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8 Attorneys for Complainant

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

11 In the Matter of:	)	AGENCY FILE NO.: 30932
12	)	
13 THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION,	)	DESIST AND REFRAIN ORDER AND
14 Complainant,	)	ORDER ASSESSING PENALTIES
15 v.	)	(Fin. Code, § 90015, subs. (b), (c), (d)(1))
16 S.K. & ASSOCIATES LLC a.k.a.	)	
17 S.K. & ASSOCIATES a.k.a.	)	
18 JOHNSON, ANDERSON AND ASSOCIATES a.k.a. JA ASSOCIATES a.k.a.	)	
19 JOHNSON ANDERSON ASSOCIATES,	)	
20 Respondent.	)	

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

24 **I.**

25 **Introduction**

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

2. The Commissioner also has jurisdiction over the regulation of persons who engage, have engaged, and propose to engage in offering or providing a consumer financial product or service in California and affiliated service providers under the California Consumer Financial Protection Law (CCFPL) (Fin. Code, § 90000 et seq.). Collecting debt relating to a consumer financial product or service is conduct covered by the CCFPL. (Fin. Code, § 90005, subd. (k)(10).)

3. At all relevant times, S.K. & Associates LLC a.k.a. S.K. & Associates a.k.a. Johnson, Anderson and Associates a.k.a. JA Associates a.k.a. Johnson Anderson Associates (S.K. Associates) is a California limited liability company with a last known business address at 876 North Mountain Avenue, Suite 205, Upland, California 91786.

**II.**

**Factual Background**

4. Beginning in or around October 2021 through at least February 2022, S.K. Associates engaged in the business of debt collection in this state as further described below.

5. On or around October 11, 2021, S.K. Associates contacted at least one California consumer (Consumer A) by placing a telephone call and leaving a voicemail (Voicemail) containing unlawful and/or deceptive statements in an attempt to collect a consumer debt, as follows:

a. The caller, identifying himself only as “Jason” (Jason), claimed to be calling on behalf of “Anderson and Associates,” which is not the name, DBA, or registered fictitious business name of the debt collector, as required under Civil Code section 1788.11, subdivision (b) of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Civ. Code, § 1788 et seq.); and

b. Jason claimed that there was a “pending civil complaint” against Consumer A “in Monterey County,” and that if Consumer A failed to call back at the number 844-589-1225 (Call-Back Number) with a “file number” of 27556 (File Number) by October 11, 2021, then “this office will move forward without [Consumer A’s] participation or knowledge . . . .” In fact, this was a false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made, in violation of Civil Code 1788.13, subdivision (j).

1           6.       The aforementioned misrepresentations and omissions in the Voicemail were  
2 material and likely to mislead a consumer acting reasonably under the circumstances, constituting  
3 deceptive acts or practices, in violation of Financial Code section 90003, subdivision (a)(1).

4           7.       In or around October 2021, Consumer A called the Call-Back Number left in the  
5 Voicemail and spoke with an individual identifying himself as “Jason Marshall” (Jason Marshall).

6           8.       Jason Marshall claimed that Consumer A owed a debt of \$3,832.13 to Capital One.  
7 He then electronically sent Consumer A a “Mutual Release and Settlement” on “Johnson,  
8 Anderson” letterhead that would authorize “*the merchant SK Associates or JA Associates*” to  
9 charge Consumer A’s credit card in the amount of a “settlement offer” of \$2,186.14 (Mutual  
10 Release) (Emphasis applied.).

11           9.       The Mutual Release provided that the parties were Johnson, Anderson and  
12 Associates and Consumer A, making no reference to “Anderson and Associates,” as stated in the  
13 Voicemail, and described Johnson, Anderson and Associates variously as the “Firm” and  
14 “Releasing Party.”

15           10.      The Mutual Release sent in or around October 2021 was S.K. Associates’ initial  
16 written communication with Consumer A. The Mutual Release omitted to state that it was  
17 attempting to collect a debt and that any information obtained will be used for that purpose, in  
18 violation of Civil Code section 1788.17, which incorporates 15 U.S.C. section 1692e(11) of the Fair  
19 Debt Collection Practices Act (FDCPA) (15 U.S.C. § 1692 et seq.).

20           11.      S.K. Associates and its representative Jason Marshall failed to provide at least one  
21 California consumer with any written notification that included the following information required  
22 pursuant to 15 U.S.C. section 1692g(a) of the FDCPA within five days of its initial communication  
23 regarding the alleged debt, in violation of Civil Code section 1788.17: (1) the amount of the debt;  
24 (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer,  
25 within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof,  
26 the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer  
27 notifies the debt collector in writing within the thirty-day period that the debt, or any portion  
28 thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment

1 against the consumer and a copy of such verification or judgment will be mailed to the consumer by  
2 the debt collector; and (5) a statement that, upon the consumer’s written request within the thirty-  
3 day period, the debt collector will provide the consumer with the name and address of the original  
4 creditor, if different from the current creditor (1692g Notice).

5 Unlicensed Activity in Violation of the DCLA

6 12. The DCLA, which became effective on January 1, 2021, requires persons engaged in  
7 the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant  
8 to Financial Code section 100001, subdivision (a). However, a debt collector who submits an  
9 application prior to January 1, 2022, i.e., by December 31, 2021, shall be allowed to operate  
10 pending the approval or denial of the application, pursuant to Financial Code section 100000.5,  
11 subdivision (c).

12 13. S.K. Associates failed to submit an application for a debt collector license by  
13 December 31, 2021, which would have allowed it to continue operating as a debt collector in  
14 California starting from January 1, 2022, pending the approval or denial of its application.

15 14. In or around February 2022, despite lacking licensure or a pending application, S.K.  
16 Associates engaged in the business of debt collection in this state by attempting to collect a debt  
17 from at least one California consumer, in violation of Financial Code section 100001, subdivision  
18 (a), and engaged in additional unlawful and/or deceptive acts or practices, as described below.

19 15. In or around February 2022, a California consumer (Consumer B) called the Call-  
20 Back Number and identified the File Number noted above in paragraph 5(b) and was transferred to  
21 a representative identifying himself as “Marshall Briggs” (Marshall Briggs).

22 16. Marshall Briggs stated to Consumer B the following information regarding  
23 Consumer A’s purported debt of \$3,832.13, which was disclosed on the Mutual Release:

- 24 a. The original balance was \$3,832.13, and the “negotiated price is \$2,186.14.”
- 25 b. “We are just a mediator,” in contrast with the Mutual Release, which  
26 described Johnson, Anderson and Associates as the “Releasing Party” and “Firm.”
- 27 c. “The first date reported was 2007 up until 2012.”

28 ///

1           d.       If Consumer A fails to pay, “then the information would be transferred back  
2 to the original client and probably a civil complaint would be filed.”

3           17.     Marshall Briggs failed to disclose that S.K. Associates was attempting to collect a  
4 debt and that any information obtained will be used for that purpose as required by Civil Code  
5 section 1788.17, which incorporates 15 U.S.C. section 1692e(11) of the FDCPA.

6           18.     Marshall Briggs made a false representation of the true nature of the business or  
7 services being rendered by the debt collector by claiming, “[w]e are just a mediator,” in violation of  
8 Civil Code section 1788.13, subdivision (i).

9           19.     Marshall Briggs omitted the following required notice regarding time-barred debt  
10 pursuant to Civil Code section 1788.14, subdivision (d):

11                     The law limits how long you can be sued on a debt. Because of the age of  
12                     your debt, we will not sue you for it. If you do not pay the debt, [insert  
13                     name of debt collector] may [continue to] report it to the credit reporting  
                          agencies as unpaid for as long as the law permits this reporting.

14           20.     S.K. Associates’ false statements via its representative Marshall Briggs that if the  
15 California consumer fails to pay a purported debt that dated from “2007 up until 2012” then a legal  
16 proceeding has been, is about to be, or will be instituted unless payment is made, were material and  
17 likely to mislead a consumer acting reasonably under the circumstances, constituting deceptive acts  
18 or practices in violation of Financial Code section 90003, subdivision (a)(1).

19           21.     In or around February 2022, Consumer B called 855-943-2940, which was the phone  
20 number listed in the Mutual Release, to confirm the payment information and address for S.K.  
21 Associates and spoke with a representative identifying himself as “Jacob” (Jacob).

22           22.     Jacob stated that S.K. Associates and Johnson, Anderson and Associates “are the  
23 same company,” and confirmed that the fax number to submit the Mutual Release and the  
24 consumer’s payment was 281-783-2858, as indicated on the Mutual Release.

25           23.     As of the current date, S.K. Associates has never been issued a license to engage in  
26 the business of debt collection in California, and there is no application pending denial or approval  
27 by the Department permitting it to engage in debt collection in California starting from January 1,  
28 2022.

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**III.**

**Applicable Laws**

24. Financial Code section 100001, subdivision (a) of the DCLA provides that “[n]o person shall engage in the business of debt collection in this state without first obtaining a license.”

25. Financial Code section 100000.5, subdivision (c) provides that “[t]he commissioner shall allow any debt collector that submits an application prior to January 1, 2022, to operate pending the approval or denial of the application.”

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

27. Financial Code section 100002, subdivision (f) provides:

“Consumer debt” or “consumer credit” as means money, property, or their equivalent, due or owing, or alleged to be due or owing, from a natural 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 Code.

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

29. Financial Code section 100002, subdivision (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.

30. Financial Code section 90005, subdivision (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.”

31. Financial Code section 90005, subdivision (k) provides, in relevant part:

(k) “Financial product or service” means: . . . (1) Extending credit and servicing extensions of credit, including acquiring, purchasing, selling,

1 brokering extensions of credit, other than solely extending commercial  
2 credit to a person who originates consumer credit transactions . . . (10)  
3 Collecting debt related to any consumer financial product or service . . . .

4 32. Financial Code section 90003, subdivision (a) provides in relevant part:

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

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

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

13 33. Financial Code section 90005, subdivision (f) provides in relevant part:

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

17 34. The following laws are consumer financial laws within the meaning of Financial  
18 Code section 90003, subdivision (a)(2): the DCLA, the Rosenthal Act, and the FDCPA.

19 35. Civil Code section 1788.11 of the Rosenthal Act provides in relevant part:

20 No debt collector shall collect or attempt to collect a consumer debt by  
21 means of the following practices . . . (b) Placing a telephone call without  
22 disclosing the caller’s identity, provided that an employee of a licensed  
23 collection agency may identify oneself by using their registered alias name  
24 if they **correctly identify the agency** that they represent . . . . (Emphasis  
25 applied.)

26 36. Civil Code section 1788.13 of the Rosenthal Act provides in relevant part:

27 No debt collector shall collect or attempt to collect a consumer debt by  
28 means of the following practices: . . . (i) The false representation of the  
true nature of the business or services being rendered by the debt collector;  
(j) The false representation that a legal proceeding has been, is about to be,  
or will be instituted unless payment of a consumer debt is made . . . .

37. Civil Code section 1788.14 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by  
means of the following practices: . . . (d) Sending a written

1 communication to a debtor in an attempt to collect a time-barred debt  
2 without providing the debtor with one of the following written notices:  
3 (1) If the debt is not past the date for obsolescence set forth in Section  
4 605(a) of the federal Fair Credit Reporting Act (15 U.S.C. Sec. 1681c), the  
5 following notice shall be included in the first written communication  
6 provided to the debtor after the debt has become time-barred:  
7 “The law limits how long you can be sued on a debt. Because of the age of  
8 your debt, we will not sue you for it. If you do not pay the debt, [insert  
9 name of debt collector] may [continue to] report it to the credit reporting  
10 agencies as unpaid for as long as the law permits this reporting” . . . .

11 38. Civil Code section 1788.17 of the Rosenthal Act provides in relevant part:  
12 Notwithstanding any other provision of this title, every debt collector  
13 collecting or attempting to collect a consumer debt shall comply with the  
14 provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject  
15 to the remedies in Section 1692k of, Title 15 of the United States Code . . .

16 39. 15 U.S.C. section 1692e of the FDCPA provides in relevant part:  
17 A debt collector may not use any false, deceptive, or misleading  
18 representation or means in connection with the collection of any debt.  
19 Without limiting the general application of the foregoing, the following  
20 conduct is a violation of this section: . . . (11) The failure to disclose in the  
21 initial written communication with the consumer and, in addition, if the  
22 initial communication with the consumer is oral, in that initial oral  
23 communication, that the debt collector is attempting to collect a debt and  
24 that any information obtained will be used for that purpose, and the failure  
25 to disclose in subsequent communications that the communication is from  
26 a debt collector, except that this paragraph shall not apply to a formal  
27 pleading made in connection with a legal action . . . .

28 40. 15 U.S.C. section 1692g of the FDCPA provides in relevant part:  
(a) Notice of debt; contents  
Within five days after the initial communication with a consumer in  
connection with the collection of any debt, a debt collector shall, unless  
the following information is contained in the initial communication or the  
consumer has paid the debt, send the consumer a written notice  
containing--  
(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  
the notice, disputes the validity of the debt, or any portion thereof, the debt  
will be assumed to be valid by the debt collector;  
(4) a statement that if the consumer notifies the debt collector in writing



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

6 41. Financial Code section 90015, subdivision (d), provides:

7 (1) If, in the opinion of the department, any person engages, has  
8 engaged, or proposes to engage in any activity prohibited by Section  
9 90003 or 90004, the department may issue an order directing the person  
10 to desist and refrain from engaging in the activity, act, practice, or  
11 course of business.

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

13 42. Financial Code section 90015, subdivision (c) provides, “[a]fter notice and an  
14 opportunity to be heard, the commissioner may, by order, assess penalties.”

15 43. Financial Code section 90012, subdivision (c) provides, in relevant part:

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

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

20 (A) The penalty amounts are as follows:

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

24 **IV.**

25 **Desist and Refrain Order**

26 44. Based on the foregoing findings, the Commissioner is of the opinion that S.K.  
27 Associates is a covered person or service provider that engaged in unlawful acts or practices, in  
28 violation of Financial Code section 90003, subdivision (a)(1), and offered or provided to a

1 consumer any financial product or service not in conformity with any consumer financial law or  
2 otherwise committed any act or omission in violation of a consumer financial law, in violation of  
3 Financial Code section 90003, subdivision (a)(2), including but not limited to the following:

- 4 a. Financial Code section 100001, subdivision (a) of the DCLA;
- 5 b. Civil Code section 1788.11, subdivision (b) of the Rosenthal Act;
- 6 c. Civil Code section 1788.13, subdivisions (i) and (j) of the Rosenthal Act;
- 7 d. Civil Code section 1788.14, subdivision (d) of the Rosenthal Act;
- 8 e. Civil Code section 1788.17 of the Rosenthal Act;
- 9 f. 15 U.S.C. section 1692g(a) of the FDCPA;
- 10 g. 15 U.S.C. section 1692e(11) of the FDCPA.

11 45. Pursuant to Financial Code section 90015, subdivision (d)(1), S.K. & Associates  
12 LLC a.k.a. S.K. & Associates a.k.a. Johnson, Anderson and Associates a.k.a. JA Associates a.k.a.  
13 Johnson Anderson Associates and its managers, officers, directors, agents, or employees, are hereby  
14 ordered to desist and refrain from engaging in, or proposing to engage in, unlawful acts or practices  
15 in collecting or attempting to collect any consumer debt in violation of Financial Code section  
16 90003, subdivision (a)(1), or offer or provide to a consumer any financial product or service not in  
17 conformity with any consumer financial laws, including but not limited to the following:

- 18 a. Financial Code section 100001, subdivision (a) of the DCLA;
- 19 b. Civil Code section 1788.11, subdivision (b) of the Rosenthal Act;
- 20 c. Civil Code section 1788.13, subdivisions (i) and (j) of the Rosenthal Act;
- 21 d. Civil Code section 1788.14, subdivision (d) of the Rosenthal Act;
- 22 e. Civil Code section 1788.17 of the Rosenthal Act;
- 23 f. 15 U.S.C. section 1692g(a) of the FDCPA;
- 24 g. 15 U.S.C. section 1692e(11) of the FDCPA.

25 46. Furthermore, based on the foregoing findings, the Commissioner is of the opinion  
26 that S.K. Associates is a covered person or service provider that engaged in deceptive acts or  
27 practices with respect to consumer financial products or services in violation of Financial Code  
28 section 90003, subdivision (a)(1).

1 47. Pursuant to Financial Code section 90015, subdivision (d)(1), S.K. & Associates  
2 LLC a.k.a. S.K. & Associates a.k.a. Johnson, Anderson and Associates a.k.a. JA Associates a.k.a.  
3 Johnson Anderson Associates and its managers, officers, directors, agents, or employees, are hereby  
4 ordered to desist and refrain from engaging in, or proposing to engage in, deceptive acts or practices  
5 in collecting or attempting to collect any consumer debt in violation of Financial Code section  
6 90003, subdivision (a)(1).

7 48. This Desist and Refrain Order is necessary, in the public interest and consistent with  
8 the purposes, policies, and provisions of the CCFPL. This Desist and Refrain Order shall remain in  
9 full force and effect until further order of the Commissioner.

10 V.

11 **Order Assessing Penalties – CCFPL (Fin. Code, § 90015, subd. (c))**

12 49. Pursuant to Financial Code section 90015, subdivision (c) and section 90012,  
13 subdivision (c), and after due consideration of possible mitigating factors and other appropriateness  
14 considerations listed in section 90012, subdivision (c)(1)(B), S.K. & Associates LLC a.k.a. S.K. &  
15 Associates a.k.a. Johnson, Anderson and Associates a.k.a. JA Associates a.k.a. Johnson Anderson  
16 Associates is hereby ordered to pay the Commissioner a penalty of \$30,000.00 within 30 days of  
17 the date of this order. This penalty shall be made payable in the form of an Automated Clearing  
18 House deposit or cashier’s check made payable to the Department of Financial Protection and  
19 Innovation. The cashier’s check shall be mailed to the attention of “Accounting – Litigation” at  
20 Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California  
21 95834-2036. Notice of such payment shall be concurrently sent to Sophia C. Kim via e-mail at  
22 Sophia.Kim@dfpi.ca.gov.

23 Dated: July 21, 2022  
24 Los Angeles, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



25  
26  
27 By: \_\_\_\_\_  
28 MARY ANN SMITH  
Deputy Commissioner  
Enforcement Division