1	CLOTHILDE V. HEWLETT		
2	Commissioner MARY ANN SMITH		
	Deputy Commissioner		
3	SEAN ROONEY Assistant Chief Counsel		
4	SOPHIA C. KIM (State Bar No. 265649) Senior Counsel		
5	Department of Financial Protection and Innovation 320 West 4th Street, Suite 750		
6	Los Angeles, CA 90013 Telephone: (213) 503-0457		
7	Facsimile: (213) 576-7181		
8	Attorneys for Complainant		
9	BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION		
10	OF THE STATE OF CALIFORNIA		
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12	In the Matter of:		
13	THE COMMISSIONER OF FINANCIAL PROTECTION AND INNOVATION,) DESIST AND REFRAIN ORDER AND) ORDER ASSESSING PENALTIES	
14	Complainant,) (Cal. Fin. Code § 90015(b), (c), (d)(1))	
15	V.	,	
16	STEIN & ROSS GROUP,))	
17	Respondent.		
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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	<u>Introduction</u>		
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) (Cal. Fin. Code §§ 100000-100025)		

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- 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) (Cal. Fin. Code §§ 90000-90019). Collecting debt relating to a consumer financial product or service is conduct covered by the CCFPL. Cal. Fin. Code § 90005(k)(10).
- At all relevant times, Stein & Ross Group (Stein & Ross) is a business entity of 3. unknown form with a last known address located at 700 Milam, Suite 1300, Houston, Texas 77002. Stein & Ross operates a website at www.steinandrossgroup.com.

II.

Factual Background

- 4. Beginning in at least August 2022, Stein & Ross engaged in the business of debt collection in California as further described below.
- 5. On or around August 24, 2022, Stein & Ross contacted at least one California resident (Consumer) by telephone leaving a voicemail (Voicemail) stating the following:

This is an urgent message for [Consumer]. My name is Justin Miller and I'm calling from document delivery services. Our office has been retained to reach out to [Consumer] to notify him of a civil complaint scheduled to be filed against him coming out of Los Angeles County, that we have tried to reach out and make contact at the residence we do have on file. At this point it is imperative that [Consumer] does get in contact with the issuing firm immediately otherwise he will be in jeopardy of our proceeding forward without his participation. The number for [Consumer] to call today is 855-923-3361 with file number 35442.

- 6. On or around August 24, 2022, the Consumer called 855-923-3361 and spoke with a representative of Stein & Ross, who told the Consumer that "[w]e are going to submit a request for garnishment of your wages to satisfy this debt," and that "there will be a lawsuit filed in court and we will get a judgment." During a subsequent telephone call on August 24, 2022, Stein & Ross told the Consumer that the debt concerned an account opened in 2003 with Washington Mutual Bank and that had defaulted in 2009.
- 7. In or around September 2022, a representative of Stein & Ross, referring to himself as "George" (George) stated in relation to the Consumer's account that "[i]t looks like it was sent to

collections in 2014." When asked whether Stein & Ross sent any request for wage garnishment as claimed on August 24, 2022, George stated that "[i]t doesn't show anything was sent for wage garnishment."

- 8. Stein & Ross' statements in the Voicemail and phone calls in or around August 2022 violated California Civil Code section 1788.13(j) of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Cal. Civ. Code §§ 1788-1788.33), which prohibits falsely representing that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made.
- 9. In addition, Stein & Ross' statements in the Voicemail and phone calls in or around August and September 2022 were material and likely to mislead a consumer acting reasonably under the circumstances, constituting deceptive acts or practices in violation of California Financial Code section 90003(a)(1).
- 10. Stein & Ross also failed to provide at least one California consumer with any written notification that included the following information required pursuant to title 15 of the United States Code section 1692g(a) of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692 to 1692p), 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 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 within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (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.

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Failure to Submit License Application in Violation of the DCLA

- 11. The DCLA became effective on January 1, 2021, and requires persons engaged in the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant to California Financial Code section 100001(a). However, a debt collector who submits an application prior to January 1, 2022, i.e., by December 31, 2021, shall be allowed to operate pending the approval or denial of the application, pursuant to California Financial Code section 100000.5(c).
- 12. As of the current date, Stein & Ross failed to submit an application for a debt collector license. From January 1, 2022, through at least September 2022, there was no application pending denial or approval by the Department permitting Stein & Ross to engage in debt collection in California.
- 13. Beginning in or around at least August 2022 through at least September 2022, despite lacking licensure or a pending application during that period starting from January 1, 2022, Stein & Ross engaged in the business of debt collection in this state by attempting to collect a debt from at least one California consumer, in violation of California Financial Code section 100001(a), and engaged in additional unlawful and/or deceptive acts or practices, as described in paragraphs 5 through 9 above.

III.

Applicable Laws

- 14. California Financial Code section 100001(a) provides that "[n]o person shall engage in the business of debt collection in this state without first obtaining a license."
- 15. California Financial Code section 100000.5(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."
- 16. California Financial Code section 100002(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."
 - 17. California Financial Code section 100002(f) provides:

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"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.

- 18. California Financial Code section 100002(i) defines "debt collection" as "any act or practice in connection with the collection of consumer debt."
 - 19. 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.

- 20. California Financial Code section 90005 provides in relevant part:
 - (d) "Consumer financial law" means a federal or California law that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction, or any account, product, or service related thereto, with respect to a consumer . . .
 - (e) "Consumer financial product or service" means either of the following: (1) A financial product or service that is delivered, offered, or provided for use by consumers primarily for personal, family, or household purposes . .
 - (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 . . .
 - (k) "Financial product or service" means . . . (10) *Collecting debt* related to any consumer financial product or service (emphasis applied.)
- 21. 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

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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
- 22. The following are consumer financial laws within the meaning of California Financial Code section 90003(a)(2): the DCLA, the Rosenthal Act, and the FDCPA.
- 23. Section 1788.13(j) 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: . . . 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."
 - 24. Section 1788.17 of the Rosenthal Act provides in relevant part:

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

- 25. 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 within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (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...

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- 26. 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.
- 27. 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.
 - 28. 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

29. Based on the foregoing findings, the Commissioner is of the opinion that Stein & Ross Group is a covered person or service provider 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 Stein & Ross Group violated California Financial Code 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

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following consumer financial laws:

- Section 100001(a) of the DCLA; a.
- Section 1788.13(j) of the Rosenthal Act; b.
- Section 1788.17 of the Rosenthal Act; c.
- d. Section 1692g(a) of the FDCPA.
- 30. Pursuant to California Financial Code section 90015(d)(1), Stein & Ross Group and its managers, officers, directors, agents, owners, 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)(1), or offer or provide to a consumer any financial product or service not in conformity with any consumer financial laws, in violation of California Financial Code section 90003(a)(2), including but not limited to violating the following:
 - Section 100001(a) of the DCLA; a.
 - b. Section 1788.13(j) of the Rosenthal Act;
 - Section 1788.17 of the Rosenthal Act: c.
 - Section 1692g(a) of the FDCPA. d.
- 31. Furthermore, based on the foregoing findings, the Commissioner is of the opinion that Stein & Ross Group is a covered person or service provider 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).
- 32. Pursuant to California Financial Code section 90015(d)(1), Stein & Ross Group and its managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in, or proposing to engage in, deceptive acts or practices in collecting or attempting to collect any consumer debt in violation of California Financial Code section 90003(a)(1).
- 33. This Desist and Refrain Order is necessary, in the public interest and consistent with the purposes, policies, and provisions of the CCFPL. This Desist and Refrain Order shall remain in full force and effect until further order of the Commissioner.

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V.

Order Assessing Penalties

34. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due consideration of possible mitigating factors and other appropriateness considerations listed in California Financial Code section 90012(c)(1)(B), Stein & Ross Group is hereby ordered to pay the Commissioner a penalty of \$10,000.00 within 30 days of the date of this order. This penalty shall be made payable in the form of an Automated Clearing House deposit or cashier's check made payable to the Department of Financial Protection and Innovation. The cashier's check shall be mailed to the attention of "Accounting – Litigation" at Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95834-2036. Notice of such payment shall be concurrently sent to Sophia C. Kim via e-mail at Sophia.Kim@dfpi.ca.gov.

Dated: October 11, 2022

Los Angeles, California

CLOTHILDE V. HEWLETT Commissioner of Financial Protection and Innovation



By: MARY ANN SMITH **Deputy Commissioner Enforcement Division**