

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No. 14-CIV-62491-BLOOM**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CONSUMER COLLECTION ADVOCATES  
CORP., a Florida corporation, and  
MICHAEL ROBERT ETTUS, individually  
and as an officer of Consumer Collection  
Advocates, Corp.,

Defendants.

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**FINAL ORDER OF PERMANENT INJUNCTION AND MONETARY JUDGMENT  
AGAINST DEFENDANTS CONSUMER COLLECTION ADVOCATES, CORP. AND  
MICHAEL ROBERT ETTUS**

On November 3, 2014, Plaintiff, the Federal Trade Commission (“FTC” or the “Commission”), filed its Complaint for Permanent Injunction and Other Equitable Relief in this matter, pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 (ECF No. 1) against Defendants Consumer Collection Advocates, Corp. and Michael Robert Ettus (collectively “Defendants”).

The Court has considered the Plaintiffs’ Motion for Summary Judgment and supporting exhibits, as well as the entire record in this matter, and granted Plaintiff’s Motion.

**IT IS, THEREFORE, ORDERED and ADJUDGED** as follows:

**FINDINGS OF FACT**

1. This is an action by the FTC under Sections 13(b) and 19 of the Federal Trade

Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108. Plaintiff’s complaint seeks permanent injunctive relief and ancillary monetary relief against Defendants in connection with the offering for sale or sale of Recovery Services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) , and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule,” 16 C.P.R. Part 310.

2. This Court has jurisdiction over the subject matter of this case and personal jurisdiction over the parties hereto.

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2), (c)(1) and (2), and 15 U.S.C. § 53(b).

4. The activities of Defendants are “in or affecting commerce” as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

5. The Plaintiff’s Complaint states claims upon which relief may be granted under Section 5(a) the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule, 16 C.P.R. Part 310.

6. The evidence establishes that Defendants violated Section 5(a) the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule, 16 C.P.R. Part 310.

7. The Court finds that, in connection with the offering for sale or sale of Recovery Services, Defendants violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) by falsely representing to consumers, directly or indirectly, expressly or by implication, that, as a result of purchasing Defendants’ services, consumers will recover, or are highly likely to recover, a substantial portion of the monies that the consumers previously lost to telemarketers typically within 30 to 180 days.

8. The Court finds that, in connection with the offering for sale or sale of Recovery Services, Defendants violated Section 310.4(a)(3) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(3), by requesting or receiving payment of a fee from a person for services represented to recover or otherwise assist in the return of money paid by that person in a previous telemarketing transaction, without waiting seven (7) business days after such money is delivered to that person.

9. The Court further finds that, in connection with the offering for sale or sale of Recovery Services, Defendants violated Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii), by falsely representing, directly or by implication, material aspects of the performance, efficacy, nature, or central characteristics of the service that is the subject of their sales offer, including that, as a result of purchasing Defendants' services, consumers will recover, or are highly likely to recover, a substantial portion of the monies that the consumers previously lost to telemarketers typically within 30 to 180 days.

10. It is proper in this case to enter a permanent injunction to prevent a recurrence of Defendants' violations of Section 5(a) the FTC Act, 15 U.S.C. § 45(a), and the FTC's Telemarketing Sales Rule, 16 C.P.R. Part 310, and to enter equitable monetary relief against Defendants.

11. Defendants have received \$2,825,761.28 of ill-gotten monies from the conduct alleged in Plaintiff's Complaint.

12. Plaintiff is, therefore, entitled to equitable monetary relief against Defendants in the amount of \$2,825,761.28 for which Defendants are jointly and severally liable.

13. This Order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.

14. Entry of this Order is in the public interest.

### **DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

1. **“Defendants”** means the Individual Defendant and the Corporate Defendant, individually, collectively, or in any combination.

A. **“Corporate Defendant”** means Consumer Collection Advocates, Corp., its affiliates, successors and assigns.

B. **“Individual Defendant”** means Michael Robert Ettus.

2. **“Lead Generation”** means the provision, in exchange for consideration, of consumer information to a Seller or Telemarketer for use in the marketing of any goods or services.

3. **“Material”** means likely to affect a person’s choice of, or conduct regarding, products or services.

4. **“Receiver”** means **Melanie E. Damian**. The term “Receiver” also includes any deputy receivers or agents as may be named by the Receiver.

5. **“Receivership Defendant”** means the Corporate Defendant.

6. **“Recovery Services”** means any business activity represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, a person in a previous transaction.

7. **“Telemarketing”** means any plan, program or campaign that is conducted to induce the purchase of goods or services by use of one or more telephones, and which involves telephone call, consistent with the Telemarketing Sales Rule.

### **ORDER**

**I.**

A. **BAN ON SALE OF RECOVERY SERVICES**

**IT IS ORDERED** that Defendants are permanently restrained and enjoined from advertising, marketing, promoting, offering for sale, or assisting in the advertising, marketing, promoting, or offering for sale any Recovery Service.

**II.**

**BAN ON TELEMARKETING**

**IT IS FURTHER ORDERED** that Defendants are permanently restrained and enjoined from participating in Telemarketing, whether directly or through an intermediary, including by lead generation, consulting, brokering, investing, advising, or training.

**III.**

**INJUNCTION AGAINST MISREPRESENTATIONS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, in connection with the promoting or offering for sale or sale of any good or service are permanently restrained and enjoined from misrepresenting, or assisting others in misrepresenting, expressly or by implication, any fact material to consumers concerning any good or service, and any material restriction, limitations, or conditions, or any material aspect of the performance, efficacy, nature, or central characteristics of the sales offer.

**IV.**

**PROHIBITION AGAINST COLLECTING ACCOUNTS**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from:

- B. Attempting to collect or collecting payment for any Recovery Service; and
- C. Selling, assigning, or otherwise transferring any right to collect payment for any Recovery Service.

**V.**

**MONETARY JUDGMENT**

**IT IS FURTHER ORDERED** that:

A. Judgment in the amount of two million, eight hundred twenty-five thousand, seven hundred sixty one dollars and twenty-eight cents (\$2,825,761.28) is entered in favor of the Commission against the Defendants, jointly and severally, as equitable monetary relief;

B. In partial satisfaction of the monetary judgment, within 7 days of entry of this Order, by electronic fund transfer in accordance with instructions to be provided by a representative of the Commission:

- 1. Bank of America, its parent corporation, subsidiaries, principals, and agents shall transfer to the Commission all funds held in the frozen accounts ending in xxxx4569, xxxx8080, xxxx4961, xxxx4974, and xxxx4585; and

2. Branch Banking and Trust Company, its parent corporation, subsidiaries, principals, and agents shall transfer to the Commission all funds held in the frozen accounts ending in xxxx5296 and xxxx6371.

C. Defendants shall pay the remainder of the judgment within 15 days of entry of this Order. Such payment must be made by electronic fund transfer in accordance with instructions to be provided by a representative of the Commission.

D. In the event that it is necessary to execute additional documents to transfer or liquidate assets of the Defendants under this Order, or to dissolve and wind down the Receivership Defendant, Defendant Ettus shall execute such documents within 3 days of a written request from the Receiver or the Commission.

E. Defendants acknowledge that their Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which Defendants previously submitted to the Commission, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

F. All money paid to the Commission pursuant to this Order shall be deposited into a fund administered by the Commission or its designee to be used for equitable relief, including consumer redress and any attendant expenses for the administration of any redress fund. If a representative of the Commission decides that direct redress to consumers is wholly or partially impracticable or money remains after redress is completed, the Commission may apply any remaining money for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any money not used for such equitable relief is to be deposited to the U.S. Treasury as disgorgement.

**VI.**

**CUSTOMER INFORMATION**

**IT IS FURTHER ORDERED** that Defendants, Defendants' officers, agents, employees, and attorneys, and all other persons in active concert or participation with any of them, who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from directly or indirectly:

A. Failing to provide sufficient customer information to enable the Commission to efficiently administer consumer redress. If a representative of the Commission requests in writing any information related to redress, Defendants must provide it, in the form prescribed by the Commission, within 14 days.

B. Disclosing, using, or benefitting from customer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a consumer's account (including a credit card, bank account, or other financial account), that any Defendant obtained prior to entry of this Order in connection with the advertising, marketing, promotion, offering for sale of any Recovery Service; and

C. Failing to destroy such customer information in all forms in their possession, custody, or control within 30 days after receipt of written direction to do so from a representative of the Commission.

Provided, however, that customer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by law, regulation, or court order.

**VII.**

**RECEIVERSHIP TERMINATION**

**IT IS FURTHER ORDERED** that the Receiver must complete all duties within 120 days after entry of this Order, but any party or the Receiver may request that the Court extend the Receiver's term for good cause.

**VIII.**

**ORDER ACKNOWLEDGMENTS**

**IT IS FURTHER ORDERED** that Defendants obtain acknowledgments of receipt of this Order.

A. Each Defendant, within 7 days of entry of this Order, must submit to the Commission an acknowledgment of receipt of this Order sworn under penalty of perjury.

B. For 20 years after entry of this Order, the Individual Defendant for any business that he, individually or collectively with any other Defendant, is the majority owner or controls directly or indirectly, and the Corporate Defendant, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in the promoting or offering for sale or sale of any Recovery Service; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. Delivery must occur within 7 days of entry of this Order for current personnel. For all others, delivery must occur before they assume their responsibilities.

C. From each individual or entity to which a Defendant delivered a copy of this Order, that Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

**IX.**

**COMPLIANCE REPORTING**

**IT IS FURTHER ORDERED** that the Defendants make timely submissions to the Commission:

A. One year after entry of this Order, each Defendant must submit a compliance report, sworn under penalty of perjury:

1. Each Defendant must: (a) identify the primary physical, postal, and email address and telephone number, as designated points of contact, which representatives of the Commission may use to communicate with Defendant; (b) identify all of that Defendant's businesses by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the goods and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which Individual Defendant must describe if he knows or should know due to his own involvement); (d) describe in detail whether and how that Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the Commission.

2. Additionally, the Individual Defendant must: (a) identify all telephone numbers and all physical, postal, email and Internet addresses, including all residences; (b) identify all business activities, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest; and (c) describe in detail such Defendant's

involvement in each such business, including title, role, responsibilities, participation, authority, control, and any ownership.

B. For 20 years after entry of this Order, each Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:

1. Each Defendant must report any change in: (a) any designated point of contact; or (b) the structure of the Corporate Defendant or any entity that Defendant has any ownership interest in or controls directly or indirectly that may affect compliance obligations arising under this Order, including: creation, merger, sale, or dissolution of the entity or any subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order.

2. Additionally, the Individual Defendant must report any change in: (a) name, including aliases or fictitious name, or residence address; or (b) title or role in any business activity, including any business for which such Defendant performs services whether as an employee or otherwise and any entity in which such Defendant has any ownership interest, and identify the name, physical address, and any Internet address of the business or entity.

C. Each Defendant must submit to the Commission notice of the filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by or against such Defendant within 14 days of its filing.

D. Any submission to the Commission required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: "I declare under penalty of perjury under the laws of the United States of America

that the foregoing is true and correct. Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if applicable), and signature.

E. Unless otherwise directed by a Commission representative in writing, all submissions to the Commission pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:

Associate Director for Enforcement  
Bureau of Consumer Protection  
Federal Trade Commission  
600 Pennsylvania Avenue NW  
Washington, DC 20580

**Re: FTC v. Consumer Collection Advocates, Corp., et al. (X150004)**

**X.**

**RECORDKEEPING**

**IT IS FURTHER ORDERED** that Defendants must create certain records for 20 years after entry of the Order, and retain each such record for 5 years. Specifically, each Defendant, for any business that such Defendant, individually or collectively with any other Defendant, is a majority owner or controls directly or indirectly, must create and retain the following records:

- A. Accounting records showing the revenues from all goods or services sold;
- B. Personnel records showing, for each person providing services, whether as an employee or otherwise, that person’s: name; addresses; telephone numbers; job title or position; dates of service; and, if applicable, the reason for termination;
- C. Records of all consumer complaints and refund requests, whether received directly or indirectly, such as through a third party, and any response;
- D. All records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Commission; and
- E. A copy of each unique advertisement or other marketing material.

**XI.**

**COMPLIANCE MONITORING**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring Defendants' compliance with this Order, and any failure to transfer any assets as required by this Order:

A. Within 14 days of receipt of a written request from a representative of the Commission, each Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents for inspection and copying. The Commission is also authorized to obtain discovery, without further leave of court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.

B. For matters concerning this Order, the Commission is authorized to communicate directly with each Defendant. Defendants must permit representatives of the Commission to interview any employee or other person affiliated with any Defendant who has agreed to such an interview. The person interviewed may have counsel present.

C. Nothing in this Order limits the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1.

D. Upon written request from a representative of the Commission, any consumer reporting agency must furnish consumer reports concerning the Individual Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. §1681b(a)(1).

**XII.**

**LIFTING OF ASSET FREEZE**

IT IS FURTHER ORDERED that the freeze on the assets of Defendants shall be modified to permit the transfer of assets identified in Section V. of this Order. Upon completion of those transfers, the asset freeze is dissolved.

**XIII.**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

The Clerk shall **ADMINISTRATIVELY CLOSE** this case.

**IT IS SO ORDERED** in Fort Lauderdale, this 28th day of September, 2015.



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**BETH BLOOM**  
**UNITED STATES DISTRICT JUDGE**