

1 MARY ANN SMITH  
Deputy Commissioner  
2 BORYANA ARSOVA  
Assistant Chief Counsel  
3 NATALIE BALDERAS-FOWLER (State Bar No. 353471)  
4 Counsel  
5 Department of Financial Protection and Innovation  
320 West 4th Street, Suite 750  
6 Los Angeles, CA 90013-2344  
Telephone: (213) 645-7276

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8 Attorneys for Complainant

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 SHAW AND SULLIVAN dba SHAW &  
17 SULLIVAN

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).

28 ///



1 This Area for Clerks Office Use Only.”

2 The top left of the Agreement stated:

3 “PETITIONER: SHAW & SULLIVAN  
4 RESPONDENT: [CONSUMER A]”

5 8. The terms in the Agreement falsely represented that a legal proceeding had been, was  
6 about to be, or would be instituted unless the consumer paid the purported debt, in violation of  
7 California Civil Code section 1788.13(j) of the Rosenthal Act. Moreover, the terms falsely  
8 represented that the Agreement was sent by or on behalf of a legal department in violation of  
9 California Civil Code section 1788.13(h) of the Rosenthal Act. In fact, Shaw & Sullivan had not  
10 begun a legal proceeding, and the Agreement was not sent on behalf of or by a legal department. The  
11 terms were used to induce Consumer A to enter the Agreement to pay the purported debt. Thus, the  
12 Agreement used false, deceptive, or misleading representations or means in connection with the  
13 collection of a debt, in violation of 15 U.S.C. section 1692e(2) and (10) of the FDCPA.

14 9. The Agreement further stated:

15 “SHAW & SULLIVAN and [CONSUMER A] hereby agree to compromise the  
16 indebtedness between them based on the following terms and conditions:

17 SHAW & SULLIVAN and [CONSUMER A] agree the debt owed to SHAW &  
18 SULLIVAN is \$3,012.00. The parties agree that SHAW & SULLIVAN shall accept  
19 the sum of \$3,012.00 as full payment on such debt. . . The acceptance of the  
20 \$3,012.00 will serve as a complete discharge of all monies due and SHAW &  
21 SULLIVAN agrees to consider the debt satisfied in full and agrees to not take further  
22 action to collect on said debt. Any payment(s) shall be made in the form of an  
23 electronic funds transfer.

24 Total Balance to be paid: \$3,012.00 . . . Installment Amount: \$251.00 . . . Last  
25 Payment Amount: \$251.00 . . . Initial Payment: \$251.00”

26 10. Shaw & Sullivan failed to provide Consumer A with a written notification that  
27 included all of the following information required pursuant to 15 U.S.C. section 1692g(a) of the  
28 FDCPA within five days of its initial communication regarding the alleged debt, in violation of  
California Civil Code section 1788.17: (1) the amount of the debt; (2) the name of the creditor to  
whom the debt is owed; (3) a statement that unless the consumer, within thirty days after receipt of

1 the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be  
2 valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing  
3 within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will  
4 obtain verification of the debt or a copy of a judgment against the consumer and a copy of such  
5 verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement  
6 that, upon the consumer's written request within the thirty-day period, the debt collector will provide  
7 the consumer with the name and address of the original creditor, if different from the current  
8 creditor.

9 11. Consumer A made several debit card payments via an ACH transaction link in  
10 accordance with this payment plan. As of June 2024, Consumer A was still making the monthly  
11 payments of \$251 per month to Shaw & Sullivan.

12 12. Shaw & Sullivan did not disclose to Consumer A that Shaw & Sullivan was  
13 collecting on consumer accounts without a debt collection license from the State of California.

14 13. Shaw & Sullivan's misrepresentations and omissions during the phone call with  
15 Consumer A and in the written Agreement were material and likely to mislead a consumer acting  
16 reasonably under the circumstances, constituting deceptive acts or practices, in violation of  
17 California Financial Code section 90003(a)(1).

18  
19 Failure to Submit License Application in Violation of the DCLA

20 14. The DCLA, which became effective on January 1, 2021, requires persons engaged in  
21 the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant to  
22 California Financial Code section 100001(a). Pursuant to California Financial Code section  
23 100000.5(a), the Commissioner shall allow any debt collector that submits an application before  
24 January 1, 2023, to operate pending the approval or denial of the application.

25 15. The Commissioner has not issued a license to Shaw & Sullivan authorizing it to  
26 engage in the business of debt collection under the DCLA. Furthermore, Shaw & Sullivan has not  
27 applied for a license under the DCLA. Shaw & Sullivan is not exempt from the licensing  
28 requirements of California Financial Code section 100001.



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

4           23.     California Financial Code section 90005(k) provides in relevant part:  
5                   (k) “Financial product or service” means: . . . (1) Extending credit and  
6 servicing extensions of credit, including acquiring, purchasing, selling,  
7 brokering extensions of credit, other than solely extending commercial  
8 credit to a person who originates consumer credit transactions . . . (10)  
Collecting debt related to any consumer financial product or service . . . .

9           24.     California Financial Code section 90003(a) provides in relevant part:  
10                   (a) It is unlawful for a covered person or service provider, as defined in  
11 subdivision (f) of Section 90005, to do any of the following:  
12                   (1) Engage, have engaged, or propose to engage in any unlawful, unfair,  
13 deceptive, or abusive act or practice with respect to consumer financial  
14 products or services.  
15                   (2) Offer or provide to a consumer any financial product or service not in  
16 conformity with any consumer financial law or otherwise commit any act  
17 or omission in violation of a consumer financial law . . . .

18           25.     California Financial Code section 90005(f) provides in relevant part:  
19                   (f) “Covered person” means, to the extent not preempted by federal law,  
20 any of the following: (1) Any person that engages in offering or providing  
21 a consumer financial product or service to a resident of this state . . . .

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

24           27.     Section 1788.13 of the Rosenthal Act provides in relevant part:  
25                   No debt collector shall collect or attempt to collect a consumer debt by  
26 means of the following practices: . . . (h) The false representation that  
collection letters, notices or other printed forms are being sent by or on  
27 behalf of a claim, credit, audit or legal department . . . (j) The false  
28 representation that a legal proceeding has been, is about to be, or will be  
instituted unless payment of a consumer debt is made . . . .

29           28.     Section 1788.17 of the Rosenthal Act provides in relevant part:  
30                   Notwithstanding any other provision of this title, every debt collector  
collecting or attempting to collect a consumer debt shall comply with the

1 provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject  
2 to the remedies in Section 1692k of, Title 15 of the United States Code . . .

3 29. Section 1692e of the FDCPA provides in relevant part:

4 A debt collector may not use any false, deceptive, or misleading  
5 representation or means in connection with the collection of any debt.  
6 Without limiting the general application of the foregoing, the following  
7 conduct is a violation of this section: (2) The false representation of (a) the  
8 character, amount, or legal status of any debt . . . (10) The use of any false  
9 representation of deceptive means to collect or attempt to collect any debt  
10 or to obtain information concerning a consumer . . .

11 30. Section 1692g of the FDCPA provides in relevant part:

12 (a) Notice of debt; contents  
13 Within five days after the initial communication with a consumer in  
14 connection with the collection of any debt, a debt collector shall, unless  
15 the following information is contained in the initial communication or the  
16 consumer has paid the debt, send the consumer a written notice  
17 containing--  
18 (1) the amount of the debt;  
19 (2) the name of the creditor to whom the debt is owed;  
20 (3) a statement that unless the consumer, within thirty days after receipt of  
21 the notice, disputes the validity of the debt, or any portion thereof, the debt  
22 will be assumed to be valid by the debt collector;  
23 (4) a statement that if the consumer notifies the debt collector in writing  
24 within the thirty-day period that the debt, or any portion thereof, is  
25 disputed, the debt collector will obtain verification of the debt or a copy of  
26 a judgment against the consumer and a copy of such verification or  
27 judgment will be mailed to the consumer by the debt collector; and  
28 (5) a statement that, upon the consumer's written request within the thirty-  
day period, the debt collector will provide the consumer with the name  
and address of the original creditor, if different from the current creditor...

31. 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.

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32. 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.

33. 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 . . .

#### IV.

#### **Desist and Refrain Order**

34. Based on the foregoing findings, the Commissioner is of the opinion that Shaw & Sullivan 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 Shaw & Sullivan 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 1788.13(h) and (j) of the Rosenthal Act;
- c. California Civil Code section 1788.17 of the Rosenthal Act;
- d. 15 U.S.C. section 1692e(2) and (10) of the FDCPA; and
- e. 15 U.S.C. section 1692g(a) of the FDCPA.

35. Pursuant to California Financial Code section 90015(d)(1), Shaw & Sullivan 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



1 collect any consumer debt in violation of California Financial Code section 90003(a)(2), including  
2 but not limited to violating the following:

- 3 a. California Financial Code section 100001(a) of the DCLA;
- 4 b. California Civil Code section 1788.13(h) and (j) of the Rosenthal Act;
- 5 c. California Civil Code section 1788.17 of the Rosenthal Act;
- 6 d. 15 U.S.C. section 1692e(2) and (10) of the FDCPA;
- 7 e. 15 U.S.C. section 1692g(a) of the FDCPA.

8 36. Furthermore, based on the foregoing findings, the Commissioner is of the opinion that  
9 Shaw & Sullivan is a “covered person” that engaged in deceptive acts or practices with respect to  
10 “consumer financial products or services” in violation of California Financial Code section  
11 90003(a)(1).

12 37. Pursuant to California Financial Code section 90015(d)(1), Shaw & Sullivan and its  
13 managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain from  
14 engaging in, or proposing to engage in, deceptive acts or practices in collecting or attempting to  
15 collect any consumer debt in violation of California Financial Code section 90003 (a)(1).

16 38. This Order is necessary, in the public interest, for the protection of consumers and  
17 consistent with the purposes, policies, and provisions of the California Consumer Financial  
18 Protection Law. This Order shall remain in full force and effect until further order of the  
19 Commissioner.

20 **V.**

21 **Order Assessing Penalties**

22 39. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due  
23 consideration of possible mitigating factors and other appropriateness considerations per California  
24 Financial Code section 90012(c)(1)(B), Shaw & Sullivan is hereby ordered to pay an administrative  
25 penalty of \$12,500.00 to the Commissioner within 30 days of the date of this order. The penalty  
26 shall be made payable in the form of an Automated Clearing House deposit or cashier’s check  
27 payable to the Department of Financial Protection and Innovation and transmitted to the attention of  
28 “Accounting – Litigation,” at the Department of Financial Protection and Innovation, 651 Bannan

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Street, Sacramento, California 95811. Notice of the payment shall be concurrently sent to the Commissioner’s Enforcement Counsel Natalie Balderas-Fowler via e-mail at Natalie.Balderas-Fowler@dfpi.ca.gov.

Dated: April 14, 2025  
Sacramento, California

KHALIL MOHSENI  
Commissioner of Financial Protection and Innovation



By: \_\_\_\_\_  
MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division