

Triplett, and DeMarra J. Massey. On November 4, 2013, after a hearing on an order to show cause, the Court entered a preliminary injunction (Dkt. No. 40) against Defendants. On December 16, 2013, the FTC filed its amended complaint

equitable monetary relief for the Stipulating Defendant's alleged deceptive acts or practices as alleged therein.

2. The FTC has the authority under Section 13(b) of the FTC Act and Section 814(a) of the FDCPA to seek the relief it has requested, and the First Amended Complaint states a cl

5. **“Debt collector”** means any person who uses any instrumentality of interstate commerce or the mails in any business the principal purpose of which is the collection of any debts, or who regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another. The term also includes any creditor who, in the process of collecting its own debts, uses any name other than its own which would indicate that a third person is collecting or attempting to collect such debts. The term also include any person to the extent such person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt.
6. **“Defendants”** means Pinnacle Payment Services, LLC, Velocity Payment Solutions, LLC, Heritage Capital Services, LLC, Performance Payment Processing, LLC, Credit Source Plus, LLC (an Ohio company), Credit Source Plus, LLC (a Georgia company), Reliable Resolution, LLC, Premium Express Processing, LLC (an Ohio company), Premium Express Processing, LLC (a Georgia company), Capitol Exchange, LLC, Global Acceptance, LLC, Freestar World, LLC, Heritage Management Services, LLC, Nationwide Payment Processors, LLC, National Processors Group, LLC, Pioneer Capital Services, LLC, Platium Express, LLC, Rapid Resolution, LLC, Solution Processing, LLC, Windfall Management Systems, LLC,

Tobias Boyland, Dorian Wills, .Lisa J. Jeter, Hope V. Wilson, Nichole C. Anderson, Angela J. Triplett, and DeMarra J. Massey.

7. **“Financial-related product or service”** means any product, service, plan, or program represented, expressly or by implication, to:
 - A. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, an extension of consumer credit;
 - B. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, credit repair services;
 - C. provide to any consumer, arrange for any consumer to receive, or assist any consumer in receiving, any secured or unsecured debt relief product or service;
8. **“Person”** means a natural person, organization, or other legal entity, including a corporation, partnership, proprietorship, association, cooperative, or any other group or combination acting as an entity.
9. **“Regulated depository institution”** means a national bank, a member bank of the Federal Reserve System, a bank insured by the Federal Deposit Insurance Corporation, a branch or agency of a foreign bank or commercial lending company owned or controlled by a foreign bank, a Federal or State savings association, a Federal credit union, or any other institution otherwise regulated by the Federal Reserve Board, the Office of the Comptroller of the

Currency, the Federal Deposit Insurance Corporation, or the National Credit

reinstate the mortgage, loan, debt, or obligation or redeem a dwelling or other collateral; (E) obtain any waiver of an acceleration clause or balloon payment contained in any promissory note or contract secured by any dwelling or other collateral; or (F) negotiate, obtain, or arrange (i) a short sale of a dwelling or other collateral, (ii) a deed-in-lieu of foreclosure, or (iii) any other disposition of a mortgage, loan, debt, or obligation other than a sale to a third party that is not the secured or unsecured loan holder. The foregoing shall include any manner of claimed assistance, including, but not limited to, auditing or examining a person's application for the mortgage, loan, debt, or obligation.

11. **“Stipulating Defendant”** means

C. Advertising, marketing, promoting, offering for sale, or selling, or assisting others engaged in the advertising, marketing, promoting, offering for sale, or selling, of any portfolio of consumer or commercial debt or any program that gathers, organizes, or stores consumer information relating to a debt or debt collection activities.

Provided, that Section I.C. shall not prohibit the Stipulating Defendant from engaging in any activity involving or related to the advertising, marketing, promoting, offering for sale, or selling of any portfolio of consumer or commercial debt, if the Stipulating Defendant is the employee of a regulated depository institution and engages in the activity in the context of such employment. This proviso shall not be construed to limit the licensing or regulatory powers of any federal, state, or local government agency or other entity regulating depository institutions.

PROHIBITED MISREPRESENTATIONS RELATING TO FINANCIAL RELATED PRODUCTS OR SERVICES

II. IT IS FURTHER ORDERED that the Stipulating Defendant and her officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the advertising, marketing,

promotion, offering for sale or sale of any financial-related product or service, are hereby permanently restrained and enjoined from:

- A. Misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including but not limited to:
1. The terms or rates that are available for any loan or other extension of credit;
 2. Any person's ability to improve or otherwise affect a consumer's credit record, credit history, or credit rating or ability to obtain credit;
 3. That any person can improve any consumer's credit record, credit history, or credit rating by permanently removing negative information from the consumer's credit record, credit history, or credit rating, even where such information is accurate and not obsolete;
 4. Any aspect of any secured or unsecured debt relief product or service, including but not limited to, the amount of savings a consumer will receive from purchasing, using, or enrolling in such secured or unsecured debt relief product or service; the amount of time before which a consumer will receive

settlement of that consumer's debts; or the reduction or cessation of collection calls;

5. That a consumer will receive legal representation;
 6. That any particular outcome or result from a financial-related product or service is guaranteed, assured, highly likely or probable, or very likely or probable;
 7. 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; and
 8. Any other fact material to consumers concerning any financial-related product or service, such as: the total costs; any material restrictions, limitations, or conditions; or any material aspect of its performance, efficacy, nature, or central characteristics; and
- B. Advertising or assisting others in advertising credit terms other than those terms that actually are or will be arranged or offered by a creditor or lender.

CONSUMER INFORMATION

III. IT IS FURTHER ORDERED that the Stipulating Defendant and her officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them who receive actual notice of this Order by personal service, facsimile transmission, email, or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are permanently restrained and enjoined from directly or indirectly:

- A. Failing to provide sufficient consumer information to enable the FTC to administer efficiently consumer redress. If a representative of the FTC requests in writing any information related to redress, the Stipulating Defendants must provide it, in the form prescribed by the FTC, within 14 days.
- B. Disclosing, using, or benefitting from consumer information, including the name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a customer's account (including a credit card, bank account, or other financial account) of any person that any Defendant obtained prior to entry of this Order in connection with the collection or attempted collection of any debt.

- C. Failing to destroy such consumer information in all forms in their possession, custody, or control within thirty (30) days after receipt of written direction to do so from a representative of the FTC.
- D. **Provided, however,** that consumer information need not be disposed of, and may be disclosed, to the extent requested by a government agency or required by a law, regulation, or court order.

MONETARY JUDGMENT AND PARTIAL SUSPENSION

IV. IT IS FURTHER ORDERED that:

- A. Judgment in the amount of ONE MILLION, FIVE HUNDRED FIFTY EIGHT, AND SIX HUNDRED FIFTY SEVEN DOLLARS (\$1,558,657) is entered in favor of the FTC against the Stipulating Defendant as equitable monetary relief.
- B. The judgment is suspended as to the Stipulating Defendant, subject to the Subsections below.
- C. Upon entry of this Order, the asset freeze as to the Stipulating Defendant is dissolved.
- D. The FTC's agreement to the suspension of the judgment against the Stipulating Defendant is expressly premised upon the truthfulness, accuracy, and completeness of the Stipulating Defendant's sworn financial statements and related documents (collectively, "financial

statements”) submitted to the FTC, namely the Financial Statement of Individual Defendant DeMarra Massey signed on January 7, 2014, including its attachments;

- E. The suspension of the judgment will be lifted as to the Stipulating Defendant if, upon motion by the FTC, the Court finds that the Stipulating Defendant failed to disclose any material asset, materially misstated the value of any asset, or made any other material misstatement or omission in the financial statements identified above.
- F. If the suspension of the judgment is lifted, the judgment shall become immediately due as to the Stipulating Defendant in the amount specified Subsection A above (which the parties stipulate only for purposes of this Section represents the consumer injury alleged in the First Amended Complaint), plus interest computed from the date of entry of this Order.
- G.

523(a)(2)(A), and this Order will have collateral estoppel effect for such purposes.

K. The Stipulating Defendant acknowledges that her Taxpayer Identification Numbers (Social Security Numbers or Employer Identification Numbers), which the Stipulating Defendant previously submitted to the FTC, may be used for collecting and reporting on any delinquent amount arising out of this Order, in accordance with 31 U.S.C. § 7701.

L. Pursuant to Section 604(a)(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(1), any consumer reporting agency may furnish a consumer report concerning the Stipulating Defendant to the FTC, which shall be used for purposes of collecting and reporting on any delinquent amount arising out of this Order.

COOPERATION

V. **IT IS FURTHER ORDERED** that the Stipulating Defendant must fully cooperate with representatives of the FTC and the Receiver in this case and in any investigation related to or associated with the transactions or the occurrences that are the subject of the Complaint. The Stipulating Defendant must provide truthful and complete information, evidence and testimony. The Stipulating Defendant must appear for interviews,

discovery, hearings, trials, and any other proceedings that an FTC representative may reasonably request upon 5 days written notice, or other reasonable notice, at such places and times as an FTC representative may designate, without the service of a subpoena.

ORDER ACKNOWLEDGMENTS

VI. IT IS FURTHER ORDERED that the Stipulating Defendant obtain acknowledgments of receipt of this Order:

- A. The Stipulating Defendant, within 7 days of entry of this Order, must submit to the FTC an acknowledgment of receipt of this Order sworn under penalty of perjury.
- B. For 5 years after entry of this Order, the Stipulating Defendant for any business that the Stipulating Defendant, individually or collectively with any other Defendant, is the majority owner or directly or indirectly controls, must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC managers and members; (2) all employees, agents, and representatives who participate in conduct related to the subject matter of the Order; and (3) any business entity resulting from any change in structure as set forth in the Section titled Compliance Reporting. In any other business, such as one in which the Stipulating Defendant is an employee without any ownership or

control, the Stipulating Defendant must deliver a copy of this Order to all principals and managers of the business before participating in conduct related to the subject matter of this Order. Delivery must occur within 7 days of entry of this Order for current personnel. To all others, delivery must occur before they assume their responsibilities.

- C. From each individual or entity to which the Stipulating Defendant delivered a copy of this Order, the Stipulating Defendant must obtain, within 30 days, a signed and dated acknowledgment of receipt of this Order.

telephone numbers, and physical, postal, email, and Internet addresses; (c) describe the activities of each business, including the products and services offered, the means of advertising, marketing, and sales, and the involvement of any other Defendant (which the Stipulating Defendants must describe if she knows or should know due to her own involvement); (d) describe in detail whether and how the Stipulating Defendant is in compliance with each Section of this Order; and (e) provide a copy of each Order Acknowledgment obtained pursuant to this Order, unless previously submitted to the FTC;

- B. For 10 years following entry of this Order, the Stipulating Defendant must submit a compliance notice, sworn under penalty of perjury, within 14 days of any change in the following:
1. The Stipulating Defendant must report any change in: (a) any designated point of contact; or (b) the structure of any entity that the Stipulating Defendant has any ownership interest in or

- C. The Stipulating Defendant must submit to the FTC notice of the filing of any bankruptcy petition, insolvency proceeding, or any similar proceeding by or against the Stipulating Defendant within 14 days of its filing.
- D. Any submission to the FTC required by this Order to be sworn under penalty of perjury must be true and accurate and comply with 28 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on: _____” and supplying the date, signatory’s full name, title (if applicable), and signature.
- E. Unless otherwise directed by a FTC representative in writing, all submissions to the FTC pursuant to this Order must be emailed to DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin: *FTC v. Pinnacle Payment Service, et al.*, Matter Number X140002.

RECORDKEEPING

VIII. IT IS FURTHER ORDERED that the Stipulating Defendant must create certain records for 10 years after entry of the Order, and retain each such

record for 5 years. Specifically, the Stipulating Defendant for any business in which the Stipulating Defendant, individually or collectively with any other Defendants, is a majority owner or directly or indirectly controls, must maintain the following records:

- A. Accounting records showing the revenues from all goods or services

representations upon which part of the judgment was suspended and any failure to transfer any assets as required by this Order:

- A. Within 14 days of receipt of a written request from a representative of the FTC, the Stipulating Defendant must: submit additional compliance reports or other requested information, which must be sworn under penalty of perjury; appear for depositions; and produce documents, for inspection and copying. The FTC is also authorized to obtain discovery, without further leave of Court, using any of the procedures prescribed by Federal Rules of Civil Procedure 29, 30 (including telephonic depositions), 31, 33, 34, 36, 45, and 69.
- B. For matters concerning this Order, the FTC is authorized to communicate directly with the Stipulating Defendant. The Stipulating Defendant must permit representatives of the FTC to interview any employee or other person affiliated with the Stipulating Defendant who has agreed to such an interview. The person interviewed may have counsel present.
- C. The FTC may use all other lawful means, including posing, through its representatives, as consumers, suppliers, or other individuals or entities, to the Stipulating Defendant or any individual or entity affiliated with the Stipulating Defendant, without the necessity of

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August

A handwritten signature in black ink is written on a horizontal strip of colorful, patterned paper. The signature is cursive and appears to read "K. J. [unclear]". The strip has a gradient of colors including purple, blue, green, yellow, and orange.