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12 CONSUMER FINANCIAL PROTECTION BUREAU

13 **UNITED STATES DISTRICT COURT**
14 **SOUTHERN DISTRICT OF CALIFORNIA**

<p>15 Consumer Financial Protection Bureau, 16 Plaintiff, 17 v. 18 Frank Ronald Gebase, Jr., 19 Defendant. 20 21</p>	<p>Case No. <u>'22CV844 W JLB</u></p> <p>COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF</p>
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23 The Consumer Financial Protection Bureau (“Bureau”), brings this action against
24 Defendant Frank Ronald Gebase, Jr. (“Gebase” or “Defendant”), and alleges the
25 following:
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1 **INTRODUCTION**

2 1. Between 2016 and 2017, via recurring monthly transactions, Defendant
3 controlled a student loan debt relief business that withdrew hundreds of thousands of
4 dollars from hundreds of consumer bank accounts without consumer authorization. These
5 same consumers had been previously harmed by violations of law committed by Student
6 Aid Institute and Steven Lamont. *In the Matter of Student Aid Institute, Inc., Steven*
7 *Lamont*, File No. 2016-CFPB-0008 (March 30, 2016) (SAI Consent Order).

8 2. The Bureau brings this action under the Consumer Financial Protection Act
9 of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536(a), 5564, and 5565 in connection with (1)
10 Defendant’s unfair acts or practices in connection with unauthorized withdrawals of
11 funds from consumer bank accounts; and (2) Defendant’s substantial assistance to a debt-
12 relief company engaging in unfair acts or practices in connection with such withdrawals.

13 **JURISDICTION AND VENUE**

14 3. This Court has subject-matter jurisdiction over this action because it is
15 “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a)(1); presents a
16 federal question, 28 U.S.C. § 1331; and is brought by an agency of the United States, 28
17 U.S.C. § 1345.

18 4. Venue is proper in this district because Defendant is located, resides, or does
19 business here. 12 U.S.C. § 5564(f).

20 **PARTIES**

21 5. The Bureau is an independent agency of the United States charged with
22 regulating the offering and provision of consumer financial products and services under
23 Federal consumer financial laws, including the CFPA. 12 U.S.C. §§ 5481(14), 5491(a).
24 The Bureau is authorized to initiate federal district court proceedings in its own name and
25 through its own attorneys to address violations of the CFPA and federal consumer
26 financial laws, 12 U.S.C. § 5564.

27 6. Defendant is a natural person who resides in this district.
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1 Secretary of State indicating he was the sole owner, sole officer, and sole director of the
2 corporation.

3 14. Processingstudentloans did not solicit new consumers, but instead obtained
4 student-loan account and billing information for hundreds of former SAI consumers
5 without the knowledge or consent of those consumers.

6 15. Processingstudentloans continued some aspects of SAI's business by
7 recertifying enrollment in federal student-loan repayment programs on behalf of
8 consumers.

9 16. Processingstudentloans did not enter into any contracts or agreements with
10 consumers.

11 17. In or about April 2016, Gebase hired former-SAI employee Lisa M. Vakay
12 to be the account manager at Processingstudentloans.

13 18. Vakay was Processingstudentloans' sole account manager and
14 Processingstudentloans' only permanent employee apart from Gebase.

15 19. Vakay handled day-to-day consumer-facing activity at
16 Processingstudentloans, including managing consumers' accounts, consumer billing, and
17 consumer correspondence.

18 20. In May 2016, Processingstudentloans began collecting fees from consumer
19 bank accounts by arranging for a third-party payment processor to issue remotely created
20 checks against consumer accounts.

21 21. After withdrawing money from consumer accounts on behalf of
22 Processingstudentloans, that same third-party payment processor transferred money to
23 Processingstudentloans bank accounts opened and controlled by Gebase.

24 22. Processingstudentloans collected recurring fees from consumers, typically
25 \$39 per month, and collected hundreds of thousands of dollars in total fees from hundreds
26 of consumers.

1 33. Gebase claims he did not run Processingstudentloans and claims he did not
2 monitor Processingstudentloans or Processingstudentloans' employees.

3 34. Gebase knew of, or was recklessly indifferent to, the fact that
4 Processingstudentloans was debiting consumers' accounts and that
5 Processingstudentloans did not obtain consumer authorization for those withdrawals.

6 LEGAL BACKGROUND

7 35. Sections 1031 and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531,
8 5536(a)(1)(B), prohibit "covered person[s]" and "service provider[s]" from engaging in
9 any "unfair, deceptive, or abusive act or practice."

10 36. Processingstudentloans is a "covered person" under the CFPA because it
11 offered or provided consumer financial products or services, including services such as
12 assisting consumers with debt-relief services. 12 U.S.C. § 5481(5), (6), (15)(A)(viii).

13 37. Section 1002(25) of the CFPA defines the term "related person" to mean
14 "any director, officer, or employee charged with managerial responsibility for, or
15 controlling shareholder of," or "any . . . other person . . . who materially participates in
16 the conduct of the affairs of" a non-bank provider of a consumer financial product or
17 service. 12 U.S.C. § 5481(25).

18 38. Under the CFPA, a "related person" is a covered person. 12 U.S.C. §
19 5481(25)(B).

20 39. Gebase is a related person of Processingstudentloans because he was an
21 "officer" and because he was a "controlling shareholder" of Processingstudentloans. 12
22 U.S.C. § 5481(25)(C)(i) and (ii). Therefore, Gebase is a covered person.

23 COUNT I: UNFAIR ACTS AND PRACTICES

24 *Unfair Debiting of Consumer Accounts*

25 40. The allegations in paragraphs 1 to 39 are incorporated here by reference.

26 41. The CFPA prohibits any covered person from engaging in any unfair act or
27 practice. An act or practice is unfair if it causes or is likely to cause consumers substantial
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1 injury that is not reasonably avoidable, and that substantial injury is not outweighed by
2 countervailing benefits to consumers or to competition.

3 42. Processingstudentloans' unauthorized fee collection from consumers' bank
4 accounts caused and was likely to cause substantial injury to consumers.

5 43. Consumers were unable to reasonably avoid Processingstudentloans'
6 unauthorized debiting of consumers' accounts.

7 44. Processingstudentloans' debits to consumer accounts did not benefit
8 consumers or competition.

9 45. In numerous instances in connection with debiting consumer accounts
10 without consumer authorization, Gebase had the ability to control Processingstudentloans
11 and acted with reckless disregard for the unauthorized fee collection from consumers'
12 bank accounts.

13 46. Processingstudentloans' debits to consumer accounts were unfair under the
14 CFPA. 12 U.S.C. §§ 5531, 5536.

15 47. Gebase is a covered person who engaged in unfair acts or practices in
16 violation of Section 1036(a)(1)(B) of the CFPA, 12 U.S.C. § 5536(a)(1)(B).

17 **COUNT II: SUBSTANTIAL ASSISTANCE**

18 ***Substantial Assistance in the Unfair Debiting of Consumer Accounts***

19 48. The allegations in paragraphs 1 to 39 are incorporated here by reference.

20 49. Section 1036(a)(3) of the CFPA prohibits any person from "knowingly or
21 recklessly provid[ing] substantial assistance to a covered person or service provider in
22 violation of the provisions of section 1031" and states that "the provider of such
23 substantial assistance shall be deemed to be in violation of that section to the same extent
24 as the person to whom such assistance is provided." 12 U.S.C. § 5536(a)(3).

25 50. Gebase provided substantial assistance to Processingstudentloans' unfair
26 practices, including by providing office space, establishing company bank accounts and
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1 credit cards, establishing and maintaining a payment-processor account, and covering
2 business expenses from his personal accounts.

3 51. Gebase knew or recklessly avoided knowing that Processingstudentloans
4 debited consumer bank accounts without consumer authorization.

5 52. To the extent Gebase was not actually aware that his company lacked
6 consumer authorization for bank account debits, he recklessly avoided knowing what
7 happened at the consumer financial services company for which he was sole owner,
8 CEO, and sole corporate officer by failing to supervise or monitor the company's
9 business.

10 53. Gebase thus provided substantial assistance to Processingstudentloans in its
11 unfair acts or practices, in violation of Section 1036(a)(3) of the CFPB. 12 U.S.C. §
12 5563(a)(3).

13 **DEMAND FOR RELIEF**

14 **WHEREFORE**, the Bureau requests that the Court:

- 15 a. Permanently enjoin Defendant from committing future violations of the
16 CFPB;
- 17 b. Award such relief as the Court finds necessary to redress injury to
18 consumers resulting from Defendant's violations of the CFPB, including, but not limited
19 to, rescission or reformation of contracts; refund of moneys or return of property;
20 restitution; disgorgement or compensations for unjust enrichment; payment of damages;
21 or other monetary relief;
- 22 c. Impose civil money penalties against Defendant;
- 23 d. Award costs against Defendant;
- 24 e. Award Plaintiff the costs of bringing this action;
- 25 f. Award other injunctive relief as appropriate; and
- 26 g. Award additional relief as the Court may determine to be just and proper.
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1 Dated: June 9, 2022

Respectfully submitted,

2 Eric Halperin
3 *Enforcement Director*

4 Deborah Morris
5 *Deputy Enforcement Director*

6 Alusheyi Wheeler
7 *Assistant Deputy Enforcement Director*

8 /s/ Brian E. J. Martin

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