraph 45 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions and their legislative history for a complete and accurate statement of their contents.

46. With regard to the allegations contained in Paragraph 46 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal

provisions for a complete and accurate statement of their contents. To the extent a response is required, Defendants deny the allegations contained in Paragraph 46.

47. With regard to the allegations contained in Paragraph 47 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents. To the extent a response is required, Defendants deny the allegations contained in Paragraph 47.

48. With regard to the allegations contained in Paragraph 48 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

49. With regard to the allegations contained in Paragraph 49 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

50. With regard to the allegations contained in Paragraph 50 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

51. With regard to the allegations contained in Paragraph 51 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

52. With regard to the allegations contained in Paragraph 52 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

53. With regard to the allegations contained in Paragraph 53 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

54. With regard to the allegations contained in Paragraph 54 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

55. With regard to the allegations contained in Paragraph 55 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

VIOLATIONS OF THE TELEMARKETING SALES RULE

Count II

Advance Fee for Debt Relief Services

56. Defendants deny the allegations contained in Paragraph 56 of the Complaint.

57. Defendants deny the allegations contained in Paragraph 57 of the Complaint.

Count III

Misrepresentation of Affiliates

58. Defendants deny the allegations contained in Paragraph 58 of the Complaint.

59. Defendants deny the allegations contained in Paragraph 59 of the Complaint.

Count IV

Material Debt Relief Misrepresentations

60. Defendants deny the allegations contained in Paragraph 60 of the Complaint.

61. Defendants deny the allegations contained in Paragraph 61 of the Complaint.

Count V

Calls in Violation of National Do Not Call Registry

62. Defendants deny the allegations contained in Paragraph 62 of the Complaint.

Count VI

Failure to Pay Required Fee for Access to National Do Not Call Registry

63. Defendants deny the allegations contained in Paragraph 63 of the Complaint.

CONSUMER INJURY

64. Defendants deny the allegations contained in Paragraph 64 of the Complaint.

THIS COURT'S POWER TO GRANT RELIEF

65. With regard to the allegations contained in Paragraph 65 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

66. With regard to the allegations contained in Paragraph 66 of the Complaint, the cited legal provisions speak for themselves, and Defendants deny any characterization thereof. Defendants respectfully refer the Court to the cited legal provisions for a complete and accurate statement of their contents.

PRAYER FOR RELIEF

Defendants deny that Plaintiff is entitled to any relief, and demand entry of judgment in their favor.

DEFENDANTS' DEFENSES AND AFFIRMATIVE DEFENSES

Defendants M&T Financial Group, American Counseling Center Corp., and Salar Tahour assert the following defense and affirmative defenses in accordance with Rule 8 and 12 of the Federal Rules of Civil Procedure:

Defense

Pursuant to Fed. R. Civ. P. 12(b)(6), Defendants assert that Plaintiff's Complaint fails to state a plausible claim for relief against them under all theories asserted therein.

First Affirmative Defense

Without admitting that any violation of any law, some or all of the allegedly violative statements alleged in the Complaint, if such statements were made, were not false or misleading statements of material fact, but were good faith sales practices.

Second Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted under Section 5 of the FTC Act, 15 U.S.C. § 45(a). The Plaintiff has failed to demonstrate that any material representations of any Defendants were likely to mislead customers acting reasonably under the circumstances pursuant to Section 5.

Third Affirmative Defense

The Complaint fails to state a claim upon which relief can be granted under the Telemarketing and Consumer Fraud and Abuse Act, 15 U.S.C. §§ 6101-6108, or the Telemarketing Sales Rule, 16 C.F.R. Part 310. The Plaintiff has failed to demonstrate that any of the alleged conduct relates to "debt relief services."

Fourth Affirmative Defense

Any injury or harm to any individual consumer or to the public in general alleged by the Plaintiff in the Complaint was caused by acts or omissions of a third-party over which this Defendants had no authority or control.

Fifth Affirmative Defense

Plaintiff's claims are barred, in whole or in part, under the doctrine of mistake of law.

Sixth Affirmative Defense

The Plaintiff's claims, or parts thereof, are barred by the doctrine of accord and satisfaction.

Seventh Affirmative Defense

Without admitting any violations occurred, any alleged violations by Defendants, if any such violations occurred on its behalf, did not rise to the level of demonstrating the likelihood of repetition required to support injunctive relief against Defendants.

Eighth Affirmative Defense

To the extent Plaintiff seeks equitable relief, the balance of equities tips in favor of Defendants, as imposition of such relief would cause undue hardship to Defendants.

WHEREFORE, Defendants M&T Financial Group, American Counseling Center Corp., and Salar Tahour respectfully request that this Court enter judgment against Plaintiff and in favor of Defendants, dismiss this action with prejudice, award Defendants its reasonable attorney's fees and costs incurred in defending this action, and for such other relief this Court deems just and proper.

Dated: October 11, 2017

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on October 11, 2017, a true and correct copy of the foregoing was electronically filed with the Clerk of Court by using CM/ECF which will serve copies to all counsel of record registered to receive CM/ECF notification, and that it was served upon any other counsel and parties in some other authorized manner.

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