

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF ILLINOIS
PEORIA DIVISION

FILED

MAY 22 2012

CLERK OF COURT
U.S. DISTRICT COURT
CENTRAL DISTRICT OF ILLINOIS

UNITED STATES OF AMERICA,
Plaintiff,

v.

Civil Action No. 1:12-cv-1145

LUEBKE BAKER AND ASSOCIATES, INC., an
Illinois corporation,

KEVIN J. LUEBKE, individually and as an
officer of the corporation,

MATTHEW T. SCOTT, individually,

LESLIE M. FARRAR, individually, and

JOEL P. FERGUSON, individually,

Defendants, and

JULISSA W. LUEBKE,

Relief Defendant.

STIPULATED FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION

WHEREAS, Plaintiff, the United States of America, has commenced this action by filing the Complaint herein; Defendants Luebke Baker and Associates, Inc., Kevin J. Luebke, Matthew T. Scott, Leslie M. Farrar, and Joel P. Ferguson and Relief Defendant Julissa W. Luebke have waived service of the Summons and Complaint; the parties have been represented by the attorneys whose names appear hereafter; and the parties have agreed to settlement of this action upon the following terms and conditions, without adjudication of any issue of fact or law,

to settle and resolve all matters in dispute arising from the Complaint to the date of entry of this Stipulated Final Judgment and Order for Permanent Injunction (“Order”), and without Defendants or Relief Defendant admitting any of the matters alleged in the Complaint other than jurisdictional facts;

THEREFORE, on the joint motion of Plaintiff, Defendants, and Relief Defendant, it is **ORDERED, ADJUDGED, and DECREED** as follows:

1. This Court has jurisdiction of the subject matter and of the parties.
2. The Complaint states a claim upon which relief may be granted against Defendants and Relief Defendant under Sections 5(a), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a), and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101 *et seq.*, the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and Section 814 of the Fair Debt Collection Practices Act (“FDCPA”), 15 U.S.C. § 1692*l*. Complete copies of the TSR, 16 C.F.R. Part 310, and the FDCPA, 15 U.S.C. § 1692 *et seq.*, are attached.
3. Venue in this district is proper under 28 U.S.C. §§ 1391(b)-(c) and 1395(a) and 15 U.S.C. § 53(b).
4. The activities of Defendants are in or affecting commerce as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
5. Defendant Kevin J. Luebke and Relief Defendant Julissa W. Luebke filed a petition for relief under Chapter 7 of the Bankruptcy Code on February 11, 2011. The Commission’s prosecution of this action, including the entry of a money judgment and the enforcement of a judgment other than a money judgment obtained in this action, are actions to enforce the Commission’s police or regulatory powers. As a result, if the bankruptcy case is

pending as of the date of entry of this Order, then these actions are excepted from the automatic stay pursuant to 11 U.S.C. § 362(b)(4).

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

7. Defendants and Relief Defendant stipulate to the entry of this Order freely and without coercion. Defendants and Relief Defendant further acknowledge that they have read the provisions of this Order and are prepared to abide by them.

8. Plaintiff, Defendants, and Relief Defendant waive all rights to appeal or otherwise challenge or contest the validity of this Order.

9. Plaintiff, Defendants, and Relief Defendant shall each bear their own costs and attorneys' fees incurred in this action. Defendants and Relief Defendant have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412.

DEFINITIONS

For the purpose of this Order, the following definitions shall apply:

A. **"Individual Defendants"** means Kevin J. Luebke, Matthew T. Scott, Leslie M. Farrar, and Joel P. Ferguson;

B. **"Corporate Defendant"** means Luebke Baker and Associates, Inc. and its successors and assigns;

C. **"Defendants"** means the Individual Defendants and the Corporate Defendant, individually or collectively;

D. **"Relief Defendant"** means Julissa W. Luebke;

E. **"Plaintiff"** means the United States of America; and

F. **"Commission"** means the Federal Trade Commission.

ORDER

I. CIVIL PENALTY AND EQUITABLE MONETARY RELIEF

IT IS THEREFORE ORDERED that,

A. Judgment is entered against Defendants, jointly and severally, for civil penalties, in the amount of TWO MILLION, THREE HUNDRED AND FORTY THOUSAND DOLLARS (\$2,340,000), pursuant to Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), for violations of the FDCPA. *Provided, however,* that this judgment for civil penalties shall be suspended subject to the provisions of the Section titled “Right to Reopen.”

B. Judgment is entered against Defendants, jointly and severally, for equitable monetary relief in the form of disgorgement, in the amount of SEVEN HUNDRED AND THIRTY THOUSAND DOLLARS (\$730,000), for violations of the FTC Act with respect to the collection of debts purportedly owed to Cross Media Marketing Corp. and Media Outsourcing, Inc., both doing business as Consolidated Media Services. *Provided, however,* that this judgment for equitable monetary relief in the form of disgorgement shall be suspended subject to the provisions of the Section titled “Right to Reopen.”

C. Judgment is entered against Defendants, jointly and severally, for equitable monetary relief in the form of restitution, including attendant expenses for administration of any restitution fund, or disgorgement, in the amount of FORTY-FIVE THOUSAND DOLLARS (\$45,000), for violations of the TSR in connection with the upsale of Defendants’ Credit Solutions program. *Provided, however,* that this judgment for equitable monetary relief in the form of restitution shall be suspended subject to the provisions of the Section titled “Right to Reopen.” Defendants Luebke Baker and Associates, Inc. and Kevin J. Luebke shall cooperate

fully to assist the Commission in identifying consumers who may be entitled to restitution under this Subsection.

D. Judgment is entered against Relief Defendant for equitable monetary relief in the form of disgorgement in the amount of FOUR HUNDRED AND TWENTY THOUSAND DOLLARS (\$420,000). *Provided, however*, that this judgment shall be suspended subject to the provisions of the Section titled "Right to Reopen." *Provided further*, that this judgment against Relief Defendant shall be deemed satisfied if the judgments under Subsections B and C of this Section have been paid in full through the cumulative payments of Defendants and Relief Defendant.

E. Within ten (10) days of the entry of this Order, Defendant Leslie M. Farrar is ordered to pay the Commission TWENTY THOUSAND DOLLARS (\$20,000) in the form of a wire transfer to the Commission, or such agent as the Commission may direct.

F. In the event of any default in payment under this Section by a Defendant, which default continues for fifteen (15) days beyond the due date of payment, the full judgment amounts, less any amounts already paid by Defendants in this case, ordered in Subsections A, B, and C of this Section, together with interest, as computed pursuant to 28 U.S.C. § 1961 from the date of default to the date of payment, shall immediately become due and payable by the defaulting Defendant.

G. Defendants and Relief Defendant relinquish all dominion, control, and title to the funds paid under this Section to the fullest extent permitted by law. Defendants and Relief Defendant shall make no claim to or demand for return of the funds, directly or indirectly, through counsel or otherwise.

H. The Commission, at its sole discretion, may apply funds received pursuant to Subsection E of this Section to the judgment for restitution under Subsection C of this Section or the judgment for disgorgement under Subsection B of this Section. In the event that direct restitution to consumers of the amount set forth in Subsection C of this Section is wholly or partially impracticable, or funds remain after complete restitution has been made, the Commission may apply any remaining funds for other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the Complaint. Any funds not used for equitable relief shall be deposited to the United States Treasury as disgorgement. Defendants and Relief Defendant shall not have the right to challenge the Commission's choice of remedies or the manner of distribution under this Section. The Commission, in its sole discretion, may use a designated agent to administer consumer restitution.

I. The judgment amount set forth in Subsection A of this Section represents a civil penalty owed to the United States Government, is not compensation for actual pecuniary loss, and, therefore, is not subject to discharge under the Bankruptcy Code pursuant to 11 U.S.C. § 523(a)(7). Defendants agree that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, in any subsequent civil litigation filed by or on behalf of the Commission to enforce its rights to any payment or money judgment pursuant to Subsection A of this Section.

J. Defendant Kevin J. Luebke agrees (1) that the judgment ordered by Subsection B of this Section is not dischargeable in bankruptcy, and (2) to the concurrent filing by the Commission in his bankruptcy case of: (a) a Complaint to Determine Nondischargeability of Debt (in the form attached as Attachment A), and (b) a Stipulated Judgment for

Nondischargeability of Debt (in the form attached as Attachment B), which Defendant Kevin J. Luebke has executed concurrently with his execution of this Order, determining that the judgment ordered by Subsection B of this Section, including the conditions set forth in the Section of this Order titled "Right to Reopen," are excepted from discharge pursuant to Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A).

K. Defendants Luebke Baker and Associates, Inc., Matthew T. Scott, Leslie M. Farrar, and Joel P. Ferguson agree that the facts as alleged in the Complaint filed in this action shall be taken as true, without further proof, in any bankruptcy case or subsequent civil litigation pursued by or on behalf of the Commission to enforce its rights to any payment or money judgment required pursuant to Subsection B of this Section, including, but not limited to, a nondischargeability complaint in any bankruptcy case. Defendants Luebke Baker and Associates, Inc., Matthew T. Scott, Leslie M. Farrar, and Joel P. Ferguson further stipulate and agree that the facts alleged in the Complaint establish all elements necessary to sustain an action pursuant to, and that this Order shall have collateral estoppel effect for purposes of, Section 523(a)(2)(A) of the Bankruptcy Code, 11 U.S.C. § 523(a)(2)(A).

II. RIGHT TO REOPEN

IT IS FURTHER ORDERED that:

A. The Commission's agreement to this Order and the Court's approval are expressly premised upon the truthfulness, accuracy, and completeness of the certified financial statements and supporting documents submitted to the Commission as follows:

1. Certified financial statement for Defendant Luebke Baker and Associates, Inc., and all attachments, signed and dated June 28, 2011;

2. Certified financial statement for Defendant Kevin J. Luebke, and all attachments, signed and dated March 31, 2011, and supplemented on June 28, 2011;
3. Relief Defendant Julissa W. Luebke's ratification of the certified financial statement for Defendant Kevin J. Luebke, and all attachments, listed in Subsection A.2 of this Section, signed and dated July 12, 2011;
4. Certified financial statement for Defendant Matthew T. Scott, and all attachments, signed and dated April 26, 2011;
5. Certified financial statement for Defendant Leslie M. Farrar, and all attachments, signed and dated October 5, 2009, and supplemented on July 13, 2011; and
6. Certified financial statement for Defendant Joel P. Ferguson, and all attachments, signed and dated October 6, 2009, and supplemented on July 13, 2011.

Defendants and Relief Defendant each stipulate that the financial information submitted by that respective Defendant or Relief Defendant is truthful, accurate, and complete as of the date signed. Further, the documents submitted contain material information upon which the Commission relied in negotiating and agreeing to the terms of this Order.

B. If, upon motion by the Commission, the Court determines that any Defendant or the Relief Defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation or omission in that respective Defendant's or Relief Defendant's financial disclosures, then the suspension of the judgment(s) against that respective Defendant or Relief Defendant, ordered in Subsections A, B, C, and D of the Section titled "Civil Penalty and Equitable Monetary Relief," shall be terminated and the entire judgment amount(s) shall be entered against that respective Defendant or Relief Defendant. *Provided, however,* that the Defendant or Relief Defendant shall be entitled to offset

the judgments ordered in Subsections A, B, C, and D of the Section titled “Civil Penalty and Equitable Monetary Relief,” by amounts already paid by any Defendant or the Relief Defendant in this case. The reinstated judgment(s) shall become immediately due and payable by the Defendant or Relief Defendant, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on any unpaid balance. *Provided, however,* that in all other respects this Order shall remain in full force and effect unless otherwise ordered by the Court; and, *provided further,* that proceedings instituted under this Section would be in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings that the Commission may initiate to enforce this Order.

III. INJUNCTION AGAINST VIOLATIONS OF THE FTC ACT

IT IS FURTHER ORDERED that Defendants, and each of their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are permanently restrained and enjoined from taking the following actions:

A. In connection with collecting or attempting to collect a debt or obtain information concerning a consumer, misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

1. The true identity of the business entity making a telephone call;
2. That telephone calls are from a law firm or the caller is an attorney;
3. That there are no statutes of limitations on the collection of magazine debts;
4. That nonpayment of a debt will result in the garnishment of a consumer’s wages;

5. That legal action will be taken against a consumer; or

6. The consequences of paying or not paying a debt, in whole or in part; and

B. In connection with collecting or attempting to collect a debt or obtain information concerning a consumer, representing or assisting others in representing, expressly or by implication, that a consumer owes a debt or the amount of a debt, unless, at the time of making the representation, Defendants have a reasonable basis for making such representation. *Provided* that, in those instances in which Defendants (i) are required by Subsection A of the Section titled “Duty to Conduct a Reasonable Investigation” to conduct a prompt, reasonable investigation, (ii) in fact have done so, and (iii) have concluded that the information on which Defendants rely to collect or attempt to collect the debt is accurate and complete, the conclusions of the investigation shall constitute a reasonable basis; and

C. In connection with the advertising, marketing, promotion, offering for sale, or sale of any products, goods, or services, misrepresenting or assisting others in misrepresenting, expressly or by implication, any material fact, including, but not limited to:

1. The total cost to purchase, receive, or use the goods or services;
2. Any material restrictions, limitations, or conditions to purchase, receive, or use the goods or services;
3. Any material aspect of the nature or terms of a refund, cancellation, exchange, or repurchase policy for the goods or services; or
4. Any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services.

IV. DUTY TO CONDUCT A REASONABLE INVESTIGATION

A. In each and every instance in which:

1. a consumer, at any time, has questioned, disputed, or challenged the accuracy or completeness of the information on which Defendants are relying to make any representation that the consumer owes a debt or as to the amount of a debt; or
2. a person acting reasonably would question or dispute the accuracy or completeness of the information on which Defendants are relying to make any representation that a consumer owes a debt or as to the amount of a debt;

Defendants shall conduct a prompt, reasonable investigation into the accuracy or completeness of such information. Defendants shall make no further attempt to collect the debt until they have completed the investigation and have reasonably concluded that the information is accurate and complete. *Provided* that nothing in this Section shall require Defendants to conduct an investigation into the accuracy or completeness of the information on which Defendants are relying if Defendants reasonably determine that the consumer's question, dispute, or challenge is frivolous or irrelevant.

B. For purposes of this Order, a "reasonable investigation" shall mean an investigation in which Defendants objectively evaluate and weigh the relevant information and circumstances, including, but not limited to:

1. the reliability of the information on which Defendants rely in collecting or attempting to collect the debt, including the credibility of the source of that information;
2. the accuracy and completeness of any information received directly from the creditor;

3. the accuracy and completeness of any information Defendants obtain from third party sources, including data aggregators or brokers and consumer reporting agencies;
4. the strength and credibility of any information provided by the consumer questioning, disputing, or challenging the accuracy or completeness of such information or otherwise obtained by Defendants;
5. with respect to information obtained from the consumer, the methods used by Defendants to collect the information, including any conduct the natural consequence of which is to harass, oppress, abuse, or mislead any person in connection with the collection of the debt; and
6. any countervailing information that contradicts or calls into question the accuracy or completeness of such information.

C. This Section does not affect Defendants' obligations to comply with all provisions of the FDCPA.

V. INJUNCTION AGAINST VIOLATIONS OF THE FDCPA

IT IS FURTHER ORDERED that Defendants, and each of their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, in connection with acting as a "debt collector" on behalf of a "creditor" in the collection of a "debt" from a "consumer," as those terms are defined in Section 803(6), (4), (5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (4), (5) and (3), are permanently restrained and enjoined from taking the following actions:

A. Engaging in any conduct the natural consequence of which is to harass, oppress, or abuse any person, in violation of Section 806 of the FDCPA, 15 U.S.C. § 1692d, including, but not limited to, placing telephone calls without meaningful disclosure of the caller's identity in violation of Section 806(6) of the FDCPA, 15 U.S.C. § 1692d(6);

B. Using any false, deceptive, or misleading representations or means in connection with the collection of any debt, in violation of Section 807 of the FDCPA, 15 U.S.C. § 1692e, including, but not limited to:

1. Falsely representing the character, amount, or legal status of a debt, in violation of Section 807(2)(A) of the FDCPA, 15 U.S.C. § 1692e(2)(A);
2. Falsely representing or implying that an individual is an attorney or that a communication is from an attorney, in violation of Section 807(3) of the FDCPA, 15 U.S.C. § 1692e(3);
3. Representing or implying that nonpayment of a debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person, unless at the time of the representation, such action is lawful and Defendants or the creditor intend to take such action, in violation of Section 807(4) of the FDCPA, 15 U.S.C. § 1692e(4);
4. Representing or implying that any action will be taken, unless at the time of the representation, such action is lawful and Defendants or the creditor intend to take such action, or that any action may be taken when Defendants cannot show that, at the time of the representation, there is a reasonable likelihood that such action will be taken, in violation of Section 807(5) of the FDCPA, 15 U.S.C. § 1692e(5);

5. Using false representations or deceptive means to collect or attempt to collect debts or obtain information concerning a consumer, in violation of Section 807(10) of the FDCPA, 15 U.S.C. § 1692e(10); and

C. Engaging in any other act or practice that would violate the FDCPA, 15 U.S.C. § 1692 *et seq.*, as presently enacted or as it may hereafter be amended.

VI. INJUNCTION AGAINST VIOLATIONS OF THE TSR

IT IS FURTHER ORDERED that Defendants, and each of their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, are permanently restrained and enjoined from engaging in any act or practice that would violate any provision of the TSR, 16 C.F.R. Part 310, as presently promulgated or as it may hereafter be amended, including, but not limited to, requesting or receiving payment for goods or services represented to remove derogatory information from, or improve, a person's credit history, credit record, or credit rating, before the time period for providing all the goods or services has expired and Defendants have demonstrated that the promised results have been achieved, in violation of Section 310.4(a)(2) of the TSR, 16 C.F.R. § 310.4(a)(2).

VII. NOTICE REQUIREMENTS

IT IS FURTHER ORDERED that,

A. For a period of five (5) years from the date of entry of this Order, Defendants, and each of their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other

device, in connection with acting as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5) and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5) and (3), shall make the following disclosure clearly and conspicuously on each written communication that is sent to a consumer for the purpose of collecting a debt:

Federal law prohibits certain methods of debt collection, and requires that we treat you fairly. You can stop us from contacting you by writing a letter to us that tells us to stop the contact. Sending a letter does not make the debt go away if you owe it. Once we receive your letter, we may not contact you again, except to let you know that there won't be any more contact or that we intend to take a specific action.

If you have a complaint about the way we are collecting this debt, please write to our CONTACT CENTER, [current physical address], email us at [current email address], or call us toll-free at [current phone number] between 9:00 A.M. Central Time and 5:00 P.M. Central Time Monday - Friday.

The Federal Trade Commission enforces the Fair Debt Collection Practices Act (FDCPA). If you have a complaint about the way we are collecting your debt, please contact the FTC online at www.ftc.gov; by phone at 1-877- FTC-HELP; or by mail at 600 Pennsylvania Ave. NW, Washington, DC 20580.

The above disclosure shall be given in the languages which appear in the communications sent to consumers.

B. Defendants, and each of their officers, agents, servants, employees, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any entity, corporation, subsidiary, division, affiliate, or other device, in connection with acting as a “debt collector” in the collection of a “debt” from a “consumer,” as those terms are defined in Section 803(6), (5), and (3), respectively, of the FDCPA, 15 U.S.C. § 1692a(6), (5), and (3), shall provide a copy of

the following notice to all officers, agents, servants, and employees having responsibility with respect to the collection of consumer debts, within thirty (30) days of the date of entry of this Order, and to each employee hired for a period of five (5) years after that date, no later than the time the employee assumes responsibility with respect to the collection of the debts, and shall secure from each person, within thirty (30) days of delivery, a signed and dated statement acknowledging receipt of a copy of the notice:

Debt collectors must comply with the federal Fair Debt Collection Practices Act, which limits our activities in trying to collect money from consumers.

Section 806(6) of the Act prohibits placing telephone calls without meaningful disclosure of the caller's identity. For example, it is illegal for a debt collector to transmit false caller identification information when calling a debtor.

Most importantly, Section 807 of the Act prohibits you from representing or implying that any action, including garnishment or other legal action, will be taken unless at the time of the representation, the action is lawful and there is a clear intent to take the action.

Further, Section 807 of the Act prohibits the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer. For example, it is illegal to misrepresent that a debt collection company is a law firm or that the company's collectors are attorneys. It is also illegal to misrepresent the existence of, or terms of, any statutes of limitations for collecting debts.

Individual debt collectors may be financially liable for their violations of the Act.

VIII. COMPLIANCE MONITORING

IT IS FURTHER ORDERED that, for the purpose of (i) monitoring and investigating compliance with any provision of this Order, and (ii) investigating the accuracy of any

Defendant's and Relief Defendant's financial statements upon which the Commission's agreement to this Order is expressly premised:

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendants and Relief Defendant each shall submit additional written reports, which are true and accurate and sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and provide entry during normal business hours to any business location in each Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to use all other lawful means, including, but not limited to:

1. obtaining discovery from any person, without further leave of Court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, 45, and 69;
2. having its representatives pose as consumers and suppliers to Defendants or any entity managed or controlled in whole or in part by any Defendant, without the necessity of identification or prior notice; and

C. Defendants each shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to

obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

IX. COMPLIANCE REPORTING

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order:
 1. Individual Defendant shall notify the Commission of the following:
 - a. any changes in Individual Defendant's residence, mailing addresses, and telephone numbers within ten (10) days of the date of the change;
 - b. any changes in Individual Defendant's employment status (including self-employment) and any change in Individual Defendant's ownership in any business entity, within ten (10) days of the date of the change. The notice shall include the name and address of each business that Individual Defendant is affiliated with, employed by, creates or forms, or performs services for; a detailed description of the nature of the business; and a detailed description of Individual Defendant's duties and responsibilities in connection with the business or employment; and
 - c. any changes in Individual Defendant's name or use of any aliases or fictitious names within ten (10) days of the date of the change; and
 2. Defendants shall notify the Commission of any changes in structure of Corporate Defendant or any business entity that any Defendant directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including, but not limited to: incorporation or other

organization; a dissolution, assignment, sale, merger, or other action; the creation or dissolution of subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; or a change in the business name or address, at least thirty (30) days prior to the change, *provided* that, with respect to any such change in the business entity about which a Defendant learns less than thirty (30) days prior to the date the action is to take place, the Defendant shall notify the Commission as soon as is practicable after obtaining the knowledge.

B. One hundred eighty (180) days after the date of entry of this Order and annually thereafter for a period of five (5) years, Defendants shall provide a written report to the Commission, which is true and accurate and sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order.

This report shall include, but not be limited to:

1. **For Individual Defendant:**

- a. Individual Defendant's then-current residence address, mailing addresses, and telephone numbers;
- b. Individual Defendant's then-current employment status (including self-employment), including the name, addresses, and telephone numbers of each business that Individual Defendant is affiliated with, employed by, or performs services for; a detailed description of the nature of the business; and a detailed description of Individual Defendant's duties and responsibilities in connection with the business or employment; and
- c. any other change required to be reported under Subsection A of this Section.

2. **For Corporate and Individual Defendants:**

- a. a copy of each acknowledgment of receipt of this Order, obtained pursuant to the Section titled "Distribution of Order"; and
- b. any other changes required to be reported under Subsection A of this Section.

C. Each Defendant shall notify the Commission of the filing of a bankruptcy petition by the Defendant within fifteen (15) days of filing.

D. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, send by overnight courier all reports and notifications required by this Order to the Commission at the following address:

Associate Director for Enforcement
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room NJ-2122
Washington, D.C. 20580
RE: *U.S. v. Luebke Baker and Associates, Inc.*, Civil Action No. 1:12-cv-1145

Provided, that, in lieu of overnight courier, Defendants may send reports or notifications by first-class mail, but only if Defendants contemporaneously send an electronic version of the report or notification to the Commission at: DEBrief@ftc.gov.

E. For purposes of the compliance reporting and monitoring required by this Order, the Commission is authorized to communicate directly with each Defendant and Relief Defendant.

X. RECORD KEEPING PROVISIONS

IT IS FURTHER ORDERED that, for a period of eight (8) years from the date of entry of this Order, Corporate Defendant, and Individual Defendant for any business for which he is a

majority owner or directly or indirectly controls, in connection with any business involving the collection of debts from consumers, are restrained and enjoined from failing to create and retain the following records:

- A. Accounting records that reflect the revenues generated in connection with the collection of debts, and the disbursement of the revenues;
- B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by the business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;
- C. Customer files containing the names, addresses, phone numbers (if known), dollar amounts of debt owed, records of collection activity, and amounts collected;
- D. For every consumer complaint, whether received directly or indirectly, such as through a third party, records that include:
 1. Any complaint and the date received, and the nature of the complaint as reflected in any notes, logs, or memoranda, including a description of the conduct alleged; and
 2. The basis of the complaint, including the names of any debt collectors or supervisors complained about; the nature of any investigation conducted concerning the validity of any complaint; all documents relating to the disposition of the complaint, including records of all contacts with the consumer, Defendants' response to the complaint and the response date, whether the complaint was resolved, the date of resolution; and any action taken to correct alleged conduct that violates the FDCPA;

E. Copies of all training materials, scripts, talking points, rebuttal recommendations, advertisements, and marketing materials, and a representative copy of all letters or other written communications sent to consumers or third parties in connection with the collection of a debt; and

F. All records and documents necessary to demonstrate full compliance with each provision of this Order, including, but not limited to, copies of acknowledgments of receipt of this Order, including attachments, required by the Sections titled "Distribution of Order" and "Acknowledgment of Receipt of Order," copies of acknowledgments of receipt of notices given to employees, required by the Section titled "Notice Requirements," and all reports submitted to the Commission pursuant to the Section titled "Compliance Reporting."

XI. DISTRIBUTION OF ORDER

IT IS FURTHER ORDERED that, for a period of five (5) years from the date of entry of this Order, Defendants must deliver copies of this Order, including attachments, as directed below:

A. **Corporate Defendant:** The Corporate Defendant must deliver a copy of this Order, including attachments, to (1) all of its principals, officers, directors, and managers; (2) all of its employees, agents, and representatives who engage in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon the Corporate Defendant. For new personnel, delivery shall occur prior to their assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting" delivery shall be at least ten (10) days prior to the change in structure.

B. **Individual Defendant as control person:** For any business entity that Individual Defendant controls, directly or indirectly, or in which Individual Defendant has a majority ownership interest, Individual Defendant must deliver a copy of this Order, including attachments, to (1) all principals, officers, directors, and managers of that business; (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of this Order; and (3) any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting." For current personnel, delivery shall be within five (5) days of service of this Order upon Individual Defendant. For new personnel, delivery shall occur prior to them assuming their responsibilities. For any business entity resulting from any change in structure set forth in Subsection A.2 of the Section titled "Compliance Reporting," delivery shall be at least ten (10) days prior to the change in structure.

C. **Individual Defendant as employee or non-control person:** For any business where Individual Defendant is not a controlling person of a business but otherwise engages in conduct related to the subject matter of this Order, Individual Defendant must deliver a copy of this Order, including attachments, to all principals and managers of the business before engaging in the conduct.

D. Defendants must secure a signed and dated statement acknowledging receipt of this Order, including attachments, within thirty (30) days of delivery, from all persons receiving a copy of this Order pursuant to this Section.

XII. ACKNOWLEDGMENT OF RECEIPT OF ORDER

IT IS FURTHER ORDERED that each Defendant and Relief Defendant, within five (5) business days of receipt of this Order, including attachments, as entered by the Court, must

submit to the Commission a truthful sworn statement acknowledging receipt of this Order, including attachments.

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

JUDGMENT IS THEREFORE ENTERED in favor of Plaintiff and against Defendants Luebke Baker and Associates, Inc., Kevin J. Luebke, Matthew T. Scott, Leslie M. Farrar, and Joel P. Ferguson and Relief Defendant Julissa W. Luebke, pursuant to all the terms and conditions recited above.

DATE: 5-22-12

s/James E. Shadid

 UNITED STATES DISTRICT JUDGE

The parties, by their respective counsel, consent to the terms and conditions of the Stipulated Final Judgment and Order for Permanent Injunction as set forth above and consent to the entry thereof.

FOR THE UNITED STATES OF AMERICA:

STUART F. DELERY
Acting Assistant Attorney General
Civil Division
United States Department of Justice

JAMES A LEWIS
United States Attorney

Date: May 11, 2012

By: /s/Eric I. Long

ERIC I. LONG, IL Bar No. 6243382
United States Attorney's Office
318 South Sixth Street
Springfield, IL 62701
(217) 492-4450 (Phone)
(217) 492-4888 (Facsimile)
eric.long@usdoj.gov

MICHAEL BLUME, Director

KENNETH L. JOST, Deputy Director

Date: May 11, 2012

/s/ Daniel K. Crane-Hirsch
DANIEL K. CRANE-HIRSCH
Trial attorney (Lead Counsel for Local Rule 11.2)
Consumer Protection Branch
Civil Division
U.S. Department of Justice
PO Box 386
Washington, DC 20044-0386
(202) 616-8242 (Phone)
(202) 514-8742 (Facsimile)
daniel.crane-hirsch@usdoj.gov

FOR THE FEDERAL TRADE COMMISSION:

DEANYA T. KUECKELHAN, DIRECTOR
Southwest Region
Federal Trade Commission

Date: May 11, 2012

/s/ Thomas B. Carter
THOMAS B. CARTER
Of Counsel
Texas Bar No. 03932300

Attorney for the Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(214) 979-9372 (Phone)
(214) 953-3079 (Facsimile)

**FOR DEFENDANTS KEVIN J. LUEBKE AND
LUEBKE BAKER AND ASSOCIATES, INC.**

Date: August 19, 2011

/s/ Kevin J. Luebke
KEVIN J. LUEBKE, Individually and as President
of Luebke Baker and Associates, Inc.

FOR MATTHEW T. SCOTT

Date: August 19, 2011

/s/ Matthew T. Scott
MATTHEW T. SCOTT, Individually

FOR LESLIE M. FARRAR

Date: August 12, 2011

/s/ Leslie M. Farrar
LESLIE M. FARRAR, Individually

FOR JOEL P. FERGUSON

Date: August 14, 2011

/s/ Joel P. Ferguson
JOEL P. FERGUSON, Individually

**FOR RELIEF DEFENDANT
JULISSA W. LUEBKE**

Date: August 19, 2011

/s/ Julissa W. Luebke
JULISSA W. LUEBKE, Individually

**ATTORNEY FOR DEFENDANTS
AND RELIEF DEFENDANT**

Date: _____

/s/ John Howie, Jr.
JOHN HOWIE, JR., Attorney
Texas Bar No. 24027239
Howie Law, PC
4040 N. Central Expressway, Suite 850
Dallas, Texas 75204
(214) 622-6340 (Office)
(214) 622-6341 (Facsimile)