

1 CLOTHILDE V. HEWLETT  
Commissioner  
2 MARY ANN SMITH  
Deputy Commissioner  
3 DANIEL P. O'DONNELL  
Assistant Chief Counsel  
4 JARI M. BINDER (State Bar No. 333694)  
Senior Counsel  
5 Department of Financial Protection and Innovation  
One Sansome Street, Suite 600  
6 San Francisco, CA 94104  
Telephone: (415) 471-0919

7 Attorneys for Complainant

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

11 In the Matter of: )  
12 THE COMMISSIONER OF FINANCIAL ) DESIST AND REFRAIN ORDER AND  
PROTECTION AND INNOVATION, ) ORDER ASSESSING PENALTIES  
13 )  
14 v. Complainant, ) (Cal. Fin. Code § 90015(b), (c), (d)(1))  
15 SARS SOLUTIONS )  
16 Respondent. )  
17 )  
18 )  
19 )

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

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 2. The Commissioner also has jurisdiction over the regulation of persons who engage,  
28 have engaged, and propose to engage in offering or providing a consumer financial product or

1 service in California and affiliated service providers under the California Consumer Financial  
2 Protection Law (CCFPL) (Cal. Fin. Code §§ 90000-90019). Collecting debt relating to a consumer  
3 financial product or service is conduct covered by the CCFPL. Cal. Fin. Code § 90005(k)(10).

4 3. At all relevant times, SARS Solutions (SARS) is a business entity of unknown form  
5 with a telephone number of (866) 575-2402 and an unknown principal place of business.

6 **II.**

7 **Factual Background**

8 4. Beginning in at least August 2022, SARS engaged in the business of debt collection  
9 in California as further described below.

10 5. On or around August 23, 2022, SARS contacted at least one California resident  
11 (Consumer) by placing a telephone call and making unlawful and/or deceptive statements in an  
12 attempt to collect a consumer debt, as follows:

- 13 a. The caller falsely claimed that the Consumer owed a credit card debt and  
14 SARS had been retained to collect that debt, in violation of California Civil  
15 Code section 1788.13(k) of the Rosenthal Fair Debt Collection Practices Act  
16 (Rosenthal Act) (Cal. Civ. Code §§ 1788-1788.33); and
- 17 b. The caller also made a false representation that if the Consumer did not pay  
18 the alleged debt within 24 hours, the debt would increase to \$4,000, in  
19 violation of California Civil Code section 1788.13(e) of the Rosenthal Act.

20 6. On or around August 23, 2022, a family member of the Consumer called the  
21 provided callback number the on the Consumer’s behalf. The Consumer’s family member spoke to  
22 representatives who identified themselves as “Gretchen Davies” and “Kimberly Coleman.”  
23 After the aforementioned telephone conversations, the Consumer contacted the alleged original  
24 creditor to inquire more about the debt. The alleged original creditor stated that while there was an  
25 account in the Consumer’s name, the balance was zero and the original creditor did not use SARS  
26 solutions for debt collection.

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1           7. SARS statements in phone calls in or around August 2022 were material and likely  
2 to mislead a consumer acting reasonably under the circumstances, constituting deceptive acts or  
3 practices in violation of California Financial Code section 90003(a)(1).

4           8. SARS also used false, deceptive or misleading representation or means in connection  
5 with the collection of any debt, in violation of title 15 of the United States Code section 1692e.

6           9. SARS also failed to provide at least one California consumer with any written  
7 notification that included the following information required pursuant to title 15 of the United  
8 States Code section 1692g(a) of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§  
9 1692 to 1692p), within five days of its initial communication regarding the alleged debt, in  
10 violation of California Civil Code section 1788.17: (1) the amount of the debt; (2) the name of the  
11 creditor to whom the debt is owed; (3) a statement that unless the consumer, within thirty days after  
12 receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be  
13 assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt  
14 collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the  
15 debt collector will obtain verification of the debt or a copy of a judgment against the consumer and  
16 a copy of such verification or judgment will be mailed to the consumer by the debt collector; and  
17 (5) a statement that, upon the consumer’s written request within the thirty-day period, the debt  
18 collector will provide the consumer with the name and address of the original creditor, if different  
19 from the current creditor.

20                           Failure to Submit License Application in Violation of the DCLA

21           10. The DCLA, which became effective on January 1, 2021, requires persons engaged  
22 in debt collection in California to be licensed beginning on January 1, 2022, pursuant to California  
23 Financial Code section 100001(a).

24           11. The Commissioner has not issued a license to SARS Solutions, authorizing it to  
25 engage in the business of debt collection under the DCLA. Furthermore, CBA has not applied for a  
26 license under the DCLA. SARS Solutions is not exempt from the licensing requirements of  
27 California Financial Code section 100001.

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1 (e) “Consumer financial product or service” means either of the following:  
2 (1) A financial product or service that is delivered, offered, or provided for  
3 use by consumers primarily for personal, family, or household purposes . . .

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

7 (k) “Financial product or service” means . . . (10) **Collecting debt** related  
8 to any consumer financial product or service . . . (emphasis applied.)

9 19. 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 20. The following are consumer financial laws within the meaning of California  
19 Financial Code section 90003(a)(2): the DCLA, the Rosenthal Act, and the FDCPA.

20 21. Section 1788.13 of the Rosenthal Act provides in relevant part:

21 No debt collector shall collect or attempt to collect a consumer debt by means of the  
22 following practices: . . . (e) The false representation that the consumer debt may be  
23 increased by the addition of attorney's fees, investigation fees, service fees, finance  
24 charges, or other charges if, in fact, such fees or charges may not legally be added to  
25 the existing obligation; (k) The false representation that a consumer debt has been, is  
26 about to be, or will be sold, assigned, or referred to a debt collector for collection.”

27 22. Section 1788.17 of the Rosenthal Act provides in relevant part:  
28 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 . . .

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

A debt collector may not use any false, deceptive, or misleading  
representation or means in connection with the collection of any debt.  
Without limiting the general application of the foregoing, the following

conduct is a violation of this section: (2) The false representation of (a) the character, amount, or legal status of any debt . . . (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action. (5) The threat to take any action that cannot legally be taken or that is not intended to be taken ... (10) The use of any false representation of deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer ...

24. 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...

25. 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.



1 engaging in, or proposing to engage in, unlawful acts or practices in collecting or attempting to  
2 collect any consumer debt in violation of California Financial Code section 90003(a)(1), or offer or  
3 provide to a consumer any financial product or service not in conformity with any consumer  
4 financial laws, in violation of California Financial Code section 90003(a)(2), including but not  
5 limited to violating the following:

- 6 a. Section 100001(a) of the DCLA;
- 7 b. Section 1788.13(e), and (k) of the Rosenthal Act;
- 8 c. Section 1788.17 of the Rosenthal Act;
- 9 d. Section 1692e(2), (4), (5), and (10) of the FDCPA; and
- 10 e. Section 1692g(a) of the FDCPA.

11 30. Furthermore, based on the foregoing findings, the Commissioner is of the opinion  
12 that SARS is a covered person or service provider that engaged in deceptive acts or practices with  
13 respect to consumer financial products or services in violation of California Financial Code section  
14 90003(a)(1).

15 31. Pursuant to California Financial Code section 90015(d)(1), SARS and its managers,  
16 officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in,  
17 or proposing to engage in, deceptive acts or practices in collecting or attempting to collect any  
18 consumer debt in violation of California Financial Code section 90003(a)(1).

19 32. This Desist and Refrain Order is necessary, in the public interest and consistent with  
20 the purposes, policies, and provisions of the CCFPL. This Desist and Refrain Order shall remain in  
21 full force and effect until further order of the Commissioner.

22 **V.**

23 **Order Assessing Penalties**

24 33. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due  
25 consideration of possible mitigating factors and other appropriateness considerations listed in  
26 California Financial Code section 90012(c)(1)(B), SARS is hereby ordered to pay the  
27 Commissioner a penalty of \$17,500.00 within 30 days of the date of this order. This penalty shall  
28 be made payable in the form of an Automated Clearing House deposit or cashier's check made



1 payable to the Department of Financial Protection and Innovation. The cashier’s check shall be  
2 mailed to the attention of “Accounting – Litigation” at Department of Financial Protection and  
3 Innovation, 2101 Arena Boulevard, Sacramento, California 95834-2036. Notice of such payment  
4 shall be concurrently sent to Jari M. Binder via e-mail at Jari.Binder@dfpi.ca.gov.

5 Dated: January 30, 2023  
6 San Francisco, California

CLOTHILDE V. HEWLETT  
Commissioner of Financial Protection and Innovation



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8  
9 By: \_\_\_\_\_  
10 MARY ANN SMITH  
11 Deputy Commissioner  
12 Enforcement Division  
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