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CFPB Enters into Consent Order with Debt Buyer and its Former CEO and Owner

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The CFPB announced last Friday that it had entered into a consent order with National Credit Adjusters, LLC (NCA), a privately-held company that owns several debt collection companies, and NCA's former CEO and part-owner (CEO). The consent order enters a $3.0 million judgment for civil money penalties against NCA and the CEO but suspends $2.2 million of the judgment based on the financial condition of NCA and the CEO. (NCA must pay $500,000 and the CEO must pay $300,000.)

According to the consent order, the CFPB found that NCA purchased consumer debts and used a group of debt collection companies (Agencies) to collect such debts. Some of those companies engaged in frequent unlawful debt collection practices that harmed consumers, including by representing that consumers owed more than they were legally required to pay or by threatening consumers and their family members with various legal actions that NCA did not have the intention or legal authority to take.

The consent order also finds that the CEO determined which of the Agencies NCA would place debt with, which accounts the Agencies would collect on, and the terms under which the Agencies would collect. NCA and the CEO continued to place debt with the Agencies for collection after NCA's compliance personnel had recommended terminating the Agencies because of their illegal debt collection practices. NCA also sold consumer debt to one of the Agencies as a means of convincing original creditors to approve NCA's business practices and NCA and the CEO defended the Agencies when original creditors raised concerns about their collection practices.

The consent order makes the legal conclusions that NCA and the CEO, either through their actions or through the Agencies, directly violated the CFPA's prohibition of unfair and deceptive acts or practices by inflating account amounts, making false threats to take legal action, and placing debts with the Agencies despite their illegal collection practices. It also concludes that the inflation of account amounts and making of false threats by NCA, through the Agencies, constituted deceptive practices or the use of unfair or unconscionable means to collect debt in violation of the FDCPA and that such FDCPA violations also constituted violations of the CFPA. The consent order finds further that NCA and the CEO not only directly violated the CFPA and FDCPA but also violated the CFPA by knowingly or recklessly providing substantial assistance to the unfair and deceptive collection acts and practices of the Agency to which NCA sold debts.

In addition to requiring payment of $800,000 of the judgment, the consent order prohibits NCA and the CEO from engaging in the illegal collection practices addressed by the consent order, permanently bars the CEO from working in any business that collects, buys, or sells consumer debt, and requires NCA to submit a comprehensive compliance plan to the CFPB that includes, at a minimum, certain specified elements.

It is noteworthy that, like the consent order announced last month by the CFPB that also involved alleged unlawful debt collection practices, the consent order with NCA and the CEO does not require refunds to be made to consumers. In its Spring 2018 rulemaking agenda, the CFPB stated that it "is preparing a proposed rule focused on FDCPA collectors that may address such issues as communication practices and consumer disclosures." It estimated the issuance of a NPRM in March 2019.

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