



Office of the Secretary

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

February 13, 2017

The Honorable Richard Cordray
Director
Consumer Financial Protection Bureau
1801 L Street, NW
Washington, DC 20036

Dear Director Cordray:

Thank you for your letter of January 5, 2017. As the letter mentions, the Consumer Financial Protection Bureau (CFPB) is responsible for providing annual reports to Congress concerning the federal government's efforts to implement the Fair Debt Collection Practices Act (FDCPA).¹ This letter and its appendix describe the efforts the Federal Trade Commission (Commission or FTC) has taken during the past year in the debt collection arena. In the FTC's debt collection work, the CFPB has been a valuable partner. We hope that the information in this letter will assist the CFPB in preparing this year's report.

In 2016, the Commission continued its aggressive law enforcement activities against abusive, unfair, and deceptive debt collection practices. Among other things, the FTC:

- filed or resolved 12 cases against 61 defendants, and obtained nearly \$70 million in judgments;²
- banned 44 companies and individuals that engaged in serious and repeated violations of law from ever working in debt collection again³; and

¹ The Dodd-Frank Act directed the CFPB to report to Congress on the federal government's implementation and administration of the FDCPA. Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act), Pub. L. 11-203, § 1089, 124 Stat. 1376, 2092-93 (2010) (amending the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692-1692p). Before the enactment of the Dodd-Frank Act, Section 815(a) of the FDCPA, 15 U.S.C. § 1692m, required the FTC to report directly to Congress on these topics. The Commission submitted such annual reports from 1977 to 2011.

² These figures include cases filed and resolved in 2016, as well as cases filed in previous years but resolved in 2016.

³ As a complement to all of the debt collection law enforcement cases that the FTC has brought over the years, in 2015 the FTC began publishing a list of every individual and company that the agency has sued that has been banned from the debt collection industry. This list, located at <https://www.ftc.gov/enforcement/cases-proceedings/banned-debt-collectors>, is a valuable resource to help law-abiding collection industry professionals avoid doing business with these defendants, as well as to help state debt collection licensing officials and law enforcers better protect consumers. Currently, the list includes over 135 banned individuals and companies.

- secured successful summary judgment decisions in three litigated matters, resulting in orders banning defendants from the debt collection industry.⁴

The FTC's debt collection program is a three-pronged effort: (1) vigorous law enforcement; (2) education and public outreach; and (3) research and policy initiatives. Over the past year, the FTC has employed all three prongs in its effort to curb unlawful debt collection practices and protect consumers.

I. LAW ENFORCEMENT ACTIVITIES

The Commission is primarily a law enforcement agency, and law enforcement investigations and litigation are at the heart of the FTC's recent debt collection work. Both the FDCPA and the FTC Act⁵ authorize the Commission to investigate and take law enforcement action against debt collectors that violate those statutes.⁶ If an FTC investigation reveals that a debt collector violated the law, the Commission may file a federal court action seeking injunctive and equitable monetary relief under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), or refer the matter to the Department of Justice for civil penalties and injunctive relief under Section 5(m) of the FTC Act, 15 U.S.C. § 45(m). Where a collector's violations are so egregious that a court order is necessary to halt the conduct immediately, or where consumer redress and disgorgement are more appropriate forms of monetary relief than civil penalties, the FTC generally files the action itself under Section 13(b) of the FTC Act. In other circumstances, the FTC may refer the case to the Department of Justice.

In addition to filing and referring law enforcement actions, the FTC files amicus briefs and undertakes other law enforcement-related activities.

A. Legal Actions

From January 1 through December 31, 2016, the FTC brought or resolved 12 debt collection cases. In several of its Section 13(b) cases, the Commission obtained preliminary relief that included *ex parte* temporary restraining orders with asset freezes, immediate access to business premises, and appointment of receivers to take over the debt collection businesses.

The Commission's recent efforts to protect consumers from deceptive and abusive debt collection practices culminated in Operation Collection Protection. This initiative, which the FTC began in 2015, was the first coordinated federal-state-local enforcement initiative targeting illegal debt collection. The nationwide crackdown included over 165 actions by more than 70 federal, state, and local law enforcement and regulatory authorities against collectors who used

⁴ This past year's work built upon and expanded the FTC's ongoing crackdown on unlawful debt collection practices. Since January 1, 2010, the FTC has sued over 250 companies and individuals who engaged in unlawful collection practices, banning 139 from the industry, and securing over \$419 million in judgments.

⁵ FDCPA, 15 U.S.C. § 1692-1692p; FTC Act, 15 U.S.C. §§ 41-58.

⁶ The FDCPA authorizes the Commission to investigate and take law enforcement action against debt collectors that engage in unfair, deceptive, abusive, or other practices that violate the statute. FDCPA § 814, 15 U.S.C. § 1692l. Under the FTC Act, the FTC may investigate and take law enforcement action against entities that, in connection with collecting on debts, engage in unfair or deceptive acts and practices. FTC Act § 5, 15 U.S.C. § 45.

illegal tactics such as harassing phone calls and false threats of litigation or arrest.⁷ Participants in the initiative continue to work closely together to share information and coordinate actions. The FTC’s actions, involving (1) phantom debt collection, (2) collection via unlawful text messages and emails, (3) other FDCPA and FTC Act violations, and (4) Fair Credit Reporting Act violations, are discussed below.

1. Phantom Debt Collection

The Commission has continued its efforts to fight “phantom debt collection” this year. Phantom debt collectors engage in unfair, deceptive, or abusive conduct by attempting to collect on debts that either do not exist or are not owed to the phantom debt collector. The Commission initiated or resolved three actions involving phantom debt collection in 2016: *SQ Capital LLC*, *Stark Law LLC*, and *Kelly S. Brace*. *SQ Capital* and *Stark Law* are the first two cases brought by the FTC against operations for allegedly selling fake debt portfolios. This past year, the Commission also returned money to thousands of consumers who were targeted by the phantom debt schemes in *Centro Natural Corp.* and *Broadway Global Master Inc.*

In December, the Commission charged *SQ Capital* with selling portfolios of fake payday loan debts that debt collectors used to get people to pay on debts they did not owe.⁸ According to the complaint, the defendants’ fake portfolios listed social security numbers and bank account numbers of real consumers, but falsely claimed that the purported borrowers had failed to repay debts they never owed, to lenders who did not make these loans.⁹ The complaint also alleges that the defendants did not have the authority to sell debts of the lenders they named. At the

⁷ See, e.g., Press Release, FTC and Federal, State and Local Law Enforcement Partners Announce Nationwide Crackdown Against Abusive Debt Collectors (Nov. 4, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/11/ftc-federal-state-local-law-enforcement-partners-announce>; Press Release, FTC and State Law Enforcement Partners Announce More Actions and Results in Continuing Crackdown Against Abusive Debt Collectors (Jan. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/01/ftc-state-law-enforcement-partners-announce-more-actions-results>; Press Release, FTC and Illinois Attorney General Halt Chicago-Area Operation Charged with Collecting and Selling Phantom Payday Loan Debts (Mar. 30, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/03/ftc-illinois-attorney-general-halt-chicago-area-operation-charged>; Press Release, FTC Actions: Debt Collectors Banned from Debt Collection Business (Sept. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-actions-debt-collectors-banned-debt-collection-business>; Blog Post, A Debt Collection Round-up (Dec. 27, 2016), available at <https://www.consumer.ftc.gov/blog/debt-collection-round>; Blog Post, Collection Protection reflection (Dec. 30, 2016), available at https://www.ftc.gov/news-events/blogs/business-blog/2016/12/collection-protection-reflection?utm_source=govdelivery.

⁸ *FTC v. Joel Jerome Tucker*, 2:16-cv-082816 (D. Kan. Dec. 16, 2016) (Complaint); see also Press Release, FTC Charges Defendants with Selling Fake Payday Loan Debt Portfolios (Jan. 9, 2017), available at <https://www.ftc.gov/news-events/press-releases/2017/01/ftc-charges-defendants-selling-fake-payday-loan-debt-portfolios>.

⁹ To add credibility to some of the fake loans in their portfolios, the defendants used the name of a purported lender associated with another Commission law enforcement action, *FTC v. AMG Services*, 2:12-cv-00536 (D. Nev. Sept. 30, 2016) (Order). In September 2016, a federal court ordered the defendants in the *AMG* payday lending scheme to pay a record \$1.3 billion for deceiving and illegally charging consumers undisclosed and inflated fees. *Id.*; see also Press Release, U.S. Court Finds in FTC’s Favor and Imposes Record \$1.3 Billion Judgment Against Defendants Behind *AMG* Payday Lending Scheme (Oct. 4, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/10/us-court-finds-ftcs-favor-imposes-record-13-billion-judgment>.

FTC's request, a federal court entered a preliminary injunction halting this operation pending litigation.

In March, the FTC partnered with the Illinois Attorney General to shut down a Chicago-area operation that allegedly threatened and intimidated consumers to collect phantom payday loan debts they did not owe, or did not owe to the defendants.¹⁰ The *Stark Law* defendants allegedly called consumers and demanded immediate payment for supposedly delinquent loans, often armed with consumers' sensitive personal and financial information. Defendants also allegedly threatened consumers with lawsuits or arrest, deceptively held themselves out as a law firm with authority to sue and obtain substantial judgments against delinquent consumers, and disclosed debts to relatives, friends and co-workers. As in *SQ Capital*, the complaint also charged defendants with unlawfully selling portfolios of fake debt to other debt collectors in violation of the FTC Act. The court entered an *ex parte* temporary restraining order (and later a preliminary injunction) with an asset freeze, appointment of a receiver, and injunctive relief prohibiting the defendants from selling fake debt portfolios or from making the misrepresentations at issue in this case. Litigation continues in this matter.

In *Brace*, the FTC and New York Attorney General successfully resolved their litigation against another phantom debt collection scheme. The complaint in this case, filed in October 2015, alleged that the defendants attempted to collect on payday debts they knew were bogus.¹¹ According to the complaint, the defendants bought payday loans supposedly owed to a company that repeatedly told them to stop collection efforts because the debts were fabricated, and ignored consumers' evidence that they had never authorized a payday loan. The defendants allegedly employed other deceptive and abusive tactics to get consumers to pay, including false threats of lawsuits and arrest. The Court granted – over the defendants' objections – the plaintiffs' request to enter a temporary restraining order halting their operations, and, shortly thereafter, entered a stipulated preliminary injunction. In the summer of 2016, the FTC and the New York AG secured a stipulated final order banning the defendants from the debt collection business, prohibiting other deceptive claims, and imposing a judgment of more than \$18.4 million, which was partially suspended based on inability to pay.¹² The plaintiffs also secured an order against a relief defendant imposing a partially-suspended \$418,000 judgment.

In addition to the law enforcement actions above, this past year the Commission also returned funds to consumers who lost money to phantom debt collection operations previously stopped by the FTC. In November 2016, the agency mailed 3,446 checks totaling more than \$830,000 to consumers in the *Centro Natural Corp.* matter.¹³ The Commission had secured stipulated orders banning defendants from debt collection or telemarketing, after alleging that

¹⁰ *FTC v. Stark Law, LLC*, No. 1:16-cv-3463 (N.D. Ill. Mar. 21, 2016) (Complaint); *see also* Press Release, FTC and Illinois Attorney General Halt Chicago-Area Operation Charged with Collecting and Selling Phantom Payday Loan Debts (Mar. 30, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/03/ftc-illinois-attorney-general-halt-chicago-area-operation-charged>.

¹¹ *FTC and State of New York v. Brace*, No. 1:15-cv-00875-RJA (W.D.N.Y. Oct. 5, 2015) (Complaint).

¹² *FTC and State of New York v. Brace*, No. 1:15-cv-00875-RJA (W.D.N.Y. Aug. 18, 2015) (Stipulated Order), *see also* Press Release, FTC Action: Debt Collector Banned from Collection Business (Aug. 24, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/08/ftc-action-debt-collector-banned-collection-business>.

¹³ Press Release, FTC Returns Money to Victims of Debt Collection Scheme (Nov. 14, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/11/ftc-returns-money-victims-debt-collection-scheme>.

they targeted thousands of Spanish-speaking consumers with unlawful tactics to collect on fake debts and to coerce consumers into purchasing goods that they did not want.¹⁴ In April, the Commission mailed 1,701 checks totaling more than \$596,000 to consumers who lost money to the fraudulent scheme in *Broadway Global Master Inc.*¹⁵ The agency had previously secured a stipulated order banning this operation from the debt collection business because of allegations that it harassed consumers into paying phantom debts.¹⁶

2. The FTC's *Messaging For Money* Sweep: Debt Collection Via Unlawful Text Messages And Emails

The Commission has also continued its efforts to pursue schemes that use deceptive, threatening or otherwise unlawful text messages or emails to target consumers. In 2015, the Commission launched a law enforcement sweep, called “Messaging for Money,” to stop three operations engaged in such practices. This past year, the FTC won summary judgment in one of those cases (*The Primary Group Inc.*), and successfully resolved the charges against nine of the defendants in the other two matters (*Premier Debt Acquisitions LLC* and *Unified Global Group, LLC*).

In June 2016, the court in *The Primary Group* matter granted the FTC's summary judgment request on all counts against an unlawful debt collection operation.¹⁷ The court found that, as alleged by the Commission, these defendants deceived consumers using text messages, emails, and phone calls that falsely threatened consumers with arrest or lawsuits if they did not make debt collection payments. The court also found that they unlawfully contacted consumers' friends, family members, and employers; withheld information consumers needed to confirm or dispute debts; and did not identify themselves as debt collectors, as required by law.¹⁸ The court permanently banned two defendants from debt collection activities and imposed a judgment of \$980,000.

¹⁴ *FTC v. Centro Natural Corp.*, No. 14-cv-23879 CMA (S.D. Fla. June 30, 2015) (Stipulated Order); see also Press Release, FTC Action Puts an End to Fraudulent Debt Collection Scheme that Targeted Spanish-Speaking Consumers (July 8, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/07/ftc-action-puts-end-fraudulent-debt-collection-scheme-targeted>.

¹⁵ Press Release, FTC Returns Money to Consumers Harmed by Scam That Collected Millions in Phantom Payday Loan Debts (Apr. 6, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/04/ftc-returns-money-consumers-harmed-scam-collected-millions>.

¹⁶ *FTC v. Broadway Global Master Inc.*, No. 2:12-cv-0855 JAM GGH (E.D. Cal. Sept. 10, 2015) (Stipulated Order); see also Press Release, FTC Action Stops Scammers Who Collected Millions in Phantom Payday Loan Debts (Sept. 16, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/09/ftc-action-stops-scammers-who-collected-millions-phantom-payday>.

¹⁷ *FTC v. The Primary Group*, No. 1:15-cv-1645 (N.D. Ga. May 19, 2016) (Order Granting Summary Judgment); see also Press Release, FTC Action: Debt Collector Banned from Debt Collection Business (June 16, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/06/ftc-action-debt-collector-banned-debt-collection-business>.

¹⁸ *FTC v. The Primary Group*, No. 1:15-cv-1645 (N.D. Ga. May 11, 2015) (Complaint); see also Press Release, FTC Halts Three Debt Collection Operations That Allegedly Threatened and Deceived Consumers via Illegal Text Messages (May 21, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-halts-three-debt-collection-operations-allegedly-threatened>.

The Commission successfully resolved *Premier Debt Acquisitions* in January 2016 by securing a stipulated order banning the defendants from debt collection activities and imposing a judgment of \$2,229,756, which was partially suspended.¹⁹ The complaint alleged that defendants impersonated law enforcement and government officials, falsely threatened consumers with a lawsuit or arrest, and falsely threatened to charge some consumers with criminal fraud, garnish their wages, or seize their property.²⁰ In text messages, the defendants allegedly claimed they would sue consumers and threatened to seize consumers' possessions unless they paid. In voicemails, the defendants also allegedly falsely claimed that a "uniformed officer" was on the way to consumers' homes. In addition to banning the defendants from the debt collection industry, the order prohibits them from making misrepresentations about other financial products or services.

In *FTC v. Unified Global Group*, the FTC secured an approximately \$27 million judgment and significant injunctive relief in a settlement with four defendants involved in an abusive debt collection operation. The FTC's complaint against *Unified Global Group*²¹ alleged that the defendants sent texts to trick consumers into calling them back. The texts included false statements such as, "YOUR PAYMENT DECLINED WITH CARD ****_****_****_5463 . . . CALL 866.256.2117 IMMEDIATELY," even though consumers had never arranged to make payments to the defendants. The defendants also allegedly used deceptive emails and calls that threatened arrest and civil lawsuits, and unlawfully contacted consumers' friends, families, and co-workers about the supposed debts. In August 2016, the court entered a stipulated order banning the settling defendants from all debt collection activities and imposing a judgment of approximately \$27 million, which was partially suspended because of their inability to pay.²² Litigation continues against the sole remaining defendant.

3. Other Actions To Halt FDCPA And FTC Act Violations

In addition to the cases described above, the FTC successfully resolved five other actions in 2016 to protect consumers from unlawful collection practices: (1) *Federal Check Processing*; (2) *Commercial Recovery Systems*; (3) *Warrant Enforcement Division*; (4) *AFS Legal Services*; and (5) *BAM Financial*. In the first two cases, the FTC secured summary judgment wins against

¹⁹ *FTC v. Premier Debt Acquisitions LLC*, No. 1:15-cv-00421-FPG (W.D.N.Y. Jan. 7, 2016) (Order); see also Press Release, FTC and State Law Enforcement Partners Announce More Actions and Results in Continuing Crackdown Against Abusive Debt Collectors (Jan. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/01/ftc-state-law-enforcement-partners-announce-more-actions-results>.

²⁰ *FTC v. Premier Debt Acquisitions LLC*, No. 1:15-cv-00421-FPG (W.D.N.Y. May 11, 2015) (Complaint); see also Press Release, FTC Halts Three Debt Collection Operations That Allegedly Threatened and Deceived Consumers via Illegal Text Messages (May 21, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-halts-three-debt-collection-operations-allegedly-threatened>.

²¹ *FTC v. Unified Global Group, LLC*, 15-cv-422-W (W.D.N.Y. May 11, 2015) (Complaint); see also Press Release, FTC Halts Three Debt Collection Operations That Allegedly Threatened and Deceived Consumers via Illegal Text Messages (May 21, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/05/ftc-halts-three-debt-collection-operations-allegedly-threatened>.

²² *FTC v. Unified Global Group, LLC*, 15-cv-422-W (W.D.N.Y. Aug. 26, 2016) (Order); see also Press Release, FTC Actions: Debt Collectors Banned from Debt Collection Business (Sept. 7, 2016) available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-actions-debt-collectors-banned-debt-collection-business>.

the defendants. The FTC also continued litigating *Vantage Point Services*, filing a motion for summary judgment and securing additional preliminary relief against a defendant.

In *FTC v. Federal Check Processing Inc.*, the court granted the Commission’s request for summary judgment against a Buffalo, New York-based debt collection scheme.²³ The district court adopted the magistrate judge’s recommendation and report that found that defendants had violated the FTC Act and the FDCPA by falsely claiming to be government officials, falsely threatening consumers with litigation or arrest, and systematically disclosing consumers’ debts to their friends, family, and co-workers to coerce payment.²⁴ The court had previously entered an *ex parte* temporary restraining order, followed by a stipulated preliminary injunction, to halt this abusive debt collection operation. The final order bans the defendants from the debt collection industry and requires them to pay a nearly \$11 million judgment.

In *United States v. Commercial Recovery Systems, Inc.*, a case that the FTC referred to the Department of Justice for prosecution, the court entered summary judgment against two defendants in an unlawful debt collection operation. The court found that the debt collectors had “repeatedly and routinely violated the FDCPA . . . in multiple ways, by making blatantly false representations for the purpose of intimidating consumers into paying debts.”²⁵ Among other things, the court found that their routine threats to sue consumers were “patently false,” and further that they falsely impersonated attorneys and threatened to seize or garnish consumers’ property or wages. The court banned the two defendants from debt collection, and will determine the civil penalty amount to impose on one of them, the president of the company.²⁶ Additionally, the government secured a stipulated final order against the remaining individual defendant subjecting him to the same ban and imposing a \$496,000 civil penalty judgment (partially suspended due to an inability to pay).²⁷

In January 2016, the Commission also successfully resolved its action in *Warrant Enforcement Division*. The FTC’s complaint in this matter alleged that the defendants, while under contract to collect overdue utility bills, traffic tickets, court fines, and other debts for local governments in Texas and Oklahoma, sent consumers letters and postcards containing false or unsubstantiated threats of arrest that appeared to come from a municipal court.²⁸ The FTC charged that the false and unsubstantiated threats made to collect municipal court debts violated the FTC Act, and those made to collect utility debts violated both the FTC Act and the FDCPA.

²³ *FTC v. Federal Check Processing, Inc.*, No. 1:14-cv-00122 (W.D.N.Y. Oct. 13, 2016) (Judgment and Permanent Injunction); see also Press Release, FTC Wins Summary Judgment Against Buffalo, NY-based Abusive Debt Collectors; Defendants Banned from Collection Business (Oct. 31, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/10/ftc-wins-summary-judgment-against-buffalo-ny-based-abusive-debt>.

²⁴ *FTC v. Federal Check Processing, Inc.*, No. 1:14-cv-00122 (W.D.N.Y. Mar. 25, 2014) (Complaint), see also Press Release, At FTC’s Request, Court Halts Debt Collector’s Allegedly Deceptive and Abusive Practices, Freezes Assets (Sept. 23, 2014), available at <http://www.ftc.gov/news-events/press-releases/2014/03/ftcs-request-court-halts-debt-collectors-allegedly-deceptive>.

²⁵ *United States v. Commercial Recovery Sys., Inc.*, No. 4:15-cv-36 (E.D. Tex. Apr. 7, 2016) (Memorandum Opinion and Order).

²⁶ *United States v. Commercial Recovery Sys., Inc.*, No. 4:15-cv-36 (E.D. Tex. Apr. 18, 2016) (Order); see also Press Release, FTC Action: Debt Collector Banned from Collection Business (Sept. 22, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-action-debt-collector-banned-collection-business>.

²⁷ *United States v. Commercial Recovery Sys., Inc.*, No. 4:15-cv-36 (E.D. Tex. Sept. 21, 2016) (Order)

²⁸ *FTC v. Municipal Recovery Servs. Corp.*, No. 15-CV-04064-N (N.D. Tex. Dec. 24, 2015) (Complaint).

Under a stipulated order for permanent injunction, the defendants are prohibited from misrepresenting any material fact in collecting debts, including that failure to pay a debt will result in the consumer being arrested or jailed, having their vehicle impounded, or being unable to renew their driver's license.²⁹ The order also imposed a \$194,888 judgment that was suspended based on the defendants' inability to pay.

Similarly, the Commission secured a final order in its suit against *AFS Legal Services*, resolving charges that the defendants impersonated investigators and law enforcement, and threatened to arrest, jail, and sue consumers if they did not pay debts.³⁰ According to the FTC's complaint, filed in October 2015, the defendants often had consumers' personal information – such as social security and bank account numbers – that caused consumers to believe that the calls and associated threats were legitimate.³¹ The collectors also allegedly made harassing calls and contacted relatives, friends, and co-workers about consumers' debts. The stipulated final order, entered in August 2016, bans the defendants from debt collection activities and imposes a judgment of more than \$4.4 million, the amount consumers lost to this scheme.

In July 2016, the FTC also successfully resolved its suit against *BAM Financial*, banning the defendants from the debt collecting business and securing other important relief.³² The FTC's complaint, filed in October 2015, alleged that the defendants bought consumer debts and collected payment by deceptively threatening consumers with lawsuits, wage garnishment, and arrest, and by impersonating attorneys or process servers.³³ According to the complaint, the defendants also unlawfully disclosed debts to, or harassed, third parties; failed to identify themselves as debt collectors; and failed to notify consumers of their right to receive verification of the purported debts. At the FTC's request, the court entered a temporary restraining order that prohibited the defendants from violating the FDCPA and the FTC Act, froze the defendants' assets, and appointed a receiver. The stipulated final order bans them from debt collection activities and imposes a \$4,802,646 judgment, to be partially suspended upon the surrender of certain assets based on defendants' inability to pay.

²⁹ *FTC v. Municipal Recovery Servs. Corp.*, No. 15-CV-04064-N (N.D. Tex. Jan. 29, 2016) (Order); *see also*, Press Release, FTC and State Law Enforcement Partners Announce More Actions and Results in Continuing Crackdown Against Abusive Debt Collectors (Jan. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/01/ftc-state-law-enforcement-partners-announce-more-actions-results>.

³⁰ *FTC v. Nat'l Payment Processing LLC*, No. 1:15-cv-3811-AT (N.D. Ga. Aug. 29, 2016) (Order); *see also* Press Release, FTC Actions: Debt Collectors Banned from Debt Collection Business (Sept. 7, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/09/ftc-actions-debt-collectors-banned-debt-collection-business>.

³¹ *FTC v. Nat'l Payment Processing LLC*, No. 1:15-cv-3811-AT (N.D. Ga. Oct. 30, 2015) (Complaint).

³² *FTC v. BAM Fin'l, LLC*, No. 8:15-cv-01672-JVS-DFM (C.D. Cal. July 11, 2016) (Order); *see also* Press Release, FTC Action: Abusive Debt Collectors Banned from Collection Business (July 14, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/07/ftc-action-abusive-debt-collectors-banned-collection-business>.

³³ *FTC v. BAM Fin'l, LLC*, No. 8:15-cv-01672-JVS-DFM (C.D. Cal. Oct. 19, 2015) (Complaint); *see also* Press Release, FTC and Federal, State and Local Law Enforcement Partners Announce Nationwide Crackdown Against Abusive Debt Collectors (Nov. 4, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/11/ftc-federal-state-local-law-enforcement-partners-announce>.

The FTC continues to work with the New York Attorney General in a joint action against *Vantage Point*, a Buffalo, New York-based debt collection scheme. According to the complaint filed in 2015, defendants' collectors posed as a law firm, process servers, or even government agents – misrepresenting to consumers that they had committed a crime and would be arrested and jailed.³⁴ The complaint further alleges that the defendants made similar claims about consumers to their co-workers, friends, and family members. At the request of the FTC and the New York AG, the court entered a preliminary injunction to halt the unlawful practices. In 2016, the plaintiffs requested that the court enter summary judgment against the defendants, and that motion is currently pending. The plaintiffs also sought and obtained a second *ex parte* temporary restraining order and preliminary injunction against one of the individual defendants for operating another debt collection scheme in violation of the first preliminary injunction.

4. Action To Halt Fair Credit Reporting Act Violations By A Debt Collector

In May 2016, in the *Credit Protection Association* matter – referred to the Department of Justice for prosecution – the court entered a stipulated final order against a debt collector for alleged violations of the Fair Credit Reporting Act's (FCRA) Furnisher Rule.³⁵ Specifically, the complaint alleged that the defendant debt collector lacked adequate policies and procedures to handle consumer disputes regarding information the company provided to credit reporting agencies.³⁶ The complaint also alleged that the company did not have a policy requiring notice to consumers of the outcomes of investigations about disputed information and that, in numerous instances, consumers were not informed whether information they disputed had been corrected. The stipulated final order requires the defendant to pay \$72,000 in civil penalties and put in place policies and procedures that comply with the requirements of the FCRA and the Furnisher Rule. The company will also be required to follow the Rule's requirements related to conducting dispute investigations and informing consumers of their outcome.

B. Other Law Enforcement Activities: Amicus Curiae Briefs

The FTC also periodically submits briefs as *amicus curiae* in federal court cases around the country on important debt collection issues. Even when the FTC is not a plaintiff or a defendant in private FDCPA cases, courts often seek and rely on the Commission's expertise in debt collection issues. This is yet another way for the FTC to protect consumers from unlawful practices and ensure consistency and logic in the development of federal debt collection law and policy.

³⁴ *FTC and State of New York v. Vantage Point Services, LLC*, No. 1:15-cv-00006-WMS (W.D.N.Y. Jan. 5, 2015) (Complaint); see also Press Release, FTC, New York Attorney General Crack Down on Abusive Debt Collectors (Feb. 26, 2015), available at <https://www.ftc.gov/news-events/press-releases/2015/02/ftc-new-york-attorney-general-crack-down-abusive-debt-collectors>.

³⁵ 15 U.S.C. §§ 1681-1681x (FCRA); Duties of Furnishers of Information to Consumer Reporting Agencies (Furnisher Rule), 16 C.F.R. § 660, *recodified as* Duties of Furnishers of Information, 12 C.F.R. § 1022, subpart E.

³⁶ *U.S. v. Credit Protection Association*, 3:16-cv-01255-D (N.D. Tex. May 9, 2016) (Complaint and Order); see also Press Release, Debt Collector Settles FTC Charges It Violated Fair Credit Reporting Act (May 9, 2016), available at <https://www.ftc.gov/news-events/press-releases/2016/05/debt-collector-settles-ftc-charges-it-violated-fair-credit>.

Since Congress passed the Dodd-Frank Act, the FTC has often partnered with the CFPB on these *amicus* briefs. This past year, the Ninth Circuit and the Seventh Circuit adopted favorable interpretations of the FDCPA in two cases in which the FTC and CFPB had filed joint *amicus* briefs: *Hernandez v. Williams, Zinman & Parham* and *Franklin v. Parking Revenue Recovery Servs. Inc.* In both cases, the courts reaffirmed the Act’s broad applicability and significant protections for consumers.

1. “Initial Communication”: *Hernandez Amicus Brief*

In 2014, the FTC joined the CFPB in filing an *amicus* brief in the Ninth Circuit *Hernandez* matter regarding the meaning of the phrase “initial communication” in the FDCPA.³⁷ Section 1692g of the FDCPA requires “a debt collector” to send the consumer a “validation notice” containing certain information about the consumer’s alleged debts and the consumer’s rights “[w]ithin five days after the initial communication with a consumer in connection with the collection of any debt.”³⁸ In December 2011, the defendant sent the plaintiff in the underlying case a letter seeking to collect a debt that the plaintiff had allegedly incurred. That letter failed to include all of the information required by 15 U.S.C. § 1692g.

The parties filed cross-motions for summary judgment. In its motion, the defendant argued that it had no obligation to comply with § 1692g because its letter was not the “initial communication” that the plaintiff had received about the debt. Instead, it argued that the “initial communication” had come from another collector that had previously sought to collect on the same debt. The defendant contended that because that prior collector had sent the plaintiff a letter that complied with the FDCPA, and because it was a “subsequent collector,” it was under no obligation to send any further notice. Finding that the statute’s plain text only contemplated one initial communication with a debtor on a given debt, the district court agreed and granted the defendant’s motion. In doing so, the district court joined one side of a split among several district courts.

In our joint brief, the FTC and CFPB urged the Ninth Circuit to reject the district court’s interpretation. As we noted, the use of the general articles in the phrases “*the* initial communication” from “*a* debt collector” are most naturally read to refer to *each* subsequent debt collector’s initial communication with a consumer.³⁹ We also noted in our brief that the district court’s interpretation contravened Congress’s legislative intent. Congress enacted § 1692g to eliminate the problem of debt collectors attempting to collect the wrong amounts from the wrong consumers. To that end, Congress requires debt collectors, upon initially contacting a consumer, to provide the consumer with a validation notice containing key information about the debt and the consumer’s rights, including the amount of the debt, the identity of the original creditor, and

³⁷ Brief of Amici Curiae, *Hernandez v. Williams, Zinman & Parham, P.C.*, No. 14-15672 (9th Cir. Aug. 20, 2014), available at http://www.ftc.gov/system/files/documents/amicus_briefs/hernandez-v.williams-zinman-parham-p.c./140821briefhernandez1.pdf.

³⁸ See 15 U.S.C. § 1692g(a) (duty to send the notice); 15 U.S.C. § 1692g(b) (required contents of notice).

³⁹ Our brief observed that interpreting the statute as applying only to the initial communication by the initial collector leads to a logical inconsistency because, typically, that initial communication with a consumer regarding a debt comes from a creditor, an entity not subject to the FDCPA. If “initial communication” was read to mean this very first communication, and only this communication, then the FDCPA would not apply at all.

the consumer’s rights to obtain verification of the debt or dispute it. Because debts frequently change hands, these protections are just as important when a new debt collector acquires a debt as they are when the first collector began collecting.

In July 2016, the Ninth Circuit reversed the decision of the district court, becoming the first Court of Appeals to issue a published opinion on this portion of § 1692g. It held that, “[a]pplying well-established tools of statutory interpretation and construing the language in § 1692g(a) in light of the context and purpose of the FDCPA, . . . the phrase ‘the initial communication’ refers to the first communication sent by any debt collector, including collectors that contact the debtor after another collector already did.”⁴⁰ The court found that this interpretation is clear when read in the context of the FDCPA as a whole.⁴¹ The court also agreed that this interpretation is supported by the FDCPA’s declared purpose to protect consumers from abusive collection practices – in this case, by ensuring that consumers get updated information about debts and opportunities to verify them when their debts change hands.⁴²

2. Unpaid Parking Charges As “Debts”: *Franklin Amicus Brief*

In 2015, responding to an invitation from the Seventh Circuit, the FTC and CFPB submitted a joint *amicus* brief urging the court to reverse a district court ruling that unpaid parking fees are not “debts,” as that term is defined in the FDCPA.⁴³ The case arose out of a class action complaint alleging that a collection company hired by a private parking lot operator to collect unpaid parking fees and nonpayment penalties sent dunning letters to consumers that violated the FDCPA. The defendants moved for summary judgment, which the district court granted. The court found that the charges were a “fine” and not the byproduct of a “transaction.” Thus, the court reasoned, the sum the defendants were attempting to collect was not a “debt,” as that term is defined in the FDCPA, so the prohibitions of the Act did not apply to the defendants’ dunning letters.

Our joint brief explained that the district court erred. The agencies noted that, in enacting the FDCPA, Congress broadly defined “debt” to mean “any obligation . . . to pay money arising out of a [consumer] transaction.” 15 U.S.C. § 1692a(5). The brief argued that the critical term “transaction,” which Congress left undefined, is a broad reference to many different types of consensual business dealings. It further argued that parking in a lot that was open to the public for a stated fee constituted a “transaction,” similar to many other commercial dealings in which consumers engage daily. Because the fees that the debt collector sought “ar[ose] out of” that transaction, the charges were “debts” and the collection of those debts was governed by the FDCPA.

⁴⁰ *Hernandez v. Williams, Zinman & Parham PC*, 829 F.3d 1068, 1070 (9th Cir. July 20, 2016).

⁴¹ *Id.* at 1072.

⁴² *Id.* at 1078.

⁴³ Brief of *Amici Curiae, Franklin v. Parking Revenue Recovery Servs. Inc.*, No. 14-3774 (7th Cir. Dec. 11, 2015), available at https://www.ftc.gov/system/files/documents/amicus_briefs/franklin-et-al-v.parking-revenue-recovery-services-inc./p082105_parking_revenue_amicus_brief_7th_cir_14-3774.pdf.

In August 2016, the Seventh Circuit issued a decision reversing the district court, holding that the unpaid parking fees and nonpayment penalties at issue in this matter constitute “debts” within the meaning of the FDCPA.⁴⁴ Thanking the FTC and CFPB for their assistance, the Seventh Circuit adopted the agencies’ analysis that these fees and penalties are, in fact, obligations arising out of consumer “transactions” under the FDCPA.

II. EDUCATION AND PUBLIC OUTREACH

Education and public outreach also are important parts of the Commission’s debt collection program. The FTC uses multiple formats and channels to inform consumers about their rights under the FDCPA, as well as what the statute requires of debt collectors; and to inform debt collectors about what they must do to comply with the law. The FTC also uses education and public outreach to enhance legal services providers’ understanding of debt collection issues.

The Commission reaches tens of millions of consumers through English and Spanish print and online materials, blog posts, and speeches and presentations. To maximize its outreach efforts, FTC staff works with an informal network of about 16,000 community-based organizations and national groups that order and distribute FTC information to their members, clients, and constituents. In 2016, the FTC distributed 15.5 million print publications to libraries, police departments, schools, non-profit organizations, banks, credit unions, other businesses, and government agencies. In 2016, the FTC logged more than 43 million views of its business and consumer education website pages. The FTC’s channel at YouTube.com/FTCvideos houses 144 videos, which were viewed more than 603,306 times in 2016. A new video — [Fraud Affects Every Community: Debt Collection](#) — tells the first-person story of a veteran who was contacted by a debt collector. The consumer blogs in [English](#)⁴⁵ and [Spanish](#)⁴⁶ reached 159,825 (English) and 44,835 (Spanish) email subscribers, and regularly serve as source material for local and national news stories.

As part its work to raise awareness about scams targeting the Latino community, the FTC has developed a series of fotonovelas in Spanish. The graphic novels tell stories based on complaints Spanish speakers make to the FTC and offer practical tips to help detect and stop common scams. People ordered more than 45,125 copies of the *Cobrades De Deuda* (Debt Collectors) fotonovela in 2016.

The Commission also educates industry members by developing and distributing business education materials, delivering speeches, blogging, participating in panel discussions at industry conferences, and providing interviews to general media and trade publications. The FTC’s business education resources can be found in its online [Business Center](#).⁴⁷ The Business Center logged more than 3.4 million page views in 2016, and there are more than 58,000 email subscribers to the [Business Blog](#).⁴⁸ A complete list of the FTC’s consumer and business

⁴⁴ *Franklin v. Parking Revenue Recovery Servs. Inc.*, 832 F.3d 741 (7th Cir. Aug. 10, 2016).

⁴⁵ <http://www.consumer.ftc.gov/blog>.

⁴⁶ <http://www.consumidor.ftc.gov/blog>.

⁴⁷ <http://business.ftc.gov/>.

⁴⁸ <http://business.ftc.gov/blog>.

education materials relating to debt collection and information on the extent of their distribution is set forth in Appendix A to this letter.

FTC staff also regularly meets with legal service providers, consumer advocates, and people who work in immigrant, Native American, Latino, Asian, and African American communities to discuss consumer protection issues, including the FTC's work in the debt collection arena. As discussed further below, the Commission hosted several public workshops examining such issues this past year. The FTC also hosted five Ethnic Media Roundtables around the country in 2016, bringing together law enforcement, community organizations, consumer advocates and members of the ethnic media to discuss how consumer protection issues — including debt collection — affect their communities.

III. RESEARCH AND POLICY DEVELOPMENT ACTIVITIES

The third prong of the Commission's debt collection program is research and policy initiatives. In the past year, the FTC has continued to monitor and evaluate the debt collection industry and its practices – both through public workshops and the FTC's input to the CFPB on debt collection rulemaking and guidance initiatives.

In 2016, the FTC organized four Common Ground conferences at which law enforcement, consumer advocates, and community members discussed consumer protection issues, including debt collection, and encouraged consumers to report problems to the FTC. In December 2016, the Commission also held a workshop, "The Changing Consumer Demographics," which brought together law enforcement, consumer groups and researcher participants to discuss how to combat unlawful practices – including illegal debt collection activities – that impact specific consumer populations as the country's demographics change.

Additionally, the FTC also continues to work closely with the CFPB to coordinate efforts to protect consumers from unfair, deceptive, and abusive debt collection practices.⁴⁹ As part of this coordination, FTC and CFPB staff regularly meet to discuss ongoing and upcoming law enforcement, rulemaking, and other activities; share debt collection complaints; cooperate on consumer education efforts in the debt collection arena; and consult on debt collection rulemaking and guidance initiatives.

⁴⁹ The Dodd-Frank Act directs the FTC and the CFPB to coordinate their law enforcement activities and promote consistent regulatory treatment of consumer financial products and services, including debt collection. *See* Dodd-Frank Act, Pub. L. 111-203, 124 Stat. 1376 § 1024(c)(3) (July 21, 2010). In January 2012, the FTC and CFPB entered into a memorandum of understanding ("MOU") that supplements the requirements of the Dodd-Frank Act and creates a strong and comprehensive framework for coordination and cooperation. Memorandum of Understanding Between the Consumer Financial Protection Bureau and the Federal Trade Commission, January 2012, available at <http://www.ftc.gov/sites/default/files/attachments/press-releases/federal-trade-commission-consumer-financial-protection-bureau-pledge-work-together-protect-consumers/120123ftc-cfpb-mou.pdf>. The agencies reauthorized the MOU in May 2015 for a three-year term. *See* <https://www.ftc.gov/news-events/press-releases/2015/03/ftc-cfpb-reauthorize-memorandum-understanding>.

IV. CONCLUSION

The Commission hopes that the information contained in this letter will assist the CFPB in its annual report to Congress about its administration of the FDCPA. The FTC looks forward to continuing to cooperate and coordinate with the CFPB on consumer protection issues relating to debt collection. If any other information would be useful or if you wish to request additional assistance, please contact Malini Mithal, Acting Associate Director, Division of Financial Practices, at (202) 326-2972.

By direction of the Commission.

Donald S. Clark
Secretary

Appendix A

Debt Collection Information 2016

Title	Page Views ⁵⁰¹		Print distribution	
	English	Spanish	English	Spanish
Consumer Information				
Coping with Debt	116,850	14,949	86,825	14,275
Debt Collection	358,796	41,809	124,825	
Debt Collection Arbitration	12,706	660	22,125	
Debt Collectors (Spanish)				45,125
Debts and Deceased Relatives	65,746	29,546		
Fake Debt Collectors	55,542	1,855		
Garnishing Federal Benefits	25,986	1,745		
Settling Credit Card Debt	102,404	4,679		
Managing Debt: What to Do	4,717	1,017	72,950	11,850
Identity Theft Letter to a Debt Collector	2,047	55		
Time-Barred Debts	94,764	32,712		
Video				
Dealing with Debt Collectors	5,370	519		
Helping Victims of Identity Theft	1,163			
Fraud Affects Every Community: Debt Collection	12,977			

Title	Page Views		Print Distribution	
	English	Spanish	English	Spanish
Business Information				
The Fair Debt Collection Practices Act	34,077		11,580	
Video				
Debt Collection	431	76		

⁵⁰ Page view numbers include pages viewed on FTC websites, but not pages viewed when non-FTC sites download and re-post FTC content.

Consumer Blog Posts

[Fraud affects every community: debt collection](#)

[A year in debt collection](#)

[How to stop calls from debt collectors](#)

[The FTC's Debt Collection Hall of Shame has some new inductees](#)

[Bogus debts, bogus collections](#)

[A debt collection round-up](#)

[Closing time for fake debt collector](#)

[Avoid a debt relief scam](#)

Video

[Fraud Affects Every Community: Debt Collection](#)

Business Blog Posts

[Collection Protection reflection](#)

[BAM banned from debt collection](#)

[Debt collectors: You may “like” social media and texts, but are you complying with the law?](#)

[Disguise the limit: FTC sues debt collectors who claimed official affiliation](#)

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