

**UNITED STATES OF AMERICA
BUREAU OF CONSUMER FINANCIAL PROTECTION**

File No. 2021-CFPB-0001

**STIPULATION AND CONSENT
TO THE ISSUANCE OF
A CONSENT ORDER**

In the matter of:

Yorba Capital Management, LLC

The Bureau of Consumer Financial Protection (Bureau) intends to initiate an administrative proceeding against Yorba Capital Management, LLC (Corporate Respondent) and Daniel Portilla Jr. (Individual Respondent) (collectively, Respondents), under 12 U.S.C. §§ 5563 and 5565. The Bureau's proceeding against Corporate Respondent relates to its debt collection activities in violation of violation of the Fair Debt Collection Practices Act (FDCPA), 15 U.S.C. § 1692 et seq., and the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536. The Bureau's proceeding against Individual Respondent relates to activities in violation of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536.

Respondents, in the interest of compliance and resolution of the matter, without admitting or denying any wrongdoing, consent to the issuance of a Consent Order substantially in the form of the one to which this Stipulation and Consent to the Issuance of a Consent Order is attached (Consent Order), and which is incorporated by reference.

In consideration of the above premises, Respondents agree to the following:

Jurisdiction

1. The Bureau has jurisdiction over this matter under §§ 1053 and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5563, 5565.

Consent

2. Respondents agree to the issuance of the Consent Order and the findings of fact and conclusions of law.
3. Respondents agree that the Consent Order will be deemed an “order issued with the consent of the person concerned” under 12 U.S.C. § 5563(b)(4) and agrees that the Consent Order will become a final order, effective upon its entry on the administrative docket, and will be fully enforceable by the Bureau under 12 U.S.C. §§ 5563(d)(1) and 5565.

4. Respondents voluntarily enter into this Stipulation and Consent to the Issuance of a Consent Order (Stipulation).
5. The Consent Order resolves only Respondents' potential liability for law violations that the Bureau asserted or might have asserted based on the practices described in Section IV [Findings Section] of the Consent Order, to the extent such practices occurred before the Effective Date and the Bureau knows about them as of the Effective Date. Respondents acknowledge that no promise or representation has been made by the Bureau or any employee, agent, or representative of the Bureau, about any liability outside of this action that may have arisen or may arise from the facts underlying this action or immunity from any such liability.
6. Respondents agree that the facts described in Section IV of the Consent Order will be taken as true and be given collateral estoppel effect, without further proof, in any proceeding before the Bureau to enforce the Consent Order, or in any subsequent civil litigation by the Bureau to enforce the Consent Order or its rights to any payment or monetary judgment under the Consent Order, such as a non-dischargeability complaint in any bankruptcy case.
7. Individual Respondent further agrees that the facts in Section IV [Findings Section] of the Consent Order establish all elements necessary to sustain an

action by the Bureau under § 523(a)(2)(A) of the Bankruptcy Code, U.S.C. § 523(a)(2)(A), and that for such purposes the Consent Order will have collateral estoppel effect against Individual Respondent, even in Individual Respondent's capacity as debtor-in-possession.

8. Individual Respondent agrees that the civil penalty imposed by the Consent Order represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, thus, as to Individual Respondent, it is not subject to discharge under the Bankruptcy Code under 11 U.S.C. § 523(a)(7).
9. The terms and provisions of this Stipulation and the Consent Order will be binding upon, and inure to the benefit of, the parties hereto and their successors in interest.
10. Respondents agree that the Bureau may present the Consent Order to the Bureau Director for signature and entry without further notice.

Waivers

11. Respondents, by consenting to this Stipulation, waive:
 - a. Any right to service of the Consent Order, and agrees that entry of the Consent Order on the administrative docket will constitute notice to Respondents of its terms and conditions;

- b. Any objection to the jurisdiction of the Bureau, including, without limitation, under section 1053 of the CFPA, 12 U.S.C. § 5563;
- c. The rights to all hearings under the statutory provisions under which the proceeding is to be or has been instituted; the filing of proposed findings of fact and conclusions of law; proceedings before, and a recommended decision by, a hearing officer; all post-hearing procedures; and any other procedural right available under section 1053 of the CFPA, 12 U.S.C. § 5563, or 12 CFR Part 1081;
- d. The right to seek any administrative or judicial review of the Consent Order;
- e. Any claim for fees, costs or expenses against the Bureau, or any of its agents or employees, and any other governmental entity, related in any way to this enforcement matter or the Consent Order, whether arising under common law or under the terms of any statute, including, but not limited to the Equal Access to Justice Act and the Small Business Regulatory Enforcement Fairness Act of 1996; for these purposes, Respondents agree that Respondents are not the prevailing parties in this action because the parties have reached a good faith settlement;

- f. Any other right to challenge or contest the validity of the Consent Order;
- g. Such provisions of the Bureau's rules or other requirements of law as may be construed to prevent any Bureau employee from participating in the preparation of, or advising the Director as to, any order, opinion, finding of fact, or conclusion of law to be entered in connection with this Stipulation or the Consent Order; and
- h. Any right to claim bias or prejudice by the Director based on the consideration of or discussions concerning settlement of all or any part of the proceeding.

YORBA CAPITAL MANAGEMENT, LLC BY:



Daniel Portilla, Jr.

Owner and Managing Member, Yorba Capital Management, LLC

3-30-21

Date

DANIEL PORTILLA, JR. BY:



Daniel Portilla, Jr.

3-30-21

Date