

Administrator brings this action seeking to enjoin preliminarily and permanently Defendants' unlawful business practices and seeking consumer restitution, civil penalties, attorneys' fees and costs, and other equitable relief the Court deems appropriate.

PARTIES

2. Julie Ann Meade is the duly appointed Administrator of the Uniform Consumer Credit Code. C.R.S. § 12-14-103(1). She is authorized under C.R.S. § 12-14-135 to bring a civil action to restrain any person from any violation of the FDCPA.

3. Defendant Peak Resolution is a Colorado limited liability company with its principal place of business in Denver, Colorado. Among other things, its principal purpose is the collection of debts, and it regularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due. As a collection agency with an office in Colorado, Peak Resolution must comply with the FDCPA. *See* C.R.S. § 12-14-102(1)(a).

4. Defendant Daniel Cane ("Cane") is a New York resident. Upon information and belief, Cane formed Peak Resolution, and at all relevant times was the Managing Member of Peak Resolution. As such, Cane, acting alone or in concert with others, has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Peak Resolution, including the acts and practices alleged in this Complaint.

5. Defendant Christopher Hagerman ("Hagerman") is a Colorado resident who resides in Arapahoe County, Colorado. Upon information and belief, Hagerman is, and at all relevant times was, the director of operations for Peak Resolution. As such, Hagerman, acting alone or in concert with others, has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Peak Resolution, including the acts and practices alleged in this Complaint.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this case pursuant to C.R.S. § 13-1-124.

7. Pursuant to C.R.S. § 12-14-135, venue in actions brought by the Administrator to enjoin violations of the FDCPA is proper in Denver County.

GENERAL ALLEGATIONS

8. Peak Resolution, LLC filed its articles of organization with the Colorado Secretary of State on February 26, 2014. Defendant Cane caused Peak Resolution to be formed and signed Peak Resolution's lease for office space on its behalf.

9. Peak Resolution is not, and never has been, licensed to act as a collection agency in Colorado.

10. In June 2014, the Administrator's staff received a call from a Colorado licensed collection agency complaining about Peak Resolution's collection practices. That agency indicated Defendant Cane was an "East Coast" [collection agency] operator who had started opening agencies in Colorado. According to the complaint, Cane's Colorado collection agency was using the name(s) Peak Resolution and/or PR & Associates. The complaint alleged that [Peak Resolution] was using the "worst possible" phone tactics, such as threatening to send a sheriff to the consumer's house.

11. In July 2014, the Administrator started receiving consumer complaints about Peak Resolution's collection practices.

12. In particular, the Administrator has received several complaints in which consumers alleged that Peak Resolution told the consumer he or she had committed fraud, and threatened that if the consumer failed to pay the matter would be turned over for criminal prosecution and possible jail time.

13. In addition, the Administrator received documentation from a consumer that revealed that Peak Resolution was using the name "The Law Office P.R. Associates" to imply that the communication was from an attorney. Specifically, in a facsimile from "The Law Office P.R. Associates," Defendant Hagerman stated that a law office was investigating the consumer on "pending charges."

14. As a result of the complaints, the Administrator initiated an investigation into Peak Resolution. Counsel for the Administrator served Peak Resolution with an Administrative Subpoena on January 26, 2015.

15. Peak Resolution, however, failed or refused to respond to the Administrative Subpoena.

16. Defendants Cane and Hagerman assist or aid, either directly or indirectly, in Peak Resolution's violations of the FDCPA and are thus responsible for those violations.

FIRST CLAIM FOR RELIEF
VIOLATIONS OF FDCPA (C.R.S. §§ 12-14-115(1)(a) AND 12-14-118)

17. The Administrator incorporates by reference the allegations of paragraphs 1 through 16 above as if fully set forth herein.

18. The FDCPA defines “collection agency” to include one whose principal purpose is the collection of debts or who “[r]egularly collects or attempts to collect, directly or indirectly, debts owed or due or asserted to be owed or due another.” C.R.S. § 12-14-103(2)(a)(II)(A).

19. Under the FDCPA, it is unlawful for any person to “[c]onduct the business of a collection agency or advertise or solicit, either in print, by letter, in person, or otherwise, the right to make collection or obtain payment of any debt on behalf of another without having obtained a license” to do so. C.R.S. § 12-14-115(1)(a).

20. Moreover, “[a]ny person acting as a collection agency must possess a valid license issued by the administrator.” C.R.S. § 12-14-118.

21. Defendants have conducted the business of, and acted as, a collection agency in Colorado after failing to obtain a license to do so.

22. Therefore, Defendants have violated these provisions of the FDCPA.

23. As a result of Defendants’ violations of the FDCPA, the Administrator is entitled to injunctive relief preliminarily and permanently restraining Defendants, and their officers, directors, agents, servants, employees, attorneys, heirs, successors, and assigns, from engaging, directly or indirectly, in consumer debt collection or otherwise acting as a collection agency without a license or otherwise committing any of the acts, conduct, transactions, or violations described above, or otherwise violating the FDCPA, together with all such other relief as may be required to completely compensate or restore to their original position all consumers injured or prevent unjust enrichment of any person, by reason or through the use or employment of such practices, acts, conduct, or violations, or as may otherwise be appropriate, including, without limitation, requiring Defendants to disgorge to the Administrator or refund to consumers all amounts collected in violation of the FDCPA. C.R.S. § 12-14-135.

SECOND CLAIM FOR RELIEF
VIOLATIONS OF FDCPA (C.R.S. §12-14-107)

24. The Administrator incorporates by reference the allegations of paragraphs 1 through 23 above as if fully set forth herein.

25. Under the FDCPA, it is unlawful for a collection agency to “use any false, deceptive, or misleading representation or means in connection with the collection of any debt.” C.R.S. § 12-14-107(1). This would include, but is not limited to, the following conduct:

(a) The false representation or implication that any individual is an attorney or that any communication is from an attorney;

(b) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or in the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector, collection agency, or creditor intends to take such action, C.R.S. § 12-14-107(1)(d);

(c) The threat to take any action that cannot legally be taken or that is not intended to be taken, C.R.S. § 12-14-107(1)(e);

(d) The false representation or implication that the consumer committed any crime, C.R.S. § 12-14-107(1)(g).

26. As set forth above, Defendants have violated these provisions of the FDCPA.

27. As a result of Defendants’ violations of the FDCPA, the Administrator is entitled to injunctive relief preliminarily and permanently restraining Defendants, and their officers, directors, agents, servants, employees, attorneys, heirs, successors, and assigns, from engaging, directly or indirectly, in consumer debt collection or otherwise acting as a collection agency without a license or otherwise committing any of the acts, conduct, transactions, or violations described above, or otherwise violating the FDCPA, together with all such other relief as may be required to completely compensate or restore to their original position all consumers injured or prevent unjust enrichment of any person, by reason or through the use or employment of such practices, acts, conduct, or violations, or as may otherwise be appropriate, including, without limitation, requiring Defendants to disgorge to the Administrator or refund to consumers all amounts collected in violation of the FDCPA. C.R.S. § 12-14-135.

PRAYER FOR RELIEF

ACCORDINGLY, the Administrator prays for entry of judgment in her favor and against Defendants, and requests the Court provide the following relief:

A. Issue a preliminary and permanent injunction, enjoining Defendants, and their officers, directors, agents, servants, employees, attorneys, heirs, successors, and assigns, from engaging, directly or indirectly, in consumer debt collection or otherwise acting as a collection agency without a license or otherwise committing any of the acts, conduct, transactions, or violations described above, or otherwise violating the FDCPA.

B. Impose civil penalties against Defendants under C.R.S. § 12-14-135.

C. Award actual damages to those injured by the violations of the FDCPA.

D. Order Defendants to make restitution of money to the persons aggrieved by the violations.

E. Award costs, expenses, and attorneys' fees incurred by the Administrator.

F. Award pre- and post-judgment interest.

G. Award such other relief as the Court deems proper and just.

Dated this 8th day of May 2015.

CYNTHIA H. COFFMAN
Attorney General

S/ Jeanine M. Anderson

JEANINE M. ANDERSON, 28206*
Senior Assistant Attorney General
Consumer Credit Unit
Consumer Protection Section
Attorneys for the Administrator

*Counsel of Record