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BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION  
OF THE STATE OF CALIFORNIA

In the Matter of:	}	SETTLEMENT AGREEMENT
THE COMMISSIONER OF FINANCIAL		
PROTECTION AND INNOVATION,		
Complainant,		
v.		
FINANCIAL ENHANCEMENT SERVICES		
INC.,		
Respondent.		

This Settlement Agreement is entered into between the Commissioner of Financial Protection and Innovation (Commissioner), and Respondent Financial Enhancement Services, Inc. (FES) (collectively, the Parties).

I.

**RECITALS**

***Legal Background***

A. The Commissioner has jurisdiction over the regulation of persons engaged in offering or providing a consumer financial product or service in California and their affiliated

1 service providers under the California Consumer Financial Protection Law (CCFPL) (Cal. Fin.  
2 Code, § 90000 et seq.).

3 B. Under the CCFPL, it is unlawful for a “covered person” to “[e]ngage, have engaged,  
4 or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to  
5 consumer financial products or services.” (Cal. Fin. Code, § 90003, subd. (a)(1).)

6 C. A “covered person” is “[a]ny person that engages in offering or providing a  
7 consumer financial product or service to a resident of this state.” (Cal. Fin. Code, § 90005, subd.  
8 (f)(1).)

9 D. A “consumer financial product or service” is generally a “financial product or  
10 service that is delivered, offered, or provided for use by consumers primarily for personal, family,  
11 or household purposes.” (Cal. Fin. Code, § 90005, subd. (e)(1).)

12 E. “Financial product or service” includes, among other things, “[p]roviding financial  
13 advisory services . . . including . . . [p]roviding services to assist a consumer with debt management  
14 or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure.” (Cal.  
15 Fin. Code, § 90005, subd. (k)(8)(B).)

16 F. The Telemarketing Sales Rule (TSR) (16 C.F.R. §§ 310.1-310.9) is the  
17 implementing regulation of the federal Telemarketing and Consumer Fraud and Abuse Prevention  
18 Act (Telemarketing Act) (15 U.S.C. §§ 6101-6108). Pursuant to section 3(c) of the Telemarketing  
19 Act (15 U.S.C. § 6102(c)) and section 18(d)(3) of the Federal Trade Commission Act (FTC Act)  
20 (15 U.S.C. § 57a(d)(3)), a violation of the TSR constitutes an unfair or deceptive act or practice in  
21 or affecting commerce in violation of section 5(a) of the FTC Act (15 U.S.C. § 45(a)).

22 G. It is a violation of the TSR for any seller or telemarketer to request or receive  
23 payment of any fee or consideration for any debt-relief service until and unless: (1) the “seller or  
24 telemarketer has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt  
25 pursuant to a settlement agreement, debt management plan, or other such valid contractual  
26 agreement executed by the customer” and (2) the “customer has made at least one payment pursuant  
27 to that settlement agreement, debt management plan, or other valid contractual agreement between  
28 the customer and the creditor or debt collector.” (16 C.F.R. § 310.4(a)(5)(i).)

1           H.       Under the TSR, “debt relief service” is “any program or service represented, directly  
2 or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of  
3 the debt between a person and one or more unsecured creditors or debt collectors, including, but not  
4 limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured  
5 creditor or debt collector.” (16 C.F.R. § 310.2(o).)

6           I.       Under the TSR, a “seller” is “any person who, in connection with a telemarketing  
7 transaction, provides, offers to provide, or arranges for others to provide goods or services to the  
8 customer in exchange for consideration.” (16 C.F.R. § 310.2(dd).)

9           J.       Under the TSR, a “telemarketer” is “any person who, in connection with  
10 telemarketing, initiates or receives telephone calls to or from a customer.” (16 C.F.R. § 310.2(ff).)

11          K.       Under the TSR, “telemarketing” is, in relevant part, “a plan, program, or campaign  
12 which is conducted to induce the purchase of goods or services . . . by use of one or more  
13 telephones and which involves more than one interstate telephone call.” (16 C.F.R. § 310.2(gg).)

14          L.       The Impersonation Rule, promulgated by the FTC under Section 18 of the FTC Act,  
15 15 U.S.C. § 57a, became effective on April 1, 2024, and remains in full force and effect. The  
16 Impersonation Rule is codified at 16 C.F.R. Part 461.

17          M.       Section 461.2(b) of the Impersonation Rule prohibits “materially misrepresent[ing],  
18 directly or by implication, affiliation with, including endorsement or sponsorship by, a government  
19 entity or officer thereof, in or affecting commerce as commerce is defined in the Federal Trade  
20 Commission Act (15 U.S.C. 44).”

21          N.       The Impersonation Rule defines “materially” to mean “likely to affect a person’s  
22 choice of, or conduct regarding, goods or services.” 16 C.F.R. § 461.1. The Impersonation Rule  
23 defines “government” to include “federal, state, local, and tribal governments as well as agencies  
24 and departments thereof.” 16 C.F.R. § 461.1.

25          O.       Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the  
26 Impersonation Rule constitutes an unfair or deceptive act or practice in or affecting commerce, in  
27 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

28          P.       Section 521(a) of the Gramm-Leach-Bliley Act (GLB Act), 15 U.S.C. § 6821(a),

1 prohibits any person from “obtaining or attempting to obtain...customer information of a financial  
2 institution relating to another person...by making a false, fictitious, or fraudulent statement or  
3 representation to a customer of a financial institution.”

4 Q. The GLB Act defines “customer” to mean “with respect to a financial institution,  
5 any person (or authorized representative of a person) to whom the financial institution provides a  
6 product or service, including that of acting as a fiduciary.” 15 U.S.C. § 6827(1).

7 R. The GLB Act defines “customer information of a financial institution” as “any  
8 information maintained by or for a financial institution which is derived from the relationship  
9 between the financial institution and a customer of a financial institution and is identified with the  
10 customer.” 15 U.S.C. § 6827(2).

11 S. The GLB Act defines “financial institution” to include “any institution engaged in  
12 the business of providing financial services to customers who maintain a credit, deposit, trust, or  
13 other financial account or relationship with the institution.” 15 U.S.C. § 6827(4)(A).

14 ***Commissioner’s Findings and Conclusions***

15 T. Following an investigation by the Commissioner, the Commissioner made the  
16 following findings of fact (Findings):

17 i. At all relevant times, Financial Enhancement Services Inc. (FES) is a Florida  
18 corporation operating at the following address: 8359 Beacon Blvd #315 Fort Myers, Florida 33907.

19 ii. Raymond Del Valle (Valle) is the President and Joe Coto (Coto) is the Vice  
20 President of FES.

21 iii. At all relevant times, FES operates the website [www.fesinc.org](http://www.fesinc.org). The website  
22 advertised “We’ll meticulously assess your eligibility for various loan forgiveness options and  
23 income-driven repayment plans, stop wage garnishment, and even provide a brief pause in student  
24 loan payments while your application processes, ensuring you explore every avenue for debt relief.”

25 iv. Beginning in at least July 2022, FES contacted California consumers via  
26 outbound telemarketing calls regarding their services.

1                   v.       In connection with telemarketing and debt relief services offered by FES to at  
2 least nineteen California consumers, FES has misrepresented, directly or indirectly, expressly or by  
3 implication, material aspects of their debt relief services, including but not limited to:

4                   1.       Falsely claiming that FES was working under the guidance of the  
5 United States Department of Education (U.S. Department of Education). In fact, FES  
6 was not working under the guidance of the U.S. Department of Education, and had no  
7 affiliation, relationship, or contract with the U.S. Department of Education or federal  
8 student loan servicers.

9                   2.       Falsely claiming that FES' services are from the U.S. Department of  
10 Education. In fact, FES was not providing services directly from the U.S.  
11 Department of Education, and had no affiliation, relationship, or contract with the  
12 U.S. Department of Education or federal student loan servicers.

13                  3.       Falsely claiming that FES provides student loan forgiveness, and that  
14 consumers could not apply directly for enrollment in various federal student loan  
15 forgiveness programs and income-driven repayment programs such as the Saving on  
16 Valuable Education (SAVE) Plan without the services of FES. In fact, consumers  
17 can apply for federal student loan forgiveness programs and income-driven  
18 repayment plans directly through the U.S. Department of Education or their student  
19 loan servicers at no cost to the consumer. These programs do not require the  
20 assistance of a third-party company or payment of application fees.

21                  4.       Making false statements regarding their role with the U.S. Department  
22 of Education and sole ability to enroll consumers in the SAVE plan, which enabled  
23 them to obtain customer information of a financial institution, such as credit or debit  
24 card numbers, bank account numbers, and routing numbers.

25                  5.       Falsely informing consumers that if they pay for FES services, they are  
26 guaranteed to receive student loan forgiveness or have their student loan payments  
27 reduced.  
28

6. Encouraging consumers to provide FES with their Federal Student Aid (<https://studentaid.gov>) password and username. The Federal Student Aid password and username allow access to consumer’s student loan information and payment plan confirmation.

7. Falsely claiming that they would assume all responsibility for student loan servicing when they failed to contact the consumer’s student loan servicer and directed the consumer to ignore all communications from their student loan servicer.

vi. In Student Loan Service Agreements (Service Agreements) sent to customers, FES stated that it provides the following services: “conduct financial analysis of the Client’s current financial circumstances” and “discuss with the client the various options that may be available to the Client regarding their outstanding student loan(s).”

vii. The Service Agreements state that, “FES shall promptly contact the Client’s existing servicer(s) and request forbearance or deferment of the client’s current student loan payment(s) during the processing of the application.”

viii. FES requires customers to pay at least one installment of \$199 or \$299 that goes towards either the \$600 Pro Premium program fee or the \$900 Pro Ultra program fee that is collected in advance of providing any services, including altering the terms of the consumer’s student loans and/or before the consumer made any payments pursuant to a settlement agreement, debt management plan, or other valid contractual agreement between the consumer and U.S. Department of Education.

ix. In at least one instance, where a consumer declined FES’ services on the phone call and told FES not to charge the consumer for their services, FES charged the consumer \$500 the next day, without authorization, for FES’ services.

x. FES requested payment from at least twenty-one California consumers in the course of telemarketing its services and charged at least twenty-one California consumers for assistance with student loan modification or forgiveness services before the borrowers’ student loans were successfully modified or forgiven.

U. Based upon the Findings, the Commissioner made the following conclusions (Conclusions):

i. FES is a “covered person” under the CCFPL that engaged in offering or providing consumer financial products or services to California residents, including financial advisory services such as assisting consumers with debt management or debt settlement and modifying the terms of any extension of credit. (Cal. Fin. Code, § 90005, subd. (k)(8)(B).)

ii. FES is a seller and telemarketer that provided, offered to provide, or arranged for others to provide debt relief services within the meaning of the TSR.

iii. FES requested and received from customers advance fees for debt relief services in violation of 16 Code of Federal Regulations part 310.4(a)(5).

iv. Based on the above, the Commissioner is of the opinion that FES violated Financial Code section 90003, subdivision (a)(1), by engaging, having engaged, or proposing to engage in unlawful and deceptive practices (through its above-stated violations of the FTC Act, Impersonation Rule, and GLB Act) with respect to consumer financial products or services.

V. On September 17, 2024, the Commissioner issued a Desist and Refrain Order, Order Assessing Penalties, and Claim for Ancillary Relief based on the violations described above. FES timely requested a hearing on this matter.

W. It is the intention of the Parties to this Settlement Agreement to resolve this matter without the necessity of a hearing or other litigation.

NOW THEREFORE, in consideration of the foregoing, and the terms and conditions set forth herein, the Parties agree as follows:

## II.

### **TERMS AND CONDITIONS**

1. Purpose. This Settlement Agreement resolves the issues before the Commissioner in a manner that avoids the expense of a hearing and other possible court proceedings, protects consumers, is in the public interest and consistent with the purposes fairly intended by the policies and provisions of the CCFPL.

2. Desist and Refrain Order. Pursuant to California Financial Code section 90015,

subdivision (d)(1), FES hereby agrees to desist and refrain from violating California Financial Code section 90003, subdivision (a)(1), including without limitation by requesting and receiving advance fees for debt relief services in violation of 16 Code of Federal Regulations part 310.4(a)(5).

3. Customer Refunds. Pursuant to California Financial Code section 90012, subdivision (b)(2), FES and/or FES's officers, successors, and assigns, by whatever names they might be known, jointly and severally, hereby agree to issue refunds in the amount of \$39,000 (Refunds) pursuant to the instructions herein, for all fees collected from California customers from July 1, 2022, through the Effective Date (defined in Paragraph 30). FES agrees to make monthly refund payments for a period of 12 months from the Effective Date per an agreed-upon refund schedule approved by the Department. All Refunds shall be paid directly to the respective California customers by the same method by which the customers made their last-known payment to FES. Refunds will be accompanied by a notice sent to the customer's last known email address. The notice shall say:

Pursuant to a settlement with the California Department of Financial Protection and Innovation, Financial Enhancement Services Inc., is refunding all payments made by you to Financial Enhancement Services Inc. You will receive a refund in the amount of \$XXXX.XX. All agreements between you and Financial Enhancement Services Inc. are hereby rescinded.

4. Satisfactory Proof of Refunds. Respondents shall submit monthly reports to the Department, as provided in the refund schedule, providing satisfactory proof of refunds, starting April 14, 2025, until Respondents have issued the full amount of Refunds. The reports shall contain each California consumer's name and contact information, the total amount collected from the California consumer, the amount of the refund, the date the refund was issued, and an indication of whether the refund payment was accepted by the California consumer/consumer's bank. The reports shall be sent to Jari Binder, Counsel, by email at: jari.binder@dfpi.ca.gov.

5. Handling of Unclaimed Refunds. Respondents shall escheat any returned or unclaimed Refunds to the California State Controller's Office within the period provided by Code of Civil Procedure section 1520 of the Unclaimed Property Law (Cal. Code Civ. Proc. § 1500, *et seq.*). In the event of escheatment, notice of escheatment shall be sent to Jari Binder, by email at: jari.binder@dfpi.ca.gov within seven calendar days of escheatment. Notice of escheatment shall



include a copy of any escheatment report(s) submitted to the California State Controller.

6. No Consumer Waiver. Payment of a Refund to any consumer under this Settlement Agreement may not be conditioned on that consumer waiving any right.

7. Penalty. Pursuant to California Financial Code section 90012, subdivision (c), The Department imposes a penalty of \$242,500.00. Pursuant to Financial Code section 90012, subdivision (c)(1)(C), the Department will suspend the \$242,500.00 penalty upon timely satisfaction of the obligations in Paragraphs, 3, 4, and 5 of this Settlement Agreement. Failure to timely satisfy any of the obligations in Paragraphs 3, 4, and 5 of this Settlement Agreement will result in the full amount of penalty imposed (\$242,500.00) to be due and owing immediately.

8. Rescission of Contracts. Pursuant to California Financial Code section 90012, subdivision (b)(1), all contracts between FES and California consumers regarding FES' Debt Relief Services (Contracts) are hereby rescinded. FES shall not assign, sell, or transfer the Contracts to any other entity, nor shall FES charge or collect any additional payments pursuant to the Contracts.

9. Full and Final Settlement. The Parties hereby acknowledge and agree that this Settlement Agreement is intended to constitute a full, final, and complete resolution of the Findings, and that no further proceedings or actions will be brought by the Commissioner in connection with the Findings under the CCFPL or any other provision of law, excepting therefrom any proceeding to enforce compliance with the terms of this Settlement Agreement.

10. Waiver of Hearing Rights. FES acknowledges that the Commissioner is ready, willing, and able to proceed with the administrative action described above in Paragraph V. FES hereby waive the right to any hearings, and to any reconsideration, appeal, or other right to review which may be afforded pursuant to the CCFPL, the California Administrative Procedure Act, the California Code of Civil Procedure, or any other provision of law. By waiving such rights, FES effectively consents to this Settlement Agreement, and the Desist and Refrain Order contained herein, becoming final.

11. Failure to Comply with Settlement Agreement. FES agrees that, if they fail to comply with the terms of this Settlement Agreement, the Commissioner may, in addition to Paragraph 7, avail himself of any remedies he has under the CCFPL, or any other provision of law,

1 until FES is in compliance. FES waives any notice and hearing rights which may be afforded under  
2 the CCFPL, the California Administrative Procedure Act, the California Code of Civil Procedure,  
3 or any other provision of law, that the Commissioner may use to ensure compliance with this  
4 Settlement Agreement.

5 12. Civil Remedies for Failure to Comply. Pursuant to Financial Code section 90015(g),  
6 the Commissioner may apply to the appropriate superior court for an order compelling compliance  
7 with this Settlement Agreement.

8 13. Binding. This Settlement Agreement is binding on all heirs, assigns, and/or  
9 successors in interest.

10 14. Information Willfully Withheld or Misrepresented. This Settlement Agreement may  
11 be rescinded by the Commissioner, and the Commissioner may pursue any and all remedies  
12 available under the law against FES, if the Commissioner discovers that FES has knowingly or  
13 willfully withheld or misrepresented information used for and relied upon in this Settlement  
14 Agreement.

15 15. Third Party Actions. This Settlement Agreement does not create any private rights  
16 or remedies against FES, create any liability for FES, or limit defenses of FES for any person or  
17 entity not a party to this Settlement Agreement.

18 16. Commissioner's Duties. Nothing in this Settlement Agreement limits the  
19 Commissioner's ability to assist any other government agency with any action brought by that  
20 agency (city, county, state or federal) with any prosecution, administrative, civil, and/or criminal  
21 brought by any such agency against FES, including an action based on any of the acts, omissions,  
22 events described in this Settlement Agreement.

23 17. Independent Legal Advice. Each party represents that it has received independent  
24 advice from its counsel or representatives regarding the advisability of executing this Settlement  
25 Agreement.

26 18. Reliance. Each of the Parties represents, warrants, and agrees that in executing this  
27 Settlement Agreement that it has relied solely on the statements set forth herein and the advice of its  
28 own counsel. Each of the Parties further represents, warrants, and agrees that in executing this

1 Settlement Agreement it has placed no reliance on any statement, representation, or promise of any  
2 other party, or any other person or entity not expressly set forth herein, or upon the failure of any  
3 party or any other person or entity to make any statement, representation or disclosure of anything  
4 whatsoever. The Parties have included this clause: (1) to preclude any claim that any party was in  
5 any way fraudulently induced to execute this Settlement Agreement; and (2) to preclude the  
6 introduction of parol evidence to vary, interpret, supplement, or contradict the terms of this  
7 Settlement Agreement.

8 19. Waiver, Amendments, and Modifications. No waiver, amendment, or modification of  
9 this Settlement Agreement will be valid or binding unless it is in writing and signed by each of the  
10 Parties. The waiver of any provision of this Settlement Agreement will not be deemed a waiver of  
11 any other provision. No waiver by either party of any breach of, or of compliance with, any  
12 condition or provision of this Settlement Agreement by the other party will be considered a waiver  
13 of any other condition or provision or of the same condition or provision at another time.

14 20. Full Integration. This Settlement Agreement is the final written expression and the  
15 complete and exclusive statement of all the agreements, conditions, promises, representations, and  
16 covenants between the Parties with respect to the subject matter hereof, and supersedes all prior or  
17 contemporaneous agreements, negotiations, representations, understandings, and discussions  
18 between and among the Parties, their respective representatives, and any other person or entity, with  
19 respect to the subject matter covered hereby.

20 21. No Presumption Against Drafting Party. Each party acknowledges that it has had the  
21 opportunity to draft, review, and edit the language of this Order. Accordingly, the Parties intend  
22 that no presumption for or against the drafting party will apply in construing any part of this  
23 Settlement Agreement. The Parties waive the benefit of Civil Code section 1654 as amended or  
24 corresponding provisions of any successor statute, which provide that in cases of uncertainty,  
25 language of a contract should be interpreted most strongly against the party that caused the  
26 uncertainty to exist.

27 22. Headings. The headings in this Settlement Agreement are for convenience only and  
28 will not be deemed a part hereof or affect the construction or interpretation of the provisions hereof.

23. Governing Law. This Settlement Agreement will be governed by and construed in accordance with the laws of the State of California.

24. Authority to Sign. Each party represents that the person signing this Settlement Agreement on its behalf has the authority and capacity to do so.

25. Voluntary Agreement. FES enters into this Settlement Agreement voluntarily and without coercion and acknowledge that no promises, threats or assurances have been made by the Commissioner or any officer, or agent thereof, about this Settlement Agreement. The Parties each represent and acknowledge that he, she, or it is executing this Settlement Agreement completely voluntarily and without any duress or undue influence of any kind from any source.

26. Notice. Any notice required under this Settlement Agreement shall be provided to each party at the following addresses.

(a) To FES:

Joe Coto  
8359 Beacon Blvd #315  
Fort Myers, Florida 33907  
jmcoto911@gmail.com

(b) To the Commissioner:

Jari Binder, Counsel  
Department of Financial Protection and Innovation  
One Sansome Street, Suite 600  
San Francisco, California 94104-4448  
Jari.Binder@dfpi.ca.gov

27. Counterparts. This Settlement Agreement may be executed in any number of counterparts, each of which will be deemed an original when executed. All counterparts together will be deemed to constitute a single document.

28. Signatures. A signature delivered by facsimile or email will be deemed an original signature.

29. Public Record. FES acknowledge that this Settlement Agreement is and will be a matter of public record.

30. Effective Date. This Settlement Agreement will become effective on the date it is signed by all Parties and delivered by the Commissioner to FES by electronic mail at

1 jmcoto911@gmail.com

2 31. Authority to Sign. Each signatory hereto covenants that he or she possesses all  
3 necessary capacity and authority to sign and enter into this Settlement Agreement and undertake the  
4 obligations set forth herein.

5 Dated: April 1, 2025 \_\_\_\_\_ KC MOHNSANI  
6 Commissioner of Financial Protection and Innovation

7  
8 By: \_\_\_\_\_  
9 MARY ANN SMITH  
Deputy Commissioner

10 Dated: March 28, 2025 \_\_\_\_\_ FINANCIAL ENHACEMENT SERVICES INC.

11  
12 By: \_\_\_\_\_  
13 JOE COTO  
14 Vice President