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7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF BUSINESS OVERSIGHT
9 OF THE STATE OF CALIFORNIA

10 In the Matter of THE COMMISSIONER OF) CASE NO.:
11 BUSINESS OVERSIGHT OF THE STATE OF)
12 CALIFORNIA,) FILE NO.: C-7464
)
13 Complainant,) CITATION:
)
14 vs.) (1) ASSESSING ADMINISTRATIVE
) PENALTIES AND
15 MTC MANAGEMENT GROUP; YVONNE)
16 ARVIZU; MARICRUZ CUEVA;) (2) DESIST AND REFRAIN ORDER
17 WWW.IMPROVINGMYScore.COM; AND)
18 WWW.MEJORANDOTUCREDITO.COM,)
)
19 Respondents.)

20 Jan Lynn Owen, Commissioner of the Department of Business Oversight, (“Commissioner”
21 or "Complainant"), alleges and charges as follows:

22 **I.**

23 **FACTUAL BACKGROUND**

24 1. At all relevant times, MTC Management Group, Inc. (“MTC”) is, or was, a
25 California corporation with its principal place of business located at 333 City Blvd., W. Ste.
26 1700, Orange California 92868. MTC conducts business out of other addresses located at 235 E.
27 Broadway, Suite 406, Long Beach, California 90802 and 7340 Firestone Blvd., Suite 220,
28 Downey, California 90241. MTC maintains two Internet websites:

1 www.improvingmyscore.com and www.mejorandotucrucredit.com. MTC claims on its website at
2 www.improvingmyscore.com that among other things, it offers "... a solid solution to consumers
3 with challenged credit scores...."

4 2. At all relevant times, Yvonne Arvizu ("Arvizu") is, or was, the President of MTC
5 and held herself out as such to the general public.

6 3. At all relevant times, Maricruz Cueva ("Cueva") is, or was, the Financial Advisor
7 of MTC and held herself out as such to the general public.

8 4. MTC, Arvizu, Cueva, www.improvingmyscore.com and
9 www.mejorandotucrucredit.com. are hereafter referred to as the "Respondents." Whenever
10 reference is made to "Respondents" doing any act, the allegation shall mean the act of each
11 respondent acting individually, jointly and severally.

12 **VIOLATION OF FINANCIAL CODE SECTION 12200**
13 **(UNLICENSED PRORATER ACTIVITY)**

14 5. Beginning in or about January 2013, Respondents engaged in the business, for
15 compensation, of receiving money as agent of an obligor for the purpose of paying bills,
16 invoices, or accounts of such obligor, and thereby acted as "proraters" under California state law
17 as provided for under Financial Code section 12200, *et seq.*

18 6. On or about January 2013, the Respondents advertised on at least one Bakersfield
19 radio station and offered prorater services to the general public. Specifically, the Respondents
20 advertised that they would work with creditors to discharge consumers' debts and to improve
21 consumers' finances by their debt management services.

22 7. In addition to the Respondents' radio advertisements referenced herein, the
23 Respondents, through their website located at www.improvingmyscore.com, advertised as
24 follows:

25 For more than 15 years, our professionals consist [*sic*] of the nation's top
26 leaders in credit consulting most likely known as credit repair. We offer a
27 solid solution to consumers with challenged credit scores... Our focus is
28 helping you achieve your financial goal by helping you raise your credit
score...we actually have over 183 creditors ready to settle and provide
deletion letters to improve your credit....

1 8. On January 18, 2013, the Respondents and at least one California resident entered
2 into an agreement for prorater services. This agreement was executed in two separate contracts,
3 one of which stated that MTC was retained to, among other things:

4 [A]ssist with a multi-management process... to process, translate, create,
5 process, obtain deliver, manage documentation and/or accounting of
6 creditors, bill pay, attorneys, collection agencies, or many other
7 institutions/agencies that have trigger *[sic]* “clients” individual case... We
8 cannot guarantee any corporation, individual, or creditor will accept
9 partial payment of a legitimate debt or obligation without the proper
10 negotiation and execution of documents....”

11 The Respondents and the California resident also signed a “Services Agreement” which
12 provided that:

13 Client agrees to employ the Company as Client’s agent to provide the
14 Contract Management Services... and to pay the fees for such services as
15 listed on Exhibit A ... The Company will provide the Contract
16 Management Services...which may include evaluation of Client’s financial
17 situation and developing a plan to resolve Client’s situation, negotiations
18 with creditors, contract creation, transaction compliance and assistance in
19 resolving Client’s financial matters...

20 9. The California resident paid the Respondents an initial fee of \$3,000.00 on
21 January 1, 2013. The California resident paid the Respondents an additional approximately
22 \$15,700.00 in monthly installments over a period of six months so the Respondents could
23 paydown the California resident’s debt that totaled approximately \$32,000.00.

24 10. The Respondents told the California resident that the process of negotiating and
25 discharging the total debt would take 6 months. In May 2014, a year after the agreements were
26 signed, the California resident’s debts had not been paid off. The California resident’s credit was
27 not fixed nor did the California resident’s credit score improve as the Respondents promised.

28 11. The Check Sellers, Bill Payers and Proraters Law (CSBPPL”), set forth in
Financial Code section 12200 prohibits anyone from engaging “... in the business, for
compensation, ... of receiving money as agent of an obligor for the purpose of paying bills,
invoices, or accounts of such obligor, or acting as a prorater ...” without first obtaining a license
from the commissioner.

1 12. The Respondent acted as a prorater. Financial Code section 12002.1. defines a
2 prorater as “a person who, for compensation, engages in whole or in part in the business of
3 receiving money or evidences thereof for the purpose of distributing the money or evidences
4 thereof among creditors in payment or partial payment of the obligations of the debtor.”

5 13. The Department of Business Oversight has not issued a license authorizing the
6 Respondents to act as proraters, or receive money on behalf of consumers so as to negotiate
7 repayment plans with consumers’ creditors, and the Respondents are not exempt from the
8 licensing requirements of the CSBPPL.

9 14. The Respondents received an upfront fee of \$3,000.00 from the California resident
10 without first satisfying the requirement prescribed under Financial Code section 12315, which
11 provides that “A prorater shall not receive any fee unless he has the consent of at least 51 percent of
12 the total amount of indebtedness and of the number of creditors listed in the prorater's contract with
13 the debtor, or such like number of creditors have accepted a distribution of payment.”

14 15. The Respondents did not provide the notification prescribed under Financial Code
15 section 12315.1 to the California resident. Financial Code section 12315.1 provides that a “prorater
16 shall notify, in writing, all creditors listed in the prorate contract of the debtors desire to engage the
17 services of the prorater within five days of the effective date of the contract as defined in Section
18 12320. The notification shall include a notice as to the proposed monthly payment to be made to the
19 creditor. Every contract between a prorater and a debtor shall list every debt to be prorated with the
20 creditor's name, and disclose the total of all such debts.”

21 16. The Respondents did not deliver a receipt of payment of the California resident’s debt
22 as required under Financial Code section 12321, which provides that “unless paid by check or
23 money order a prorater shall deliver a receipt to a debtor for each payment within five (5) days after
24 receipt of a payment.”

25 17. The Respondents failed to render an accounting to the California resident in violation
26 of Financial Code section 12322, which provides that “at least once in each six (6) months, the
27 prorater shall render an accounting to the debtor which shall itemize the total amount received from
28 the debtor, the total amount paid to each creditor, the total amount which any creditor has agreed to

1 accept as payment in full on any debt owed him by the debtor, the amount of charges deducted, and
2 any amount held in reserve. A prorater shall in addition render such an account to a debtor within
3 seven days after written demand.”

4 **II.**

5 **AUTHORITY TO ISSUE CITATIONS AND DESIST AND REFRAIN ORDER**

6 Financial Code section 12107(a) provides in pertinent part:

7 If, upon inspection or investigation, based upon a complaint or otherwise,
8 the department has cause to believe that a person is engaged in business
9 without a license, or a person or licensee is violating any provision of this
10 division or any rule or order promulgated pursuant to this division, the
11 department may issue a citation to that person in writing describing with
12 particularity the basis of the citation. Each citation may contain an order to
13 desist and refrain and an assessment of an administrative penalty not to
14 exceed two thousand five hundred dollars (\$2,500). All penalties collected
15 under this section shall be deposited in the State Corporations Fund.

16 Based on the foregoing, the Respondents engaged in the business, for compensation, of
17 receiving money as agent of at least one California resident for the purpose of paying bills,
18 invoices, or accounts of the California resident, or have acted as proraters in violation of
19 Financial Code section 12200, and based thereon the Commissioner herein issues five (5)
20 separate Citations (1 through 5) as follows:

21 CITATION 1 – Beginning in or about January 2013, Respondents engaged in the
22 business, for compensation, of receiving money as agent of an obligor for the purpose of paying
23 bills, invoices, or accounts of such obligor, and thereby acted as “proraters” under California
24 state law, without first obtaining a license from the Commissioner, in violation of Financial Code
25 section 12200;

26 CITATION 2 – Beginning in or about January 2013, Respondents acted as “proraters”
27 without first obtaining a license from the Commissioner, and received an upfront fee of
28 \$3,000.00 from at least one California resident without first satisfying the requirements
prescribed under state law in violation of Financial Code section 12315;

1 CITATION 3 – Beginning in or about January 2013, Respondents acted as “proraters”
2 without first obtaining a license from the Commissioner, and failed to provide the notification
3 prescribed under state law in violation of Financial Code section 12315.1;

4 CITATION 4 – Beginning in or about January 2013, Respondents acted as “proraters”
5 without first obtaining a license from the Commissioner, and failed to deliver a receipt of
6 payment of at least one California resident’s debt in violation of Financial Code section 12321;

7 CITATION 5 – Beginning in or about January 2013, Respondents acted as “proraters”
8 without first obtaining a license from the Commissioner, and failed to render an accounting to at
9 least one California resident in violation of Financial Code section 12322.

10 **III.**

11 **ADMINISTRATIVE PENALTIES**

12 **WHEREFORE**, good cause showing and the Commissioner’s determination that this
13 action is in the public interest and necessary to effectuate the Department’s primary, legitimate,
14 regulatory purpose based upon the Respondents’ violations of the Financial Code:

15 **IT IS HEREBY ORDERED** that Respondents MTC Management Group, Inc., Yvonne
16 Arvizu, Maricruz Cueva, www.improvingmyscore.com, and www.mejorandotucREDIT.com,
17 individually, jointly, and severally be and are levied an administrative penalty of two thousand
18 five hundred dollars (\$2,500.00) for each of the 5 citations (citations 1 through 5) for the total
19 amount of twelve thousand five hundred dollars (\$12,500.00). Respondents shall pay the amount
20 of \$12,500.00 ordered herein within 60 days from the date of this Order to the Department, by
21 check or money order made payable to the Department of Business of Oversight and sent to:
22 Uche Enenwali, Senior Corporations Counsel, 320 West 4th Street, Ste. 750, Los Angeles, CA
23 90013.

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1 **IV.**

2 **DESIST AND REFRAIN ORDER**

3 Financial Code section 12107(a) provides that the Commissioner may include in any
4 citation an order to desist and refrain. Based on the foregoing, the Commissioner is of the
5 opinion that the Respondents have engaged in the business, for compensation, of receiving
6 money as agent of at least one California resident for the purpose of paying bills, invoices, or
7 accounts of the California resident, or acted as proraters by receiving money from at least one
8 California resident for the purpose of distributing the money among creditors in payment or
9 partial payment of the obligations of the California resident, without first obtaining a license
10 from the Commissioner in violation of Financial Code section 12200.

11 **IT IS HEREBY ORDERED EFFECTIVE IMMEDIATELY THAT:**

12 Pursuant to section 12107(a) of the Financial Code, the Respondents, MTC Management
13 Group, Inc., Yvonne Arvizu, Maricruz Cueva, www.improvingmyscore.com, and
14 www.mejorandotucredit.com are hereby ordered to desist and refrain from engaging in the
15 business, for compensation, of receiving money as agent of an obligor for the purpose of paying
16 bills, invoices, or accounts of such obligor, or acting as proraters without first obtaining a license
17 from the commissioner.

18 This Order is necessary, in the public interest, for the protection of consumers and
19 consistent with the purposes, policies, and provisions of the California finance laws.

20 **CONCLUSION**

21 **WHEREFORE**, good cause showing and the Commissioner's determination that this
22 action is in the public interest and necessary to effectuate the Department's primary, legitimate,
23 regulatory purpose based upon the Respondents' violations of the Financial Code:

24 **IT IS HEREBY ORDERED** that Respondents MTC Management Group, Inc., Yvonne
25 Arvizu, Maricruz Cueva, www.improvingmyscore.com, and www.mejorandotucredit.com,
26 jointly and severally, are levied administrative penalties of twelve thousand five hundred dollars
27 (\$12,500.00) which shall be paid by check or money order within 45 days from the date of this
28 Order, made payable to "The Department of Business Oversight," sent to: Uche Enenwali,

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Senior Corporations Counsel, 320 West 4th Street, Ste. 750, Los Angeles, CA 90013, due and payable within 30days from the date of this Order.

IT IS FURTHER ORDERED that Respondents MTC Management Group, Inc., Yvonne Arvizu, Maricruz Cueva, www.improvingmyscore.com, and www.mejorandotucredit.com, desist and refrain from engaging in the business, for compensation, of receiving money as agent of an obligor for the purpose of paying bills, invoices, or accounts of such obligor, or acting as proraters without first obtaining a license from the commissioner.

Dated: December 22, 2014
Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

By: _____
MARYANN SMITH
Deputy Commissioner
Enforcement Division