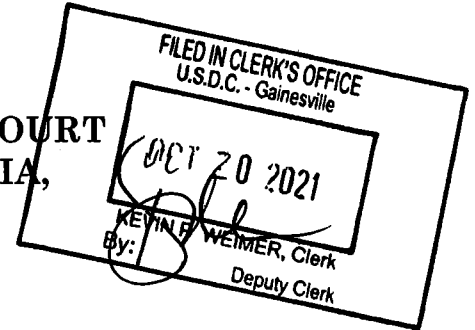


IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA,
ATLANTA DIVISION



CONSUMER FINANCIAL
PROTECTION BUREAU,

Plaintiff,

v.

UNIVERSAL DEBT & PAYMENT
SOLUTIONS, LLC; *et al.*,

Defendants.

Civil Action No. 1:15-CV-0859-RWS

**ORDER GRANTING PLAINTIFF'S MOTION FOR PERMANENT
INJUNCTION, CONSUMER REDRESS, AND CIVIL MONEY
PENALTIES AGAINST DEFENDANTS MARCUS BROWN, SARITA
BROWN, AND WNY ACCOUNT SOLUTIONS, LLC
AND ENTERING FINAL JUDGMENT AGAINST THEM**

As directed by the Court, Plaintiff, the Consumer Financial Protection Bureau (Bureau), has filed a Motion (Motion) for Permanent Injunctive Relief, Consumer Redress, and Civil Money Penalties and Entry of Final Judgment against Defendants Marcus Brown, Sarita Brown, and WNY Account Solutions, LLC (WNYAS) (collectively, Non-Defaulted Defendants). After considering the Bureau's briefing in support of the Motion and the entire record in this matter, the Court hereby orders that the Bureau's

Motion is GRANTED. The Court makes the following findings and enters the following Order:

FINDINGS

Procedural History

1. This is an action by the Bureau under (a) sections 1031, 1036, and 1054 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536, 5564; and (b) sections 806, 807, and 809 the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. §§ 1692-1692p. The Complaint, filed March 26, 2015, as amended by the Court's order dated August 25, 2017 striking certain of the Bureau's claims [ECF No. 435], seeks permanent injunctive relief, consumer redress, and civil money penalties against Defendants for their operation of a fraudulent debt collection scheme.

2. Early in the litigation, the following Defendants defaulted: Check & Credit Recovery, LLC, Credit Power, LLC, Universal Debt & Payment Solutions, LLC, Universal Debt Solutions, LLC, and WNY Solutions Group, LLC (hereinafter, Defaulted Defendants). ECF Nos. 150, 199.

3. Subsequently, the Bureau voluntarily dismissed its claims against Defendant V. Bagga and she was thereafter dismissed from the case by order of the Court. ECF No. 449.

4. On March 21, 2019, the Court issued a decision and order granting partial summary judgment to the Bureau on its claims [ECF No. 576] (Summary Judgment Order). The Summary Judgment Order held that the remaining Defendants, other than S Payment Processing & Solutions, LLC, were liable for violations of the CFPA and the FDCPA. The Court did not rule on the remedies to be imposed on the liable Defendants, namely whether and what kind of injunctive relief was warranted, whether civil penalties would be awarded, and whether it was appropriate to impose joint and several liability for consumer redress.

5. On February 16, 2020, the Court issued a decision and order (1) appointing a Receiver; (2) imposing contempt sanctions on certain Defendants for violations of the Preliminary Injunction Order [ECF No. 16], and (3) imposing supplemental contempt sanctions on an individual Defendant for continued violations of the Preliminary Injunction Order. ECF No. 624 (Receivership Order).

6. After issuance of the Summary Judgment Order, the following Defendants settled with the Bureau, resulting in the Court's entry of stipulated judgments against them: Sumant Khan, S Payment Processing & Solutions, LLC, Mohan Bagga, and Tasha Pratcher. ECF Nos. No. 588, 599, 683.

7. Following these settlements, the Bureau filed briefing and proposed orders on the remedies to be imposed on Individual Defendants Marcus Brown and Sarita Brown, WNYAS, and the Defaulted Defendants.

Findings of Fact

8. The Bureau has the authority under section 1055(a)(1) of the CFPA, 12 U.S.C. § 5565, and section 814 of the FDCPA, 15 U.S.C. § 1692l, to seek the relief it has requested, and the Complaint states a claim upon which relief can be granted against the Non-Defaulted Defendants.

9. This Court has jurisdiction over the subject matter of this case and has jurisdiction over all the parties hereto, and venue in this district is proper.

10. In the Summary Judgment Order, the Court held that the Non-Defaulted Defendants violated the FDCPA and the CFPA by conducting a fraudulent debt collection scheme. ECF No. 576. The Court's findings of fact in the Summary Judgment Order are hereby incorporated by reference in this Order.

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

Violations of the CFPA and FDCPA

12. Defendants Marcus Brown and WNYAS are "covered persons" as defined by the CFPA, 12 U.S.C. §§ 5481(6), (15)(A)(x).

13. Marcus Brown is also a “related person,” and thus a “covered person,” because he served as an officer, sole and controlling owner, and/or agent of the LLC Defendants, who were covered persons, and he materially participated in the conduct of their affairs. 12 U.S.C. § 5481(25).

14. Defendants Marcus Brown and WNYAS are “debt collectors” collecting “debts,” as those terms are defined by the FDCPA, 15 U.S.C. §§ 1692a(6) & (5).

15. The LLC Defendants operated as a common enterprise under the criteria set forth in *FTC v. WV Universal Mgmt. LLC*, 877 F.3d 1234, 1240 (11th Cir. 2017) and *FTC v. Nat’l Urological Grp., Inc.*, 645 F. Supp. 2d 1167, 1213 (N.D. Ga. 2008). The LLC Defendants shared officers and office space, operated under the common control of the individual Defendants, shared employees, transferred and commingled money at will between their bank accounts, and paid each other’s expenses. Each LLC Defendant played a role in the debt collection business and none could have operated it independently.

16. Marcus Brown and WNYAS violated sections 1031 and 1036(a)(1)(B) of the CFPA by their deceptive acts and practices in the course of collecting purported debt as found in the Summary Judgment Order.

17. Marcus Brown and WNYAS violated section 806 of the FDCPA,

15 U.S.C. § 1692d, as found in the Summary Judgment Order, by engaging in practices “the natural consequence of which was to harass, oppress, or abuse” consumers in connection with the collection of a debt.

18. Marcus Brown and WNYAS violated section 807 of the FDCPA, 15 U.S.C. § 1692e, as found in the Summary Judgment Order, by employing “false, deceptive, or misleading representation[s] or mean[s] in connection with the collection of [] debts.”

19. Marcus Brown and WNYAS violated section 809 of the FDCPA, 15 U.S.C. § 1692g, by failing to furnish consumers with validation of debts, as found in the Summary Judgment Order.

20. Marcus Brown is liable under the CFPA and the FDCPA because he controlled, participated directly in, and knew about the deceptive, unfair, harassing, and abusive Debt Collection Activities of the LLC Defendants.

21. Sarita Brown violated the CFPA, 12 U.S.C. § 5536(a)(3), by “knowingly or recklessly provid[ing] substantial assistance to” covered persons UDPS, UDS, WNYAS, and Marcus Brown, as found in the Summary Judgment Order.

22. Each of the Non-Defaulted Defendants is jointly and severally liable, along with the Defaulted Defendants, for the violations enumerated above.

Remedies

23. The CFPA empowers this Court to grant any appropriate legal or equitable relief with respect to a violation of Federal consumer financial law, including refund of moneys, restitution, payment of damages or other monetary relief, injunctive relief, and civil money penalties. 12 U.S.C. § 5565.

24. Absent a permanent injunction, there is a reasonable likelihood that the Non-Defaulted Defendants will continue to engage in the unlawful conduct alleged in the Complaint or similar misconduct. The Non-Defaulted Defendants' unlawful conduct justifies permanent injunctive relief.

25. The Bureau established through competent evidence that the financial harm to consumers from Defendants' violations was at least \$5,261,484.00, which is the amount paid to the LLC Defendants by consumers, net of chargebacks and refunds. As a result of prior settlements in this litigation, \$77,536.29 has been paid to the Bureau by former Defendants for purposes of consumer redress. Therefore, the Bureau is entitled to a judgment for monetary relief in the amount of \$5,183,947.71 against the remaining Defendants, which shall be used to compensate Affected Consumers (as defined below). The remaining Defendants are the Non-Defaulted Defendants and Defaulted Defendants.

26. The Non-Defaulted Defendants and the Defaulted Defendants are jointly and severally liable for the monetary relief awarded by the Court.

27. This action and the relief awarded by this Order are in addition to, and not in lieu of, other remedies as may be provided by law, including both civil and criminal remedies.

ORDER

DEFINITIONS

The following definitions apply to this Order:

28. “Affected Consumer” means a person who made payments through credit and debit card transactions, which were not later refunded or otherwise credited, to the LLC Defendants, S Payment Processing & Solutions, LLC, or MC Processing, LLC between March 1, 2011 and March 30, 2015.

29. “Asset” means any legal or equitable interest in, right to, or claim to any real, personal, or intellectual property, including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, contracts, mail or other deliveries, shares of stock, commodities, futures, inventory, checks, notes, accounts, credits, receivables (as those terms are defined in the Uniform Commercial Code), funds, cash, and trusts, including trusts held for the benefit of a person’s

minor children or spouse, wherever located, whether in the United States or abroad.

30. "Assist[ing] Others" includes, but is not limited to:
- a. consulting in any form whatsoever;
 - b. providing paralegal or administrative support services;
 - c. performing customer service functions, including but not limited to, receiving or responding to consumer complaints;
 - d. formulating or providing, or arranging for the formulation or provision of, any advertising or marketing material, including but not limited to, any telephone sales script, direct mail solicitation, or the text of any Internet website, email, or other electronic communication or advertisement;
 - e. formulating or providing, or arranging for the formulation or provision of, any marketing support material or service, including but not limited to, web or Internet Protocol addresses or domain name registration for any Internet websites, affiliate marketing services, or media placement services;
 - f. providing names of, or assisting in the generation of, potential customers;

- g. performing marketing, billing, or payment services of any kind; and
- h. acting or serving as an owner, officer, director, manager, or principal of any entity.

31. “Consumer” means an individual or an agent, trustee, or representative acting on behalf of an individual. 12 U.S.C. § 5481(4).

32. “Consumer Financial Product or Service” is synonymous in meaning and equal in scope to the definition of the term, as of the Effective Date, in section 1002(5) of the CFPA, 12 U.S.C. § 5481(5), and, subject to applicable restrictions contained in the CFPA, includes, but is not limited to:

- a. engaging in deposit-taking activities, transmitting or exchanging funds, or otherwise acting as a custodian of funds or any financial instrument for use by or on behalf of a consumer;
- b. providing payments or other financial data processing products or services to a consumer by any technological means, including processing or storing financial or banking data for any payment instrument, or through any payments systems or network used for processing payments data,

including payments made through an online banking system or mobile telecommunications network; or

- c. providing financial advisory services to consumers on individual financial matters or relating to proprietary financial products or services, including providing credit counseling to any consumer or providing services to assist a consumer with debt management or debt settlement, modifying the terms of any extension of credit, or avoiding foreclosure.

33. “Debt” means any obligation or alleged obligation of a Consumer to pay money arising out of a transaction in which the money, property, insurance or services which are the subject of the transaction are primarily for personal, family, or household purposes, whether or not such obligation has been reduced to judgment. 15 U.S.C. § 1692a(5).

34. “Debt Collector” means (i) any Person who uses an instrumentality of interstate commerce or the mail in any business the principal purpose of which is the collection of Debts or who regularly collects or attempts to collect, directly or indirectly, Debts owed or due or asserted to be owed or due another; (ii) any creditor who, in the process of collecting its

own Debts, uses any name other than its own that would indicate that a third Person is collecting or attempting to collect the creditor's Debts; and (iii) any Person who collects Debt related to any consumer financial product or service.

35. "Defaulted Defendants" means Check & Credit Recovery, LLC, Credit Power, LLC, Universal Debt & Payment Solutions, LLC, Universal Debt Solutions, LLC, and WNY Solutions Group, LLC.

36. "Effective Date" means the date on which this Order is issued.

37. "Enforcement Director" means the Assistant Director of the Office of Enforcement for the Consumer Financial Protection Bureau.

38. "LLC Defendants" means Check & Credit Recovery, LLC, Credit Power, LLC, Universal Debt & Payment Solutions, LLC, Universal Debt Solutions, LLC, WNY Solutions Group, LLC, and WNY Account Solutions, LLC.

39. "Non-Defaulted Defendants" means Marcus Brown, Sarita Brown, and WNY Account Solutions, LLC, individually, collectively, or in any combination, and their successors and assigns.

40. "Non-Defaulted Individual Defendants" means Marcus Brown and Sarita Brown, individually or collectively, and their successors and assigns.

41. “Person” means an individual, partnership, company, corporation, association (incorporated or unincorporated), trust, estate, cooperative organization, or other entity.

42. “Receiver” means Mark J. Bernet or any successor approved by the Court.

43. “Receivership Assets” are those Assets included in the Receivership Estate as defined in the Receivership Order.

44. “Receivership Entities” means the Defaulted Defendants, WNY Account Solutions, LLC, Real Estate of Distinction, LLC, and Rx Office Solutions, LLC, individually, collectively, or in any combination, and any other entity that meets the definition of a Receivership Entity as defined in the Receivership Order.

45. “Receivership Estate” means the Receivership Estate as defined in the Receivership Order.

46. “Receivership Order” means the Court’s order entered February 19, 2020, ECF No. 684, which, inter alia, appointed the Receiver and created a Receivership Estate over the Assets of the Receivership Entities.

47. “Related Consumer Action” means a private action by or on behalf of one or more consumers or an enforcement action by another

governmental agency brought against any Non-Defaulted Defendant based on substantially the same facts as described in the Bureau's Complaint.

CONDUCT RELIEF

I.

Permanent Ban on Debt Collection

IT IS ORDERED that:

48. Each of the Non-Defaulted Defendants, whether acting directly or indirectly, is permanently restrained and enjoined from or Assisting Others in:

- a. acting as a Debt Collector;
- b. holding any ownership interest in (i) a Debt Collector or (ii) a payment processor to a Debt Collector;
- c. receiving any remuneration or other consideration from (i) a Debt Collector or (ii) a payment processor to a Debt Collector if the remuneration or consideration relates to the collection of Debts;
- d. providing services or assistance to, or working in any capacity for, a Debt Collector, including but not limited to acting as a Service Provider, employee, or independent contractor to a Debt Collector; and

- e. advertising, marketing, promoting, offering for sale, processing payments for, selling, or buying any Debt or consumer information relating to a Debt.

Nothing in this Order shall be read as an exception to this Paragraph.

II.

Prohibition on Misrepresentations Concerning Consumer Financial Products or Services

IT IS FURTHER ORDERED that:

49. Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with Non-Defaulted Defendant who have actual notice of this Order, whether acting directly or indirectly, in connection with any Consumer Financial Product or Service, are permanently restrained and enjoined from misrepresenting, omitting, or Assisting Others in misrepresenting or omitting, expressly or by implication, any material fact, including but not limited to:

- a. a business name or identity;
- b. that any Person is an attorney or is barred or licensed to practice law in a particular jurisdiction;

- c. that any Person who is not associated or affiliated with an attorney or law firm is affiliated or associated with an attorney or law firm;
- d. that a Consumer will receive legal representation;
- e. how much a Consumer will save from purchasing, using, or enrolling in a Consumer Financial Product or Service;
- f. how long it will take to settle any Debts;
- g. the likelihood of any particular outcome or result from a Consumer Financial Product or Service; or
- h. the nature or terms of any refund, cancellation, exchange, or repurchase policy, including but not limited to the likelihood of a Consumer obtaining a full or partial refund, or the circumstances in which a full or partial refund will be provided to the Consumer.

III.

Prohibition on Unfair Practices Involving Consumer Financial Products or Services

IT IS FURTHER ORDERED that:

50. Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or

participation with the Non-Defaulted Defendants who have actual notice of this Order, whether acting directly or indirectly, in connection with any Consumer Financial Product or Service, are permanently restrained and enjoined from or Assisting Others in:

- a. Placing telephone calls to consumers without meaningful disclosure of the caller's identity; and
- b. Concealing their identity by causing "000-000-0000" or any other false or misleading information to appear on a consumer's caller identification.

IV.

Prohibition on Business Ventures with Other Defendants

IT IS FURTHER ORDERED that:

51. Non-Defaulted Defendants, whether acting directly or indirectly, are permanently restrained and enjoined from investing in, providing services to, working for, serving as an officer of, or being otherwise engaged in any business venture or project involving any other Defendant.

V.

Consumer Information

IT IS FURTHER ORDERED that:

52. Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with the Non-Defaulted Defendants who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from disclosing, using, or benefitting from Consumer information, including names, addresses, telephone numbers, email addresses, social security numbers, 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 Non-Defaulted Defendant obtained before the Effective Date in connection with the collection of Debt; provided however, that such consumer information may be disclosed if requested by a government agency or required by law, regulation, or court order.

VI.

Prohibition on Debiting Consumers' Financial Accounts

53. Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or

participation with the Non-Defaulted Defendants who have actual notice of this Order, whether acting directly or indirectly, in connection with any Consumer Financial Product or Service, are hereby permanently restrained and enjoined from causing debits to be made from any consumer's bank or other financial account, and from billing any consumer for any charge, without the consumer's express, informed consent.

VII.

Prohibition on Certain Merchant Processing Activities

IT IS FURTHER ORDERED that:

54. Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other Persons in active concert or participation with the Non-Defaulted Defendants who receive actual notice of this Order, whether acting directly or indirectly, are permanently restrained and enjoined from allowing third parties to use any merchant processing account that a Non-Defaulted Defendant owns or controls to collect consumer payments.

55. The Non-Defaulted Defendants and their officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with the Non-Defaulted Defendants who have actual notice of this Order, whether acting directly or indirectly, are permanently restrained

and enjoined from re-opening or using the following merchant payment processing accounts associated with the unlawful debt collection scheme: account numbers 8788370013263 and 8788370013280 with Frontline Processing Corporation, account numbers 5644000000476853, 564400000618298, 564400000641183, and 564400000735647 with Francis David Corporation d/b/a/ Electronic Merchant Systems, account numbers 8788730001893 and 8788730002232 with Pathfinder Payment Solutions, Inc., and account numbers 4445017408336 and 445017416651 with Vantiv, Inc. d/b/a PaidSuite.

MONETARY PROVISIONS

VIII.

Order to Pay Redress

IT IS FURTHER ORDERED that:

56. A judgment for monetary relief is entered in favor of the Bureau and against the Non-Defaulted Defendants, jointly and severally with the Defaulted Defendants, in the amount of \$5,183,947.71 for their violations of sections 1031 and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531, 5536(a)(1)(B); and sections 806, 807, and 809 of the FDCPA, 15 U.S.C. §§1692d, 1692e, and 1692g.

57. The Non-Defaulted Defendants must pay a total of \$5,183,947.71 by wire transfer to the Bureau or to the Bureau's agent, in compliance with the Bureau's wiring instructions.

58. The monetary judgment set forth in Paragraph 56 is enforceable against any Asset owned by, on behalf of, for the benefit of, or in trust by or for any of the Non-Defaulted Defendants. Any Receivership Assets or Assets subject to the Preliminary Injunction that the Receiver liquidates, with the permission of the Court, and pays to the Bureau for purposes of consumer redress will be deemed to satisfy the money judgment set forth in Paragraph 56 in part or in whole depending on the value of the Receivership Assets so paid.

59. Any funds received by the Bureau in satisfaction of this judgment will be deposited into a fund or funds administered by the Bureau or to the Bureau's agent according to applicable statutes and regulations to be used for redress for Affected Consumers, including, but not limited to, refund of moneys, restitution, damages, or other monetary relief, and for any attendant expenses for the administration of any such redress.

60. If the Bureau determines, in its sole discretion, that redress to consumers is wholly or partially impracticable or if funds remain after redress is completed, the Bureau will deposit any remaining funds in the U.S.

Treasury. The Non-Defaulted Defendants will have no right to challenge any actions that the Bureau or its representatives may take under this Section.

61. Payment of redress to any Affected Consumer under this Order may not be conditioned on the Affected Consumer waiving any right.

IX.

Order To Pay Civil Money Penalty

IT IS FURTHER ORDERED that:

62. Under Section 1055(c) of the CFPA, 12 U.S.C. § 5565(c), by reason of the violations of law described in this Order, and taking into account the factors in 12 U.S.C. § 5565(c)(3), the Non-Defaulted Defendants must pay civil money penalties to the Bureau as follows:

- a. Marcus Brown must pay \$15,000;
- b. Sarita Brown must pay \$1,000; and
- c. WNYAS must pay \$500,000.

63. In setting the civil penalties for the individual Non-Defaulted Defendants, the Court has considered their limited ability to pay based on the Declaration of the Receiver. ECF No. 715-3 at 8 & 9. Non-Defaulted Defendants must pay their respective civil penalty amounts set forth in Paragraph 62 by wire transfer to the Bureau or to the Bureau's agent in compliance with the Bureau's wiring instructions.

64. The civil money penalties paid under this Order will be deposited in the Civil Penalty Fund of the Bureau as required by section 1017(d) of the CFPA, 12 U.S.C. § 5497(d).

65. The Non-Defaulted Defendants must treat the civil money penalties paid under this Order as penalties paid to the government for all purposes. Regardless of how the Bureau ultimately uses those funds, the Non-Defaulted Defendants may not: (a) claim, assert, or apply for a tax deduction, tax credit, or any other tax benefit for any civil money penalty paid under this Order; or (b) seek or accept, directly or indirectly, reimbursement or indemnification from any source, including but not limited to payment made under any insurance policy, with regard to any civil money penalty paid under this Order.

66. To preserve the deterrent effect of the civil money penalties in any Related Consumer Action, the Non-Defaulted Defendants may not argue that any Non-Defaulted Defendant is entitled to, nor may any Non-Defaulted Defendant benefit by, any offset or reduction of any compensatory monetary remedies imposed in the Related Consumer Action because of the civil money penalties paid in this action or because of any payment that the Bureau makes from the Civil Penalty Fund (Penalty Offset). If the court in any Related Consumer Action grants such a Penalty Offset to any Non-Defaulted

Defendant, the Non-Defaulted Defendant must, within 30 days after entry of a final order granting the Penalty Offset, notify the Bureau, and pay the amount of the Penalty Offset to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalties imposed in this action.

X.

Additional Monetary Provisions

IT IS FURTHER ORDERED that:

67. In the event of default on any Non-Defaulted Defendant's obligations to make payment under this Order, interest, computed under 28 U.S.C. § 1961, as amended, will accrue on any outstanding amounts not paid from the date of termination of the Receivership to the date of payment, and will immediately become due and payable.

68. The Non-Defaulted Defendants must relinquish all dominion, control, and title to the funds paid to the fullest extent permitted by law and no part of the funds may be returned to the Non-Defaulted Defendants.

69. The facts alleged in the Complaint will be taken as true and be given collateral estoppel effect, without further proof, in any proceeding based on the entry of the Order, or in any subsequent civil litigation by or on behalf of the Bureau in a proceeding to enforce its rights to any payment or

monetary judgment under this Order, such as a nondischargeability complaint in any bankruptcy case.

70. The facts alleged in the Complaint establish all elements necessary to sustain an action by the Bureau under to section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A), and for such purposes this Order will have collateral estoppel effect against each Non-Defaulted Defendant, even in such Non-Defaulted Defendant's capacity as debtor-in-possession.

71. Under 31 U.S.C. § 7701, each Non-Defaulted Defendant, unless it already has done so, must furnish to the Bureau its taxpayer identifying numbers, which may be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

72. Within 30 days of the entry of a final judgment, consent order, or settlement in a Related Consumer Action against any Non-Defaulted Defendant, the Non-Defaulted Defendant must notify the Enforcement Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that the Non-Defaulted Defendant paid or is required to pay to Consumers and describe the Consumers or classes of Consumers to whom that redress has been or will be paid. To preserve the deterrent effect of the civil money penalty in any

Related Consumer Action, Non-Defaulted Defendants may not argue that Defendant is entitled to, nor may Non-Defaulted Defendants benefit by, any offset or reduction of any monetary remedies imposed in the Related Consumer Action because of the civil money penalty paid in this action or because of any payment that the Bureau makes from the Civil Penalty Fund. If the court in any Related Consumer Action offsets or otherwise reduces the amount of compensatory monetary remedies imposed against the Non-Defaulted Defendants based on the civil money penalty paid in this action or based on any payment that the Bureau makes from the Civil Penalty Fund, the Non-Defaulted Defendants must, within 30 days after entry of a final order granting such offset or reduction, notify the Bureau and pay the amount of the offset or reduction to the U.S. Treasury. Such a payment will not be considered an additional civil money penalty and will not change the amount of the civil money penalty imposed in this action.

XI.

Assets Subject to Preliminary Injunction

IT IS FURTHER ORDERED that:

73. To the extent they have not done so already, the Non-Defaulted Defendants are ordered to forfeit to the Receiver all rights and claims they have to any Assets frozen by the Court's Preliminary Injunction Order. To the

extent those Assets are released by order of the Court and paid by the Receiver to the Bureau, or liquidated by the Receiver with the Court's permission with the proceeds paid to the Bureau, to provide redress for Affected Consumers, the funds received by the Bureau will be considered payments made by the Non-Defaulted Defendants in partial satisfaction of the judgment ordered in Paragraph 56.

74. Upon completion of the requirement in Paragraph 73 and all payments required under Sections VIII and IX of this Order, the Preliminary Injunction will be modified to exclude the Non-Defaulted Defendants and their Assets from its coverage.

COMPLIANCE PROVISIONS

XII.

Reporting Requirements

IT IS FURTHER ORDERED that:

75. Each Non-Defaulted Individual Defendant must notify the Bureau of any development that may affect compliance obligations arising under this Order, including but not limited to, a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor company; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing

of any bankruptcy or insolvency proceeding by or against any Non-Defaulted Individual Defendant; or a change in a Non-Defaulted Individual Defendant's name or address. The Non-Defaulted Individual Defendants must provide this notice, if practicable, at least 30 days before the development, but in any case no later than 14 days after the development.

76. Within 7 days of the Effective Date, the Non-Defaulted Individual Defendants must:

- a. Identify each Non-Defaulted Individual Defendant's telephone numbers and all email, Internet, physical, and postal addresses, including all residences;
- b. Designate at least one telephone number and email, physical, and postal address as points of contact, which the Bureau may use to communicate with each;
- c. Identify all businesses for which each Non-Defaulted Individual Defendant is the majority owner, or that each Non-Defaulted Individual Defendant directly or indirectly controls, by all of their names, telephone numbers, and physical, postal, email, and Internet addresses; and
- d. Describe in detail each Non-Defaulted Individual Defendant's involvement in any business for which he performs services in

any capacity or which he wholly or partially owns, including each Non-Defaulted Individual Defendant's title, role, responsibilities, participation, authority, control, and ownership.

77. The Non-Defaulted Individual Defendants must report any change in the information required to be submitted under this Section at least 30 days before the change or as soon as practicable after the learning about the change, whichever is sooner.

78. Within 90 days of the Effective Date, and again one year after the Effective Date, each Non-Defaulted Individual Defendant must submit to the Enforcement Director an accurate written compliance progress report (Compliance Report), which, at a minimum:

- a. Lists each applicable paragraph and subparagraph of the Order and describes in detail the manner and form in which the Non-Defaulted Individual Defendant has complied with each such paragraph and subparagraph of this Order;
- b. Attaches a copy of each Order Acknowledgment obtained under Section XIII, unless previously submitted to the Bureau.

XIII.

Order Distribution and Acknowledgment

IT IS FURTHER ORDERED that:

79. Within 7 days of the Effective Date, each Non-Defaulted Individual Defendant must submit to the Enforcement Director an acknowledgment of receipt of this Order, sworn under penalty of perjury.

80. Within 30 days of the Effective Date, each Non-Defaulted Individual Defendant must deliver a copy of this Order to each of its board members and executive officers.

81. For 5 years from the Effective Date, each Non-Defaulted Individual Defendant must deliver a copy of this Order to any business entity resulting from any change in structure referred to in Section XII, any future board members and executive officers before they assume their responsibilities.

82. Each Non-Defaulted Individual Defendant must secure a signed and dated statement acknowledging receipt of a copy of this Order, ensuring that any electronic signatures comply with the requirements of the E-Sign Act, 15 U.S.C. §§ 7001-7006, within 30 days of delivery, from all persons receiving a copy of this Order under this Section.

83. Within 90 days of the Effective Date, each Non-Defaulted Individual Defendant must provide the Bureau with a list of all persons and their titles to whom this Order was delivered through that date under Paragraphs 80 and 81, and a copy of all signed and dated statements acknowledging of receipt of this Order under Paragraph 82.

XIV.

Recordkeeping

IT IS FURTHER ORDERED that:

84. The Non-Defaulted Individual Defendants must create, or if already created, must retain for the duration of the Order, all documents and records necessary to demonstrate full compliance with each provision of this Order, including all submissions to the Bureau.

XV.

Notices

IT IS FURTHER ORDERED that:

85. Unless otherwise directed in writing by the Bureau, the Non-Defaulted Individual Defendants must provide all submissions, requests, communications, or other documents relating to this Order in writing, with the subject line, "CFPB v. Universal Debt & Payment Solutions, LLC, Case

No. 1:15-cv-859,” and send them by overnight courier or first-class mail to the below address and contemporaneously by email to Enforcement_Compliance@cfpb.gov:

Assistant Director for Enforcement
Consumer Financial Protection Bureau
ATTENTION: Office of Enforcement
1700 G Street, N.W.
Washington D.C. 20552

XVI.

Cooperation with the Bureau and the Receiver

IT IS FURTHER ORDERED that:

86. The Non-Defaulted Defendants must cooperate fully to help the Bureau and the Receiver determine the identity and location of, and the amount of injury sustained by, each Affected Consumer. The Non-Defaulted Defendants must provide such information in its or its agents' possession or control within 14 days of receiving a written request from the Bureau or the Receiver.

87. The Non-Defaulted Defendants must cooperate fully with the Bureau in this matter and in any investigation related to or associated with the conduct described in the Complaint, the Court's order granting summary judgment to the Bureau [ECF No. 576], or the Findings herein. The Non-

Defaulted Defendants must provide truthful and complete information, evidence, and testimony. The Non-Defaulted Defendants must cause their officers, employees, representatives, or agents to appear for interviews, discovery, hearings, trials, and any other proceedings that the Bureau may reasonably request upon 15 days written notice, or other reasonable notice, at such places and times as the Bureau may designate, without the service of compulsory process.

XVII.

Compliance Monitoring

IT IS FURTHER ORDERED that, to monitor the Non-Defaulted Defendants' compliance with this Order:

88. Within 14 days of receiving a written request from the Bureau, each Non-Defaulted Defendant must submit additional Compliance Reports or other requested information, which must be made under penalty of perjury; provide sworn testimony; or produce documents.

89. For purposes of this Section, the Bureau may communicate directly with each Non-Defaulted Defendant, unless the Non-Defaulted Defendant retains counsel related to these communications.

90. The Non-Defaulted Defendants must permit Bureau representatives to interview any employee or other person affiliated with any

Non-Defaulted Defendant who has agreed to such an interview regarding: (a) this matter; (b) anything related to or associated with the conduct described in the Complaint, the Court's order granting summary judgment to the Bureau (ECF No. 576), or the Findings herein or (c) compliance with this Order. The person interviewed may have counsel present.

91. Nothing in this Order limits the Bureau's lawful use of compulsory process, pursuant to 12 C.F.R. § 1080.6 or other compulsory process.

XVIII.

Continuity of Receivership

IT IS FURTHER ORDERED that:

92. The Receivership Order shall continue as modified by this Section.

93. No later than one hundred and eighty (180) days from the Effective Date, the Receiver shall file and serve on the parties a report to the Court (Final Report) that details the steps taken to collect and administer the Receivership Assets. The Final Report must include an accounting of the Receivership Assets and a description of what other actions, if any, must be taken to wind down the Receivership Estate (as defined in the Receivership Order) and to dissolve the Receivership Entities under their respective state

laws of incorporation. At the time of filing the Final Report, the Receiver shall also file an application for final payment of compensation and expenses associated with its performance of its duties as Receiver. The Court will review the final payment application and any objections thereto and, absent a valid objection, will issue an order directing that the Receiver:

- a. Pay from the Receivership Estate the reasonable costs and expenses of administering the Receivership Estate, including compensation of the Receiver and the Receiver's personnel and the actual out-of-pocket costs incurred by the Receiver in carrying out his duties; and
- b. After making the payments referenced in Paragraph 93(a), pay all funds remaining in the Receivership Estate to the Bureau within ten (10) days by wire transfer to the Bureau or to the Bureau's agent, and according to the Bureau's wiring instructions, for the purpose of paying the monetary judgment and penalties set forth in this Order.

94. If the Receiver believes that the Receivership Estate cannot be liquidated or that adequate consumer transaction information for purposes of redress cannot be obtained within one hundred and eighty (180) days of the Effective Date, or if the Receiver believes that additional actions need to be

taken more than one hundred and eighty (180) days after the Effective Date, the Receiver will move the Court for an appropriate extension of the Receivership and the deadline to file the Final Report.

95. Until the date the Court issues an order based on the Receiver's Final Report, if there is any final judgment, consent order, or settlement in a Related Consumer Action, the Receiver must notify the Enforcement Director of the final judgment, consent order, or settlement in writing. That notification must indicate the amount of redress, if any, that any Receivership Entity paid or is required to pay to consumers and describe the consumers or classes of consumers to whom that redress has been or will be paid.

96. Upon the transfer of funds to the Bureau pursuant to this Section, the Receivership will be terminated.

XIX.

Entry of Judgment

IT IS FURTHER ORDERED that:

97. There being no just reason for delay of entry of this judgment, under Federal Rule of Civil Procedure 54(b), the Clerk will immediately enter this Order as a final judgment as to the Non-Defaulted Defendants.

XX.

Retention of Jurisdiction

IT IS FURTHER ORDERED that:

98. All pending motions are hereby denied as moot.
99. This Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.


XXI.

Service

IT IS FURTHER ORDERED that:

100. This Order may be served upon the Non-Defaulted Defendants by electronic mail, certified mail, or United Parcel Service, either by the United States Marshal, the Clerk of the Court, or any representative or agent of the Bureau.

SO ORDERED this 20th day of Oct, 2021.



THE HONORABLE RICHARD W. STORY
UNITED STATES DISTRICT JUDGE