

Attachment A

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

BRETT FISHER,

Defendant.

Case No. 8:13-bk-02528-KRM

**COMPLAINT TO DETERMINE
DISCHARGEABILITY OF
DEBT OWED TO FEDERAL
TRADE COMMISSION**

Plaintiff, the Federal Trade Commission (“FTC”) brings this adversary proceeding pursuant to 11 U.S.C. § 523(a)(2)(A), (a)(6), and (c) seeking an order determining that a judgment debt in the amount of Twenty-five Million, Two-Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars (\$25,283,238.00), in favor of the FTC against Defendant Brett Fisher (“Debtor” or “Defendant”) is excepted from discharge. In support hereof the FTC alleges as follows:

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 157 and 1334, and 11 U.S.C. § 523. This Adversary Proceeding is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(I).

2. Venue is proper in this district under 28 U.S.C. § 1409(a).

3. This Adversary Proceeding relates to *In re Brett Lee Fisher*, Chapter 7 Case No. 8:13-bk-02528-KRM (Bankr. M.D. Fla.) (“Bankruptcy Case”). The FTC is a

judgment creditor with a general unsecured claim against Debtor pursuant to a Stipulated Judgment and Order for Permanent Injunction (“Stipulated Judgment”) entered in the United States District Court for the Middle District of Florida in the case styled *FTC v. Pro Credit Group, LLC, et al.*, Case No. 8-12-cv-00586-MSS-EAJ (“Enforcement Action”). Defendant’s co-defendants in the Enforcement Action included Pro Credit Group, LLC (“PCG”); Andre Keith Sanders; Sanders Law, P.A. (“Sanders Law”); William Balsamo; First Financial Asset Services, Inc. (“First Financial”); Dale Robinson; Consumer Credit Group, LLC (“CCG”); and My Success Track, LLC (“MST”).

4. The Stipulated Judgment includes a money judgment in favor of the FTC against the Debtor and PCG, jointly and severally, in the amount of Twenty-Five Million, Two-Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars (\$25,283,238.00). A true and correct copy of the Stipulated Judgment entered by the District Court is attached hereto as **Exhibit 1**.

5. As part of the Stipulated Judgment, Debtor further agreed that the Stipulated Judgment was not dischargeable in bankruptcy and agreed to both the filing of this adversary proceeding, as well as entry of an order of nondischargeability under 11 U.S.C. § 523(a)(2)(A) and (a)(6). (*See* Ex. 1, Section V.B. of the Stipulated Judgment.).

THE PARTIES

6. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce.

7. Defendant is the Debtor in this Bankruptcy Case.

**COURSE OF PROCEEDINGS AND DEFENDANT'S CONDUCT GIVING RISE
TO THE NONDISCHARGEABLE DEBT**

8. Defendant is the sole corporate manager of PCG. Defendant, acting with knowledge, alone or in concert with others, has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of PCG; Sanders Legal Group, P.A.; My Success Track, LLC; Consumer Credit Group, LLC; and First Financial Asset Services, Inc., including the acts and practices set forth in this Complaint. Defendant, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

Debt Collection Operation

9. From approximately January 2010 to at least August 2011, Debtor and his co-defendants PCG, Sanders, and Sanders Legal (collectively, "Debtor and his Debt Collection Co-Defendants"), working closely with overseas call centers, engaged in a scheme to defraud consumers through the processing of payments for debts that consumers did not actually owe, or that were never applied to consumers' real debts. The scheme targeted consumers who had previously applied for or received loans from online payday loan companies.

10. Callers based overseas contacted consumers and told them that they were delinquent on a payday loan or another debt.

11. Callers often claimed that they were law enforcement officers or lawyers, or affiliated with law enforcement authorities.

12. Callers further threatened consumers that they would face arrest or legal action if they failed to pay immediately.

13. In numerous instances, the callers possessed consumers' private personal information, such as their Social Security Numbers or addresses, and recited such information, convincing consumers that they were legitimate debt collectors and that consumers must pay the purportedly delinquent debts.

14. Many consumers paid the purported debts as instructed because they were afraid of the threatened repercussions of failing to pay.

15. Once consumers agreed to pay, Debtor and his Debt Collection Co-Defendants processed such payments through merchant accounts they controlled under the name Sanders Legal Group. The payments appeared on consumers' bank and credit card statements with the billing descriptor "Sanders Legal Group" or a similar name, and a phone number associated with Sanders Legal. Sanders Legal also mailed receipts to consumers reflecting their payments.

16. Many consumers attempted to obtain refunds from Debtor and his Debt Collection Co-Defendants by calling the phone number associated with Sanders Legal Group on the billing descriptor and receipt. In some instances, representatives of Sanders Legal were abusive toward consumers who requested refunds.

17. Debtor and his Debt Collection Co-Defendants processed at least \$6 million in bogus charges for overseas debt collectors.

18. Debtor and his Debt Collection Co-Defendants fielded complaints from consumers about the abusive practices of the overseas callers, including that they posed

as attorneys and called consumers repeatedly. Consumers also complained that they did not owe the money sought by the callers.

19. Debtor and his Debt Collection Co-Defendants were notified of and responded to consumer complaints filed with the Better Business Bureau of Clearwater, Florida. In these complaints, consumers reported that callers threatened to arrest or file legal actions against them if they did not pay alleged debts immediately. Consumers also complained that they did not owe the money the callers sought and that the money they paid was not applied to the debts they did owe, as the callers claimed it would be.

20. In August 2010, Debtor and his Debt Collection Co-Defendants were contacted by a U.S. Secret Service agent conducting a criminal investigation stemming from complaints from consumers charged by Sanders Legal after receiving threatening telephone calls. According to the agent, during these calls, consumers were threatened with arrest and/or legal action if they did not immediately make payments on fictitious loans.

21. Despite knowledge of consumer complaints and of a criminal investigation, Debtor and his Debt Collection Co-Defendants continued processing debt payments for overseas call centers without contracts or other proof demonstrating the debt collectors' rights to collect the debts.

22. Based on the information in Paragraphs 18 through 20, Debtor and his Debt Collection Co-Defendants knew or should have known that the payments they processed were for debts that consumers did not owe or that the payments they processed were not applied to debts consumers actually owed.

23. Despite their knowledge of the overseas callers' abusive practices, Debtor and his Debt Collection Co-Defendants continued processing payments consumers made in response to these practices for months.

24. Debtor and his Debt Collection Co-Defendants have operated as a common enterprise with the overseas call centers while engaging in the deceptive acts and practices and other violations of law alleged above. Debtor and his Debt Collection Co-Defendants, along with the overseas call centers, have conducted the business practices described above through an interrelated network of companies that have shared business functions, office locations, phone numbers, and advertising, and that held themselves out to consumers as the same company. Because these entities have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged above. Debtor and his Debt Collection Co-Defendants and the overseas call centers have formulated, directed, controlled, had the authority to control, or participated in the acts and practices that constitute the common enterprise.

25. At all times described herein, Debtor acted with the intent to defraud consumers into paying purported debts that they did not owe to Debtor, his Debt Collection Co-Defendants, or the overseas call centers.

Lower Interest Operation

26. Since at least January 2010, Defendant, along with PCG, Sanders Law, MST, Sanders, CCG, Robinson, First Financial, and Balsamo (collectively, "Debtor and his LI Co-Defendants") have engaged in a scheme to defraud consumers by selling them a service that purports to lower the interest rates on consumers' debts.

27. The Debtor and his LI Co-Defendants have contacted consumers using outbound telephone calls. In numerous instances, the Debtor and his LI Co-Defendants have initiated these outbound telephone calls using recorded messages or “robocalls.”

28. The Debtor’s and his LI Co-Defendants’ telemarketers have stated that they are calling on behalf of CCG or First Financial and have claimed they will negotiate directly with consumers’ creditors to reduce consumers’ interest rates. In numerous instances, the Debtor and his LI Co-Defendants have represented to consumers that they are affiliated, or have established relationships, with consumers’ lenders.

29. The Debtor’s and his LI Co-Defendants’ telemarketers have routinely promised that they will obtain specific, substantially lower, interest rates for consumers, such as “3%,” “6 to 9%,” or interest rates in the “single digits.” They have further promised that consumers will realize a minimum amount of savings – typically, thousands of dollars – and that such savings will occur within a specific timeframe, generally within 3 months.

30. The Debtor’s and his LI Co-Defendants’ telemarketers also have stated that consumers who sign up for interest rate reduction services will receive assistance from personal financial consultants.

31. Additionally, in many instances, the Debtor’s and his LI Co-Defendants’ telemarketers have stated that if consumers do not see the promised results they will receive full refunds.

32. The Debtor and his LI Co-Defendants generally have charged between \$695 and \$995 for their negotiation service and consumers have been obligated to pay the entire fee before receiving any services.

33. After consumers have paid the fee, the Debtor and his LI Co-Defendants have sent consumers a package of documents that typically has included some or all of the following:

a. A welcome letter on the letterhead of the “Law Office of Sanders Law, P.A.” that claimed they would “help you take the first steps toward lowering your interest rates and getting out of debt 3 to 5 times faster” because they “work with your credit card companies to help lower your interest rates . . .”;

b. A flier for “My Success Track,” a company that purported to provide legal, financial, and other services;

c. A “Mission Statement” that stated that if the company did “not provide a substantial savings in interest and finance charges, you will receive a full refund and still get to keep the rates that we negotiated on your behalf”;

d. A flier entitled “Frequently Asked Questions” that stated: “We simply and aggressively negotiate with your creditor(s) to provide you lower interest rates!”; and

e. A flier with customer testimonials, such as: “With the service my consultant was able to get two of my accounts to 0% interest.”

34. The package also has included an “Account Information Form” and a “Client Data File and Authorization Letter.” Consumers have completed the first form by

providing detailed information about their outstanding debts, including mortgages, student loans, medical bills, and credit cards. By signing the second form, consumers have given the Debtor and his LI Co-Defendants permission to communicate with their creditors “for the sole purpose of negotiating lower interest rates.”

35. Consumers who completed and returned the Account Information Form received in the mail a “customized budget plan.” The “plan” did not reflect the promised lower interest rates. Rather, it contained only the commonsense advice that paying more than the minimum monthly payments resulted in paying off debts more quickly than simply continuing to make minimum monthly payments.

36. Despite their promises on the phone and in the mailed materials, in numerous instances, the Debtor and his LI Co-Defendants have not negotiated lower interest rates for consumers. Indeed, some consumers have learned from their credit card companies that the Debtor and his LI Co-Defendants never contacted the companies. In those instances in which the Debtor and his LI Co-Defendants have negotiated lower rates, such rates often were temporary. Accordingly, consumers have not saved thousands of dollars from the Debtor’s and his LI Co-Defendants’ negotiations, as promised.

37. Many consumers who have attempted to contact the Debtor and his LI Co-Defendants to complain and seek refunds encounter obstacles such as busy signals, messages stating that the call is “out of range,” or no answer. When consumers have been able to leave messages, their calls often were not returned.

38. Those few consumers who have finally spoken to representatives typically were told to wait a few more months to see results or that the debt “plan” was actually what the Debtor and his LI Co-Defendants promised to provide consumers, not lower interest rates. Consumers have been unable to speak with, or even learn the identities of, their so-called personal financial consultants.

39. Even when consumers have waited longer to see results, the Debtor and his LI Co-Defendants have failed to negotiate lower interest rates.

40. The Debtor and his LI Co-Defendants have denied many consumers the full refunds they have promised. In many instances, consumers have only received refunds after making repeated requests to the Debtor and his LI Co-Defendants or after complaining to, or threatening to complain to, the Better Business Bureau or law enforcement authorities. Of those consumers who have received refunds, many received only half of their initial payment or less.

41. Debtor and his LI Co-Defendants have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged above. Debtor and his LI Co-Defendants have conducted the business practices described above through an interrelated network of companies that have shared business functions, office locations, phone numbers, and advertising, and that held themselves out to consumers as the same company. Because these entities have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged above. Debtor and his LI Co-Defendants Sanders, Robinson, and Balsamo have formulated, directed, controlled, had the authority to control, or participated in the acts

and practices of PCG, Sanders Law, MST, CCG, and First Financial that constitute the common enterprise.

Telemarketing Sales Rule

42. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108. The FTC adopted the original Telemarketing Sales Rule (“TSR”) in 1995, and extensively amended it in 2003 and 2010, 16 C.F.R. Part 310.

43. The 2010 amendments to the TSR were intended, in part, to curb deceptive and abusive practices in the telemarketing of debt relief services. These amendments prohibit requesting or receiving payment of any fee or consideration for any debt relief service until and unless, among other things:

a. The seller or telemarketer has renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement executed by the customer; and

b. The customer has made at least one payment pursuant to that settlement, debt management plan, or other valid contractual agreement between the customer and the creditor or debt collector.

44. The TSR also prohibits, while engaged in telemarketing, misrepresenting, directly or by implication, material aspects of any debt relief service, including, but not limited to, the amount of money that a customer may save by using such service, and the amount of time necessary to achieve the represented results, 16 C.F.R. § 310.3(a)(2)(x).

45. Debtor and his LI Co-Defendants are “seller[s]” or “telemarketer[s]” engaged in “telemarketing,” as those terms are defined in the TSR, 16 C.F.R. § 310.2(aa), (cc), and (dd).

46. Debtor and his LI Co-Defendants have “assisted and facilitated” sellers or telemarketers by providing substantial assistance or support while knowing or consciously avoiding knowing that the sellers or telemarketers are engaged in any act or practice that violates §§ 310.3(a), (c) or (d), or § 310.4 of the TSR, 16 C.F.R. § 310.3(b).

47. Debtor and his LI Co-Defendants are engaged in the marketing and sale of a “debt relief service,” as that term is defined in the TSR, 16 C.F.R. § 310.2(m).

48. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT ONE

(NONDISCHARGEABLE DEBT FOR MONEY OBTAINED IN DEBT COLLECTION OPERATION BY FALSE PRETENSES, FALSE REPRESENTATIONS, OR ACTUAL FRAUD)

49. The Commission repeats and realleges the allegations in ¶¶ 1-48.

50. In numerous instances, in connection with processing payments for debts consumers did not owe, or that were not applied to consumers’ real debts, as discussed in Paragraphs 9 through 25, Debtor, his Debt Collection Co-Defendants, and the overseas call centers have represented, directly or indirectly, expressly or by implication, that:

- a. They owned consumer debts and had the legal right to collect them;
- b. They were or were acting on behalf of lawyers or law enforcement officers in collecting the purported debts;
- c. They had legal grounds to initiate immediate legal action against consumers for failure to pay the money demanded; and
- d. They had legal grounds to have consumers arrested if they failed to pay the money demanded.

51. In truth and in fact, Debtor, his Debt Collection Co-Defendants, and the overseas call centers did not own the purported debts they collected from consumers, and consumers did not owe money to Debtor, his Debt Collection Co-Defendants, or the overseas call centers. Furthermore, Debtor, his Debt Collection Co-Defendants, and the overseas call centers did not have the legal right to collect debts from consumers, were not acting as or on behalf of lawyers or law enforcement officers, and had no legal grounds to bring legal action against consumers or to have consumers arrested for failure to pay the money they demanded.

52. Debtor's activities described above constitute false pretenses, false representations, or actual fraud as set forth in 11 U.S.C. § 523(a)(2)(A).

53. Debtor is jointly and severally liable with his Debt Collection Co-Defendants in the Enforcement Action for these fraudulent misrepresentations.

54. Debtor's activities described above were conducted with knowledge that he was engaged in fraudulent schemes and with knowledge of the falsity of the

representations in the course of those schemes, or with reckless disregard of the truth or falsity of the representations.

55. Debtor injured consumers by knowingly engaging in fraudulent schemes and knowingly making false representations to consumers and using false pretenses in dealing with consumers. These false representations and false pretenses were material to consumers in the course of deciding to pay the purported debts to Debtor and his Debt Collection Co-Defendants. Consumers' reliance on the Debtor's and his Debt Collection Co-Defendants' representations was justifiable.

56. The total amount of the money the Debtor and his Debt Collection Co-Defendants and co-participants obtained from consumers by such false pretenses, false representations, or actual fraud is at least \$6,815,180.00, part of the amount of the monetary portion of the Stipulated Judgment against the Debtor in the FTC's Enforcement Action.

57. Consequently, the Debtor's judgment debt to the FTC is one for money, property, or services obtained by false pretenses, false representations or actual fraud, and is not dischargeable. 11 U.S.C. §523(a)(2)(A).

COUNT TWO

(NONDISCHARGEABLE DEBT FOR WILLFUL AND MALICIOUS INJURY TO CONSUMERS)

58. The Commission repeats and realleges the allegations in ¶¶ 1-48.

59. In numerous instances, Debtor, his Debt Collection Co-Defendants, and the overseas call centers processed payments for debts consumers did not owe, or that were not applied to consumers' real debts, as discussed in Paragraphs 9 through 25.

60. These acts and practices have caused or are likely to have caused substantial injury to consumers which is not reasonably avoidable by consumers themselves and which is not outweighed by countervailing benefits to consumers or competition.

61. Therefore, Debtor's and his Debt Collection Co-Defendants' acts and practices, as described above in Paragraphs 9 through 25, constitute an unfair act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

62. In numerous instances, in connection with processing payments for debts consumers did not owe, or that were not applied to consumers' real debts, as discussed in Paragraphs 9 through 25, Debtor's and his Debt Collection Co-Defendants' acts and practices constituted a willful and malicious injury to consumers as set forth in 11 U.S.C. § 523(a)(6):

- a. Debtor and his Debt Collection Co-Defendants injured consumers;
- b. Debtor's and his Debt Collection Co-Defendants' injury to consumers was willful because they committed intentional or deliberate acts and practices, the purpose of which was to cause injury to consumers or which were substantially certain to injure consumers;
- c. Debtor's and his Debt Collection Co-Defendants' injury to consumers was malicious because their acts and practices were wrongful and without just cause or excessive.

63. Malice for purposes of Section 523(a)(6) is established by a finding of implied or constructive malice; showing a specific intent to harm is not necessary.

64. The total amount of the money the Debtor and his Debt Collection Co-Defendants and overseas co-participants obtained from consumers by such willful and malicious injury is at least \$6,815,180, part of the amount of the monetary portion of the Stipulated Judgment against the Debtor in the FTC's Enforcement Action.

65. Consequently, the Debtor's judgment debt to the FTC is one for willful and malicious injury by the Debtor to another entity or the property of another entity and is not dischargeable pursuant to 11 U.S.C. § 523(a)(6).

COUNT THREE

(NONDISCHARGEABLE DEBT FOR MONEY OBTAINED IN LI OPERATION BY FALSE PRETENSES, FALSE REPRESENTATIONS, OR ACTUAL FRAUD)

66. The Commission repeats and realleges the allegations in ¶¶ 1-48.

67. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of interest rate reduction services, as discussed in paragraphs 26 through 41, Debtor and his LI Co-Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. They are affiliated, or have established relationships, with consumers' lenders;
- b. They will negotiate lower interest rates for consumers within a few months;

c. Consumers will save thousands of dollars as a result of Debtor's and his LI Co-Defendants' negotiations;

d. Consumers will receive assistance from personal financial consultants; and

e. Consumers will receive full refunds.

68. In truth and in fact, Debtor and his LI Co-Defendants are neither affiliated, nor have established relationships, with consumers' lenders. Furthermore, in numerous instances, Debtor and his LI Co-Defendants do not negotiate lower interest rates for consumers within a few months; consumers do not save thousands of dollars as a result of Debtor's and his LI Co-Defendants' negotiations, consumers do not receive assistance from personal financial consultants, and dissatisfied consumers do not receive full refunds.

69. Debtor's activities described above constitute false pretenses, false representations, or actual fraud as set forth in 11 U.S.C. § 523(a)(2)(A).

70. Debtor is jointly and severally liable with his LI Co-Defendants in the Enforcement Action for these fraudulent misrepresentations.

71. Debtor's activities described above were conducted with knowledge that he was engaged in fraudulent schemes and with knowledge of the falsity of the representations in the course of those schemes, or with reckless disregard of the truth or falsity of the representations.

72. Debtor injured consumers by knowingly engaging in fraudulent schemes and knowingly making false representations to consumers and using false pretenses in

dealing with consumers. These false representations and false pretenses were material to consumers in the course of deciding to purchase the services offered from the Debtor and his LI Co-Defendants. Consumers' reliance on the Debtor's and his LI Co-Defendants' representations was justifiable.

73. The total amount of the money the Debtor and his LI Co-Defendants obtained from consumers by such false pretenses, false representations, or actual fraud is at least \$18,468,058.00, part of the amount of the monetary portion of the Stipulated Judgment against the Debtor in the FTC's Enforcement Action.

74. Consequently, the Debtor's judgment debt to the FTC is one for money, property, or services obtained by false pretenses, false representations or actual fraud, and is not dischargeable. 11 U.S.C. §523(a)(2)(A).

COUNT FOUR

(NONDISCHARGEABLE DEBT FOR MONEY OBTAINED IN TELEMARKETING LI OPERATION BY FALSE PRETENSES, FALSE REPRESENTATIONS, OR ACTUAL FRAUD)

75. The Commission repeats and realleges the allegations in ¶¶ 1-48.

76. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of interest rate reduction services, as discussed in paragraphs 26 through 48, Debtor and his LI Co-Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. They are affiliated, or have established relationships, with consumers' lenders;

- b. They will negotiate lower interest rates for consumers within a few months;
- c. Consumers will save thousands of dollars as a result of Debtor's and his LI Co-Defendants' negotiations;
- d. Consumers will receive assistance from personal financial consultants; and
- e. Consumers will receive full refunds.

77. In truth and in fact, Debtor and his LI Co-Defendants are neither affiliated, nor have established relationships, with consumers' lenders. Furthermore, in numerous instances, Debtor and his LI Co-Defendants do not negotiate lower interest rates for consumers within a few months; consumers do not save thousands of dollars as a result of Debtor's and his LI Co-Defendants' negotiations, consumers do not receive assistance from personal financial consultants, and dissatisfied consumers do not receive full refunds.

78. Debtor's and his LI Co-Defendants' acts or practices, as described in Paragraphs 76 through 77, violate Section 310.3(a)(2)(x) of the TSR, 16 C.F.R. § 310.3(a)(2)(x).

79. In numerous instances, in connection with the telemarketing of debt relief services, Debtor and his LI Co-Defendants have requested and received payment of a fee or consideration for such service before:

a. Renegotiating, settling, reducing, or otherwise altering the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement executed by the customer; and

b. The customer has made at least one payment pursuant to that settlement agreement, debt management plan, or other valid contractual agreement between the customer and the creditor or debt collector.

80. Debtor's and his LI Co-Defendants' acts or practices, as described in Paragraph 79, violate Section 310.4(a)(5)(i) of the TSR, 16 C.F.R. § 310.4(a)(5)(i).

81. In numerous instances, in connection with the telemarketing of debt relief services, Debtor has provided substantial assistance or support to sellers or telemarketers who he knew or consciously avoided knowing are engaged in acts or practices that violate § 310.3(a), (c) or (d), or § 310.4 of the TSR.

82. Debtor's acts or practices as alleged in Paragraph 81 violate Section 310.3(b) of the TSR, 16 C.F.R. § 310.3(b).

83. Debtor's activities described above constitute false pretenses, false representations, or actual fraud as set forth in 11 U.S.C. § 523(a)(2)(A).

84. Debtor is jointly and severally liable with his LI Co-Defendants in the Enforcement Action for these fraudulent misrepresentations.

85. Debtor's activities described above were conducted with knowledge that he was engaged in fraudulent schemes and with knowledge of the falsity of the representations in the course of those schemes, or with reckless disregard of the truth or falsity of the representations.

86. Debtor injured consumers by knowingly engaging in fraudulent schemes and knowingly making false representations to consumers and using false pretenses in dealing with consumers. These false representations and false pretenses were material to consumers in the course of deciding to purchase the services offered from the Debtor and his LI co-defendants. Consumers' reliance on the Debtor's and his LI Co-Defendants' representations was justifiable.

87. The total amount of the money the Debtor and his LI Co-Defendants obtained from consumers by such false pretenses, false representations, or actual fraud is at least \$18,468,058.00, part of the amount of the monetary portion of the Stipulated Judgment against the Debtor in the FTC's Enforcement Action.

88. Consequently, the Debtor's judgment debt to the FTC is one for money, property, or services obtained by false pretenses, false representations or actual fraud, and is not dischargeable. 11 U.S.C. §523(a)(2)(A).

COUNT FIVE

(COLLATERAL ESTOPPEL)

89. The Commission repeats and realleges the allegations in ¶¶ 1-48.

90. The Debtor specifically agreed in the Stipulated Judgment to entry of the relief requested in this adversary proceeding. Stipulated Order Section V.B. As such, he is collaterally estopped from relitigating the facts alleged in this Complaint.

WHEREFORE, plaintiff FTC requests that the Court:

(a) Determine that the monetary portion of the Stipulated Judgment against Debtor in the Enforcement Action in the amount of Twenty-Five Million, Two-Hundred

Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars (\$25,283,238.00) is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A);

(b) Enter judgment against the Debtor in the amount of Twenty-Five Million, Two-Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars (\$25,283,238.00), plus applicable interest in accordance with 28 U.S.C. § 1961; and

(c) Grant the FTC such other and further relief as this case may require and the Court deems just and proper.

Dated:

Respectfully submitted,

DAVID C. SHONKA
Acting General Counsel

KATHERINE JOHNSON
Federal Trade Commission
600 Pennsylvania Avenue, N.W., M-8102B
Washington, D.C. 20580
Tel: (202) 326-2185
Fax: (202) 326-2558
Email: kjohnson3@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

Attachment B

**UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

BRETT FISHER,

Defendant.

Case No. 8:13-bk-02528-KRM

**JUDGMENT FOR NONDISCHARGEABILITY OF DEBT
OWED TO FEDERAL TRADE COMMISSION**

This proceeding came before the Court on a Complaint to Determine Nondischargeability of Debt Owed to the Federal Trade Commission and subsequently filed Stipulated Judgment for Nondischargeability of Debt Owed to the Federal Trade Commission. Upon the stipulation and agreed to findings of fact and conclusions of law separately filed in this matter, it is:

ORDERED AND ADJUDGED that

1. Judgment is hereby entered in favor of the Federal Trade Commission and against the Debtor/Defendant, Brett Fisher, determining that the Judgment entered in the Enforcement Action, in the amount of Twenty-Five Million, Two-Hundred Eighty-Three Thousand, Two Hundred Thirty-Eight Dollars (\$25,283,238.00) is nondischargeable pursuant to 11 U.S.C. § 523(a)(2)(A). A copy of the Judgment entered in the Enforcement Action is attached hereto as **Exhibit 1**.

2. All provisions of the Judgment in the Enforcement Action, including the injunctive provisions, remain in full force and effect.

DATED this ____ day of _____, 2013 at Tampa, Florida.

K. RODNEY MAY
United States Bankruptcy Judge

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Agreed to by:

BRETT FISHER

Defendant pro se

Submitted by:
Katherine Johnson
Federal Trade Commission
600 Pennsylvania Ave., NW
M-8102B
Washington, DC 20580
(202) 326-2185
Kjohnson3@ftc.gov