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FILED

APR 01 2011

Robert C. Wilson
J.S.C.

SYGMUND N. WILLIAMS, on behalf of
himself and all others similarly situated,
Plaintiff,

vs.

PALISADES COLLECTION, LLC,
Defendant.

SUPERIOR COURT OF NEW JERSEY
LAW DIVISION – BERGEN COUNTY

Civil Action

Docket No. BER-L-001604-11

FINAL JUDGMENT

THIS MATTER having come before the Court on the joint application of Philip D. Stern & Associates, LLC (Philip D. Stern, Esq., appearing), attorneys for Plaintiff, Sygmund N. Williams, on behalf of himself and all others similarly situated, and by Spector Gadon & Rosen, P.C. (Jonathan J. Greystone, Esq., appearing), attorneys for Defendant, Palisades Collection, LLC, for final judgment certifying this matter as a class action under R. 4:32, for approval of a class-wide settlement agreement, and for approval of fees and costs awardable to class counsel, and a copy of the Class Action Settlement Agreement having been filed with the Court in satisfaction of R. 4:32-2(e)(2), and the Court having conducted a fairness hearing pursuant to R. 4:32-2(e)(1)(C) in the presence of counsel, and based on foregoing, the Court concludes that:

A. The Class consists of more than 200,000 members and is so numerous that joinder of all

- members is impracticable;
- B. There are questions of law and fact common to the proposed Class, namely, whether the Defendant's written communications to consumers, in the form attached to the Complaint as Exhibit A, contains the threat to take any action that cannot legally be taken or that is not intended to be taken, uses any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer, or uses any false, deceptive, or misleading representation or means in connection with the collection of any debt in violation of the Fair Debt Collection Practices Act ("FDCPA"), 15 U.S.C. §1692 et seq.;
 - C. The individual claims of Plaintiff are typical of the claims of the Class;
 - D. Plaintiff is an appropriate and adequate representative for the Class;
 - E. Based on Paragraphs A through D, the prerequisites under R. 4:23-1(a) have been satisfied;
 - F. Defendant's use of the letter in the form attached to the Complaint as Exhibit A affects all members of the Class. Inconsistent or varying adjudications with respect to individual members of the Class regarding the propriety and use of that form of letter might establish incompatible standards of conduct for Defendant;
 - G. The proposed settlement includes, among other things, Defendant's consent to an injunction and final injunctive relief is appropriate respecting the Class as a whole as Defendant has acted on grounds generally applicable to the Class, thereby making final injunctive relief appropriate;
 - H. Class damages as provided in the settlement agreement are incidental to the injunctive relief as they arise from Defendant's conduct with respect to the class without any inquiry

as to the specific circumstances of any class member;

- I. Based on Paragraphs F, G and H, a class action is maintainable under R. 4:32-1(b)(1) and (2);
- J. Inasmuch as the settlement agreement and this Final Judgment releases Class members' claims only for the same violations alleged in the Complaint and provides that the Class will receive more than it could have received in a successful contested action adjudicating those claims, the Court concludes that no notice to the Class is required and, inasmuch as this action is not being maintained under R. 4:32-1(b)(3), Class members are not entitled to opt out;
- K. With respect to the proposed Settlement Agreement which has been filed with the Motion, the Court finds that the proposed settlement is fair, reasonable, and adequate;
- L. With respect to the appointment of Settlement Class Counsel under R. 4:32-2(g), the Court finds, after consideration of the factors described in that Rule, Plaintiffs' counsel, Philip D. Stern, Esq., will fairly and adequately represent the interests of the Settlement Class; and
- M. With respect to the award of counsel fees and litigation expenses for Class Counsel, the Court finds that the information certified to in the Joint Memorandum and Stipulation in Support of Joint Motion for Final Judgment satisfies the requirements of R. 4:42-9 and the amount applied for is both fair and reasonable;

and for good cause shown;

IT IS ON THIS FIRST DAY OF APRIL, 2011; ORDERED AND ADJUDGED:

- 1. Class Certification. The Court certifies this action as a class action maintainable under R. 4:32-1(b)(1) and (2), and, in accordance with R. 4:32-2(a):

a. defines the "Class" as

All persons in the United States whose accounts are owned by Defendant as of the date of certification and to whom, during the class period, Defendant mailed a letter in substantially the same form as Exhibit A to Plaintiff's Complaint, which letter was not returned by the Postal Service as undeliverable. Excluded from the class are:

- (i) all consumers who have filed for bankruptcy protection since the start of the class period;
- (ii) all consumers who have settled their accounts with Defendant for less than the full balance;
- (iii) all consumers who have entered into any general release of Defendant;
- (iv) all consumers who are deceased;
- (v) all consumers against whom Defendant has obtained a judgment; and
- (vi) all consumers who are class members in Case No. 1:08-cv-02607-RBR in the U.S. District Court for the S.D.N.Y.

and

b. defines the "Class Claims" as any and all claims arising from Defendant sending the letter in substantially the same form as Exhibit A to Plaintiff's Complaint which were sent to members of the Class on or after June 16, 2008 up through and including the date of this Order.

2. Approval of Settlement Agreement. The Class Action Settlement Agreement previously filed with the Court is declared to be fair, reasonable and adequate.

3. Enforcement of Settlement Agreement. In accordance with the Class Action Settlement Agreement:

a. Definitions. For purposes of this Judgment:

i. "Effective Date" means the later of

- 1. the time for perfecting an appeal of such Final Order and Judgment has expired with no appeal taken,

2. final dismissal of any appeal taken, or
 3. affirmance of this Judgment which is not subject to further review by any court with appellate jurisdiction over this action.
- ii. "Business Day" which means any day on which national banks are open for the conduct of general business. Unless expressly specified as a Business Day, a day is a calendar day.

b. Checks.

- i. Within 28 days after the Effective Date, for each Class Member whose account has no outstanding balance, Defendant shall issue a check payable to the Class member in the amount of 1% of the amount paid on the account and mailed addressed to the Class member at the last address known to Defendant.
- ii. Within 14 days after mailing the checks, Defendant will deliver to Class Counsel a listing, in electronic format (such as a Microsoft Excel spreadsheet, a comma-separated value file, or similar format acceptable to Class Counsel), reflecting the following information for EACH check:
 1. Defendant's internal account number (i.e., "Debtor ID"),
 2. the name of the original creditor,
 3. the face amount of the debt,
 4. the amount of the check,
 5. the check number, and
 6. the mailing date.

iii. Within 150 days after mailing the checks, Defendant will deliver to Class Counsel a listing, in electronic format (such as a Microsoft Excel spreadsheet, a comma-separated value file, or similar format acceptable to Class Counsel) reflecting the following information for EACH check which was not cashed or was returned as undeliverable:

1. Defendant's internal account number (i.e., "Debtor ID"),
2. the name of the original creditor,
3. the face amount of the debt,
4. the amount of the check,
5. the check number,
6. the mailing date, and
7. a designation whether the check was undeliverable or uncashed.

and, at the same time, pay by check or wire transfer to the trust account of Class Counsel the amount which is the sum of all undelivered checks and all uncashed checks. Within 10 days after receipt, Class Counsel will pay that sum to Legal Services of New Jersey, Inc. as a *cy pres* distribution for the benefit of the Class. Class Counsel will send a copy of the transmittal letter to Defendant's counsel and the Court.

c. Credits.

- i. Within 28 days after the Effective Date, for each Class Member other than those described in Paragraph 3.b., Defendant will enter a credit on

his or her account in the amount of either 1% of the amount shown as due on each debt at the time Defendant acquired the debt or the currently remaining outstanding balance due, whichever is less.

ii. Within 14 days after entering those credits, Defendant will deliver to Class Counsel a listing, in electronic format (such as a Microsoft Excel spreadsheet, a comma-separated value file, or similar format acceptable to Class Counsel), reflecting the following information for EACH credit:

1. Defendant's internal account number (i.e., "Debtor ID"),
2. the name of the original creditor,
3. the face amount of the debt, and
4. the amount of the credit.

d. Injunction. The Court hereby mandatorily enjoins Defendant as follows:

Henceforth, and until and unless otherwise ordered by this court, when giving the notice provided for by 15 U.S.C. § 1681s-2(a)(7) (Section 623(a)(7) of the Fair Credit Reporting Act) Defendant shall give such notice in the following form:

When permitted by law, we may furnish information about your account to credit reporting agencies. Consequently, the balance due on your account is negative information which may be reflected on your credit report.

- e. Individual Statutory Damages. Within 3 Business after the Effective Date, Defendant will pay to Plaintiff the sum of \$1,000.
- f. Class Representative. Defendant is deemed to waive any and all claims it may have against Plaintiff in connection with an alleged debt designated in

Defendant's records as Debtor ID 19281257 regarding First USA Account Number ending 8320.

g. Release. Upon Defendant's compliance with Paragraph 2(a), (b), (c), (e), (f) and Paragraph 3, Defendant is hereby deemed released from:

i. Regarding Plaintiff, all claims, actions, causes of action, demands, rights, damages, costs, attorneys' fees, expenses, and compensation whatsoever that his or her heirs, executors, administrators, successors, assigns, and attorneys may have against Defendant, or any of its parent, affiliate, and subsidiary entities, principals, members, managers, partners, officers, directors, shareholders, employees, agents, representatives, successors, assigns, insurance carriers, sureties, clients, and attorneys as of the date of this Agreement, it being Plaintiff's intent to release all claims of any kind or nature, known or unknown, arising pursuant to the Fair Debt Collection Practices Act, contract, tort, common law, or regulation, that he may have against the parties herein released; and

ii. Regarding the Class, all claims, actions, causes of action, demands, rights, damages, costs, attorneys' fees, expenses, and compensation whatsoever that the Class or the Class Members' respective heirs, executors, administrators, successors, assigns, and attorneys could assert against Palisades Collection, LLC, or any of its parent, affiliate, and subsidiary entities, principals, members, managers, partners, officers, directors, shareholders, employees, agents, representatives,

successors, assigns, insurance carriers, sureties, clients, and attorneys resulting from Defendant's alleged violations of the Fair Debt Collection Practices Act or any state law providing substantially similar protections.

- iii. Plaintiff and the Class expressly waive all rights under Section 1542 of the Civil Code of California and any similar law of any state or territory of the United States. That section reads as follows:

1542. Certain claims not affected by general release. A general release does not extend to claims which the creditor does not know or suspect to exist in his favor at the time of executing the release, which if known by him must have materially affected his settlement with the debtor.

- iv. This Judgment does not release any claims of Defendant relating to the underlying debts of the Class, except to the extent of the credits provided for herein, nor shall this Judgment release any defenses to such debts that are not based upon or do not arise out of the conduct which forms the basis for Defendant's alleged violations of the Fair Debt Collection Practices Act.
- v. Defendant's compliance with Paragraph 2(a), (b), (c), (e), (f) and Paragraph 3 shall be evidence by a certification made by Class Counsel setting forth such compliance.

4. Approval of Counsel Fees and Expenses. The Court approves an award of \$42,500.00 for attorney's fees and costs to Class Counsel which, within 3 Business Days after the Effective Date, Defendant will pay to Class Counsel. as follows:

- a. Costs and expenses in the amount of \$ 3,109.95; and

b. Attorneys fees of \$39,390.05 based on 60 hours of attorney time for an effective rate of \$656.50 based on a combination of lodestar and common fund analyses.

5. Continuing Jurisdiction; Disputes. The Court retains jurisdiction over the interpretation, enforcement and implementation of the Settlement Agreement and this Judgment. Except as retained, all claims against Defendant are dismissed with prejudice and without taxing costs. Counsel for the parties will make a good faith attempt to confer and resolve all disputes regarding compliance with this Judgment before applying to the Court for relief.
6. Service. A copy of this Order will be served on all parties or their respective counsel within 7 days.

Opposed: NO


HONORABLE ROBERT C. WILSON, J.S.C.

* THE case management conference scheduled for April 15, 2011 IS NOW moot.

