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9
10 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
OF THE STATE OF CALIFORNIA

11 In the Matter of:

DESIST AND REFRAIN ORDER and
ORDER ASSESSING PENALTIES

12 THE COMMISSIONER OF FINANCIAL
13 PROTECTION AND INNOVATION,

14 Complainant,

15 v.

(Cal. Fin. Code § 90015 (b), (c), (d)(1))

16 DISPUTE RESOLUTION SERVICES d/b/a
17 DISPUTE MEDIATION GROUP

18 Respondent.

19
20 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner)
21 of the Department of Financial Protection and Innovation (Department), is informed and believes,
22 and based on such information and belief, finds the following:

23 **I.**

24 **Introduction**

25 1. The Commissioner has jurisdiction over the licensing and regulation of persons
26 engaged in the business of debt collection in California under the Debt Collection Licensing Act
27 (DCLA) (Cal. Fin. Code §§ 100000-100025).

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In accordance with this provision, your total amount due on the account below is 1,249.79. This includes interest to date only. Interest will continue to accrue until date of payment. If we do not receive payment on one of the options below, we will, at our option, pursue this matter in a Court of Law. **We may also report this to the I.R.S. as Debt Cancellation Income under I.R.S. Reg. S161-12 if payment is not received. Contact the office directly for immediate settlement.**

DRS made the following offers to satisfy this account in full. Should there be no [sic], these settlement offers shall no longer be valid, thus reverting balance due back to the amount stated above. . . Option 1: A one-time payment of 670.56. . . Option 2: 10 month payment plan on the balance of 1,249.79.”

c. DRS falsely represented that a legal proceeding had been, was about to be, or would be instituted unless the consumer paid the purported debt, in violation of California Civil Code section 1788.13(j) of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Cal. Civ. Code §§ 1788-1788.33). Consumer A does not have an account with Mid America Bank and Trust Company. Thus, DRS would have no grounds to initiate legal proceedings against Consumer A for the purported debt.

d. By attempting to convince Consumer A to send DRS a settlement payment for a debt from a creditor with whom Consumer A has no recollection of ever having an account, DRS used false, deceptive, or misleading representations or means in connection with the collection of a debt. This violates title 15 of the United States Code section 1692e(2) and (10) of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692 to 1692p).

7. In March 2024 and September 2024, Consumer A received two more letters from the automated email service. These letters were on letterhead stating “Dispute Mediation Group” in the same formatting as the previous letters. The 2024 letters stated a different address from the previous letters, but they listed the same phone number as DRS in the March 2023 letter, as well as the same file number and balance due as the previous letters. The September 2024 letter included unlawful and/or deceptive statements in attempts to collect a consumer debt, as follows:

a. DRS again attempted to collect on a debt from a creditor with whom Consumer A has no recollection of ever having an account, and DRS failed to provide validation of the

1 debt. DRS used false, deceptive, or misleading representations or means in
2 connection with the collection of a debt, by stating:

3 “This is your FINAL NOTICE regarding the outstanding balance of
4 1,249.79 with MIDAMERICA BANK AND TRUST COMPANY.
5 Despite our multiple attempts to contact you, we have not received any
6 response or payment.

7 Your account is now scheduled for immediate escalation to our legal team.
8 If we do not hear from you within 10 days of this notice, we will proceed
9 with legal action, which may include court filings and additional fees that
10 will be added to your balance.

11 To avoid further legal consequences, we urge you to take this final
12 opportunity to resolve your account. Ignoring this notice will leave us no
13 choice but to pursue all available legal avenues, including wage
14 garnishment, asset seizure, or other collection methods. . . Options for
15 Resolution: Option 1: Pay the full amount of 1,249.79. . . Option 2: Set up
16 a six-month payment of 1,249.79.”

17 b. DRS again falsely represented that a legal proceeding had been, was about to
18 be, or would be instituted unless the consumer paid the purported debt, in violation of California
19 Civil Code section 1788.13(j) of the Rosenthal Act. Here, the letter stated DRS would proceed with
20 legal action if Consumer A did not respond within 10 days of the notice. More than 10 days passed,
21 and DRS did not proceed with legal action. Thus, this was a false representation.

22 c. DRS represented or implied that nonpayment of the purported debt would
23 result in the seizure and garnishment of Consumer A’s wages and property, in violation of title 15 of
24 the United States Code section 1692e(4) of the FDCPA, as well as California Civil Code section
25 1788.10(e) of the Rosenthal Act.

26 8. The misrepresentations in the letters were material and likely to mislead a consumer
27 acting reasonably under the circumstances, constituting deceptive acts or practices, in violation of
28 California Financial Code section 90003(a)(1).

9. Each of the letters that DRS sent Consumer A between August 2022 and September
2024 omitted the following notice regarding time-barred debt which is required to be made pursuant
to California Civil Code section 1788.14(d)(2):

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1 “The law limits how long you can be sued on a debt. Because of the age of
2 your debt, we will not sue you for it, and we will not report it to any credit
3 reporting agency.”

4 10. On or around September-October 2023, DRS called the spouse of a California
5 consumer (Consumer B) requesting Consumer B call back for a legal matter and gave a file number.
6 Consumer B called the given phone number and referenced the file number. DRS then stated that
7 Consumer B was currently being investigated for two felony cases: defrauding the banking system
8 and check fraud due to a purported debt from a payday loan in 2018.

9 11. The false statement that Consumer B was under investigation for two felony cases
10 violated title 15 of the United States Code section 1692e(4), (7) and (10) of the FDCPA. The threat
11 that Consumer B was being investigated for two felony cases implied that nonpayment would result
12 in Consumer B’s arrest. Moreover, the statement was a false representation and deceptive means
13 used to attempt to collect the purported debt from Consumer B.

14 12. The false statement that Consumer B was under investigation for two felony cases
15 also violated California Civil Code section 1788.10(b) of the Rosenthal Act, prohibiting threats that
16 the failure to pay a consumer debt will result in an accusation that the debtor has committed a crime
17 where such accusation, if made, would be false.

18 13. While on the phone with DRS, Consumer B asked the name of the company
19 attempting to collect the purported debt, and the individual on the phone stated, “Dispute
20 Resolution.” DRS had Consumer B’s personal information, including their social security number
21 and driver’s license number. Consumer B contacted the payday loan company directly regarding the
22 purported debt and was told the loan was sent to collections through a different company, not DRS.
23 By falsely representing that DRS was assigned Consumer B’s payday loan in order to induce
24 Consumer B to send DRS funds, DRS used false, deceptive, or misleading representation or means
25 in connection with the collection of a debt, in violation of title 15 of the United States Code section
26 1692e(2) and (10) of the FDCPA.

27 14. The misrepresentations DRS made to Consumer B on the phone call were material
28 and likely to mislead a consumer acting reasonably under the circumstances, constituting deceptive

1 acts or practices, in violation of California Financial Code section 90003(a)(1).

2 Failure to Submit License Application in Violation of the DCLA

3 15. The DCLA, which became effective on January 1, 2021, requires persons engaged in
4 the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant to
5 California Financial Code section 100001(a). Pursuant to California Financial Code section
6 100000.5(a), the Commissioner shall allow any debt collector that submits an application before
7 January 1, 2023, to operate pending the approval or denial of the application.

8 16. The Commissioner has not issued a license to DRS authorizing it to engage in the
9 business of debt collection under the DCLA. Furthermore, DRS has not applied for a license under
10 the DCLA. DRS is not exempt from the licensing requirements of California Financial Code
11 section 100001.

12 17. Starting in or around August 2022, DRS engaged in the unlicensed business of debt
13 collection in this state by attempting to collect a debt from at least two California consumers, in
14 violation of California Financial Code section 100001(a), and engaged in additional unlawful and/or
15 deceptive acts or practices, as described in paragraphs 5 through 14 above.

16 **III.**

17 **Applicable Law**

18 18. California Financial Code section 100001(a) provides that “[n]o person shall engage
19 in the business of debt collection in this state without first obtaining a license.” California Financial
20 Code section 100000.5(a) states, “[t]he Commissioner shall allow any debt collector that submits an
21 application before January 1, 2023, to operate pending the approval or denial of the application.”

22 19. California Financial Code section 100002(h) defines “debt” as “money, property, or
23 their equivalent that is due or owing or alleged to be due or owing from a natural person to another
24 person.”

25 20. California Financial Code section 100002(f) provides:

26 “Consumer debt” or “consumer credit” as means money, property, or their
27 equivalent, due or owing, or alleged to be due or owing, from a natural
28 person by reason of a consumer credit transaction. The term “consumer
debt” includes a mortgage debt. The term “consumer debt” includes
“charged-off consumer debt” as defined in Section 1788.50 of the Civil

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Code.”

21. California Financial Code section 100002(i) defines “debt collection” as “any act or practice in connection with the collection of consumer debt.”

22. California Financial Code section 100002(j) provides:

“Debt collector” means any person who, in the ordinary course of business, regularly, on the person’s own behalf or on behalf of others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters and other collection media used or intended to be used for debt collection. The term “debt collector” includes “debt buyer” as defined in Section 1788.50 of the Civil Code.

23. California Financial Code section 90005(e) defines “consumer financial product or service” as including “[a] financial product or service that is delivered, offered, or provided for use by consumers primarily for personal, family, or household purposes.”

24. California Financial Code section 90005(k) provides in relevant part:

(k) “Financial product or service” means: . . . (1) Extending credit and servicing extensions of credit, including acquiring, purchasing, selling, brokering extensions of credit, other than solely extending commercial credit to a person who originates consumer credit transactions . . . (10) Collecting debt related to any consumer financial product or service

25. California Financial Code section 90003(a) provides in relevant part:

(a) It is unlawful for a covered person or service provider, as defined in subdivision (f) of Section 90005, to do any of the following:

(1) Engage, have engaged, or propose to engage in any unlawful, unfair, deceptive, or abusive act or practice with respect to consumer financial products or services.

(2) Offer or provide to a consumer any financial product or service not in conformity with any consumer financial law or otherwise commit any act or omission in violation of a consumer financial law

26. California Financial Code section 90005(f) provides in relevant part:

(f) “Covered person” means, to the extent not preempted by federal law, any of the following: (1) Any person that engages in offering or providing a consumer financial product or service to a resident of this state

1 27. The DCLA, the Rosenthal Act, and the FDCPA are consumer financial laws within
2 the meaning of California Financial Code section 90003(a)(2).

3 28. Section 1788.10(b) of the Rosenthal Act provides in relevant part:

4 No debt collector shall collect or attempt to collect a consumer debt by
5 means of the following conduct: . . . (b) The threat that the failure to pay a
6 consumer debt will result in an accusation that the debtor has committed a
7 crime where such accusation, if made, would be false. . . (e) The threat to
8 any person that nonpayment of the consumer debt may result in the arrest
9 of the debtor or the seizure, garnishment, attachment or sale of any
10 property or the garnishment or attachment of wages of the debtor, unless
11 such action is in fact contemplated by the debt collector and permitted by
12 the law . . .

10 29. Section 1788.13 of the Rosenthal Act provides in relevant part:

11 No debt collector shall collect or attempt to collect a consumer debt by
12 means of the following practices: . . . (j) The false representation that a
13 legal proceeding has been, is about to be, or will be instituted unless
14 payment of a consumer debt is made

14 30. Section 1788.14 of the Rosenthal Act provides in relevant part:

15 No debt collector shall collect or attempt to collect a consumer debt by
16 means of the following practices: . . . (d) Sending a written
17 communication to a debtor in an attempt to collect a time-barred debt
18 without providing the debtor with one of the following written notices:
19 (2) If the debt is past the date for obsolescence set forth in Section 605(a)
20 of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the
21 following notice shall be included in the first written communication
22 provided to the debtor after the date for obsolescence:

21 “The law limits how long you can be sued on a debt. Because of the age of
22 your debt, we will not sue you for it, and we will not report it to any credit
23 reporting agency.”

23 31. Section 1788.17 of the Rosenthal Act provides in relevant part:

24 Notwithstanding any other provision of this title, every debt collector
25 collecting or attempting to collect a consumer debt shall comply with the
26 provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject
27 to the remedies in Section 1692k of, Title 15 of the United States Code . . .

27 32. Section 1692e of the FDCPA provides in relevant part:

28 A debt collector may not use any false, deceptive, or misleading
 representation or means in connection with the collection of any debt.

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Without limiting the general application of the foregoing, the following conduct is a violation of this section: (2) The false representation of (a) the character, amount, or legal status of any debt . . . (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action. (7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer . . . (10) The use of any false representation of deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer . . .

33. California Financial Code section 90015(d) provides:

(1) If, in the opinion of the department, any person engages, has engaged, or proposes to engage in any activity prohibited by Section 90003 or 90004, or an activity, act, practice, or course of business that violates a law, rule, order, or any condition imposed in writing on the person by the department, the department may issue an order directing the person to desist and refrain from engaging in the activity, act, practice, or course of business.

(2) If that person fails to file a written request for a hearing within 30 days from the date of service of the order, the order shall be deemed a final order of the commissioner.

34. California Financial Code section 90015(c) provides, “[a]fter notice and an opportunity to be heard, the commissioner may, by order, assess penalties under subdivision (c) of Section 90012.

35. California Financial Code section 90012(c) provides in relevant part:

In any civil or administrative action brought pursuant to this division, the following penalties shall apply:

(1) Any person that violates, through any act or omission, any provision of this division shall forfeit and pay a penalty pursuant to this subdivision.

(A) The penalty amounts are as follows:

(i) For any violation of this division, rule or final order, or condition imposed in writing by the department, a penalty may not exceed the greater of either five thousand dollars (\$5,000) for each day during which the violation or failure to pay continues, or two thousand five hundred dollars (\$2,500) for each act or omission in violation . . .

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IV.

Desist and Refrain Order

36. Based on the foregoing findings, the Commissioner is of the opinion that DRS is a “covered person” that engaged in unlawful acts or practices with respect to consumer financial products or services in violation of California Financial Code section 90003(a)(1). Further, the Commissioner finds that DRS violated California Financial section 90003(a)(2) by offering or providing to a consumer a financial product or service not in conformity with, or otherwise committed any act or omission in violation of, the following consumer financial laws:

- a. California Financial Code section 1000001(a) of the DCLA;
- b. California Civil Code section 1788.10(b) and (e) of the Rosenthal Act;
- c. California Civil Code section 1788.13(j) of the Rosenthal Act;
- d. California Civil Code section 1788.14(d) of the Rosenthal Act; and
- e. California Civil Code section 1788.17 of the Rosenthal Act;
- f. 15 U.S.C. section 1692e(2), (4), (7), and (10) of the FDCPA.

37. Pursuant to California Financial Code section 90015(d)(1), DRS and its managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in, or proposing to engage in, unlawful acts or practices in collecting or attempting to collect any consumer debt in violation of California Financial Code section 90003(a)(2), including but not limited to violating the following:

- a. California Financial Code section 1000001(a) of the DCLA;
- b. California Civil Code section 1788.10(b) and (e) of the Rosenthal Act;
- c. California Civil Code section 1788.13(j) of the Rosenthal Act;
- d. California Civil Code section 1788.14(d) of the Rosenthal Act;
- e. California Civil Code section 1788.17 of the Rosenthal Act;
- f. 15 U.S.C. section 1692e(2), (4), (7), and (10) of the FDCPA.

38. Furthermore, based on the foregoing findings, the Commissioner is of the opinion that DRS is a “covered person” that engaged in deceptive acts or practices with respect to “consumer financial products or services” in violation of California Financial Code section 90003(a)(1).

1 39. Pursuant to California Financial Code section 90015(d)(1), DRS and its managers,
2 officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in,
3 or proposing to engage in, deceptive acts or practices in collecting or attempting to collect any
4 consumer debt in violation of California Financial Code section 90003 (a)(1).

5 40. This Order is necessary, in the public interest, for the protection of consumers and
6 consistent with the purposes, policies, and provisions of the California Consumer Financial
7 Protection Law. This Order shall remain in full force and effect until further order of the
8 Commissioner.

9 V.

10 **Order Assessing Penalties**

11 41. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due
12 consideration of possible mitigating factors and other appropriateness considerations per California
13 Financial Code section 90012(c)(1)(B), DRS is hereby ordered to pay an administrative penalty of
14 \$25,000.00 to the Commissioner within 30 days of the date of this order. The penalty shall be made
15 payable in the form of an Automated Clearing House deposit or cashier’s check payable to the
16 Department of Financial Protection and Innovation and transmitted to the attention of “Accounting –
17 Litigation,” at the Department of Financial Protection and Innovation, 2101 Arena Boulevard,
18 Sacramento, California 95814-2306. Notice of the payment shall be concurrently sent to the
19 Commissioner’s Enforcement Counsel Natalie Balderas-Fowler via e-mail at Natalie.Balderas-
20 Fowler@dfpi.ca.gov.

21
22
23 Dated: January 27, 2025
Sacramento, California

KHALIL MOHSENI
Acting Commissioner of Financial Protection and
Innovation



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28 By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division