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

11 In the Matter of THE COMMISSIONER OF
BUSINESS OVERSIGHT OF THE STATE
12 OF CALIFORNIA,

) CASE NO.:
)
) FILE NO.: C-7464

13 Complainant,

) 1. STATEMENT IN SUPPORT OF ORDER
) LEVYING ADMINISTRATIVE PENALTIES
) AND CLAIM FOR ANCILLARY RELIEF
) PURSUANT TO FINANCIAL CODE
) SECTION 12105; AND

14 vs.

15 MTC MANAGEMENT GROUP; YVONNE
16 ARVIZU; MARICRUZ CUEVA;
17 WWW.IMPROVINGMYScore.COM; AND
WWW.MEJORANDOTUCREDITO.COM,

) 2. ORDER LEVYING ADMINISTRATIVE
) PENALTIES AND ANCILLARY RELIEF

18 Respondents.
19

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

22 **I.**

23
24 **STATEMENT OF THE CASE**

25 1. At all relevant times, MTC Management Group, Inc. (“MTC”) is, or was, a
26 California corporation with its principal place of business located at 333 City Blvd., W. Ste.
27 1700, Orange California 92868. MTC conducts business out of other addresses located at 235 E.
28 Broadway, Suite 406, Long Beach, California 90802 and 7340 Firestone Blvd., Suite 220,
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 pay
23 down 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 prorater 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 **ORDER LEVYING ADMINISTRATIVE PENALTIES**

6 Financial Code section 12105(c) provides in relevant part:

7 The commissioner may, after appropriate notice and opportunity for
8 hearing, levy administrative penalties against any person or licensee who
9 violates any provision of this division, or rule or order promulgated
10 pursuant to this division, in an amount not to exceed two thousand five
11 hundred dollars (\$2,500) per violation. Any hearing shall be held in
12 accordance with the Administrative Procedure Act, Chapter 5
13 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the
14 Government Code, and the commissioner shall have all of the powers
15 granted under this act. If no hearing is requested within 30 days from the
16 date of service of the order, the order shall become final.

17 Based on the foregoing, the Respondents engaged in the business, for compensation, of
18 receiving money as agent of an obligor for the purpose of paying bills, invoices, or accounts of
19 such obligor, or acted as proraters, in violation of Financial Code sections 12200, 12315;
20 12315.1; 12321; and 12322.

21 **WHEREFORE**, good cause showing, and pursuant to Financial Code section 12105(c),
22 Respondents MTC Management Group, Inc., Yvonne Arvizu, Maricruz Cueva,
23 www.improvingmyscore.com, and www.mejorandotucredit.com, are hereby assessed and ordered
24 to pay, individually, jointly and severally, administrative penalties as follows:

- 25 1) Pay a penalty in the amount of at least \$2,500.00, or according to proof, for engaging
26 in the business, for compensation, of receiving money as agent of an obligor for the purpose of
27 paying bills, invoices, or accounts of such obligor, and acting as “proraters” under California state
28 law, without first obtaining a license from the Commissioner, in violation of Financial Code section
12200.

1 2. Pay a penalty in the amount of at least \$2,500.00 or according to proof, for violating
2 Financial Code section 12315 by receiving an upfront fee of \$3,000.00 from at least one California
3 resident without first satisfying the requirements prescribed under state law.

4 3. Pay a penalty in the amount of at least \$2,500.00 or according to proof, to the
5 Commissioner for violating Financial Code section 12315.1 by failing to provide the notification
6 prescribed under state law.

7 4. Pay a penalty in the amount of at least \$2,500.00, or according to proof, for violating
8 Financial Code section 12321 by failing to deliver a receipt of payment of at least one California
9 resident’s debt as required under state law.

10 5. Pay a penalty in the amount of at least \$2,500.00, or according to proof for violating
11 Financial Code section 12322 by failing to render an accounting to at least one California resident
12 as required under state law.

13 **III.**

14 **ANCILLARY RELIEF**

15 Financial Code section 12105(b) provides in pertinent part:

16 If the commissioner determines it is in the public interest, the
17 commissioner may include in any action under this division a claim for
18 ancillary relief, including, but not limited to, a claim for restitution or
19 disgorgement or damages on behalf of the persons injured by the act or
20 practice constituting the subject matter of the action, and the
administrative or civil court shall have jurisdiction to award an additional
relief.

21 Financial Code section 12105(e) provides in pertinent part:

22 In any action brought under this division, the commissioner is entitled to
23 receive costs, which in the discretion of the administrative or civil court
24 shall include an amount representing reasonable attorney's fees and any
related expenses for services rendered.

25 Financial Code section 12106(e) further provides:

26 The cost of any review, examination, audit, or investigation made by the
27 commissioner under this section shall be paid to the commissioner by the
28 person subject to the review, examination, audit, or investigation, and the
commissioner may maintain an action for the recovery of these costs in
any court of competent jurisdiction. In determining the cost, the

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commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses, including overhead reasonably incurred in the performance of the work.

Based on the foregoing, the Respondents have engaged 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 acted as proraters, in violation of Financial Code sections 12200, 12315; 12315.1; 12321; and 12322

WHEREFORE, good cause showing and the Commissioner’s determination that this action is in the public interest and necessary to effectuate the Department’s primary, legitimate, regulatory purpose based upon the Respondents’ violations of the Financial Code, the Commissioner hereby enters an order of ancillary relief, restitution, and disgorgement pursuant to Financial Code sections 12105(b) individually, jointly and severally against Respondents to:

- A) Pay full restitution to each person determined to have been subject to acts, practices, or transactions which constitute violations of Financial Code section 12200, in an amount of at least eighteen thousand seven hundred dollars (\$18,700.00), or according to proof;
- B) Rescind each and all of the unlawful transactions alleged in this Statement in Support, as shall be determined by the court to have occurred;
- C) Disgorge to all known consumers all benefits received, including but not limited to, salaries, commissions, fees, profits and any other remuneration, derived directly or indirectly, from the actions or practices which constitute violations of Financial Code section 12200;
- D) Pay the legal rate of interest on the principal amount paid by each and every consumer or from the date of their payment to the date of the order herein.

**IV.
COSTS**

Financial Code section 12105(e) provides in pertinent part:

In any action brought under this division, the commissioner is entitled to receive costs, which in the discretion of the administrative or civil court shall include an amount representing reasonable attorney's fees and any related expenses for services rendered.

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Financial Code section 12106(e) further provides:

The cost of any review, examination, audit, or investigation made by the commissioner under this section shall be paid to the commissioner by the person subject to the review, examination, audit, or investigation, and the commissioner may maintain an action for the recovery of these costs in any court of competent jurisdiction. In determining the cost, the commissioner may use the actual amount of the salary or other compensation paid to the persons making the review, examination, audit, or investigation plus the actual amount of expenses, including overhead reasonably incurred in the performance of the work.

Based on the foregoing, the Respondents have engaged 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 acted as proraters, in violation of Financial Code section 12200, 12315; 12315.1; 12321; and 12322.

WHEREFORE, good cause showing and the Commissioner’s determination that this action is in the public interest and necessary to effectuate the Department’s primary, legitimate, regulatory purpose based upon the Respondents’ violations of the Financial Code, the Commissioner hereby enters an order for costs, pursuant to Financial Code sections 12105(e) and 12106(e), individually, jointly and severally against Respondents to pay the Commissioner’s attorney’s fees, investigative expenses, and costs in an amount of fifteen thousand dollars (\$15,000.00), or according to proof.

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1 **CONCLUSION**

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

5 **IT IS HEREBY ORDERED** that pursuant to Financial Code section 12105(b),
6 Respondents MTC Management Group, Inc., Yvonne Arvizu, Maricruz Cueva,
7 www.improvingmyscore.com, and www.mejorandotucREDIT.com, individually, jointly, and
8 severally:

- 9 1. Pay full restitution to each person determined to have been subject to acts, practices,
10 or transactions which constitute violations of Financial Code section 12200, in an
11 amount of at least eighteen-thousand seven-hundred dollars (\$18,700.00), or
12 according to proof.
- 13 2. Rescind each and all of the unlawful transactions alleged in this Statement in Support,
14 as shall be determined by the court to have occurred;
- 15 3. Disgorge to all known consumers all benefits received, including but not limited to,
16 salaries, commissions, fees, profits and any other remuneration, derived directly or
17 indirectly, from the actions or practices which constitute violations of Financial Code
18 section 12200; and
- 19 4. Pay the legal rate of interest on the principal amount paid by each and every
20 consumer or from the date of their payment to the date of the order herein.

21 **IT IS FURTHER ORDERED** that pursuant to Financial Code section 12105(c),
22 Respondents MTC Management Group, Inc., Yvonne Arvizu, Maricruz Cueva,
23 www.improvingmyscore.com, and www.mejorandotucREDIT.com, individually, jointly and
24 severally, be and are levied administrative penalties of at least two thousand five hundred dollars
25 (\$2,500.00) for each of the violations of the Financial Code sections 12200, 12315; 12315.1;
26 12321; and 12322, for the total amount of twelve thousand five hundred dollars (\$12,500.00), or
27 according to proof; which shall be paid within 60 days from the date of this Order, by check or
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1 money order made payable to “The Department of Business Oversight,” sent to: Uche Enenwali,
2 Senior Corporations Counsel, 320 West 4th Street, Ste. 750, Los Angeles, CA 90013.

3 **IT IS FURTHER ORDERED** that pursuant to Financial Code section 12105(e),
4 Respondents MTC Management Group, Inc., Yvonne Arvizu, Maricruz Cueva,
5 www.improvingmyscore.com, and www.mejorandotucredit.com, individually, jointly, and
6 severally, pay costs in an amount of at least fifteen thousand dollars (\$15,000.00), or according
7 to proof; which shall be paid within 60 days from the date of this Order, by check or money
8 order made payable to “The Department of Business Oversight,” sent to: Uche Enenwali, Senior
9 Corporations Counsel, 320 West 4th Street, Ste. 750, Los Angeles, CA 90013.

10 Dated: December 22, 2014
11 Los Angeles, California

JAN LYNN OWEN
Commissioner of Business Oversight

13 By: _____
14 UCHE L. ENENWALI
15 Senior Corporations Counsel
16 Enforcement Division

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