

IN THE SUPERIOR COURT OF FULTON COUNTY
STATE OF GEORGIA

STATE OF GEORGIA *ex rel.*
Christopher M. Carr, Attorney General of the
State of Georgia,

COMPLAINANT,

v.

TURTLE CREEK ASSETS, LTD., and,
GORDON ENGLE, Individually,

RESPONDENTS.

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CIVIL ACTION FILE
NO. 2021CV352047

ASSURANCE OF VOLUNTARY COMPLIANCE

Pursuant to O.C.G.A. § 10-1-390 *et seq.*, the Fair Business Practices Act (“FBPA”), Christopher M. Carr, Attorney General of the State of Georgia (“Attorney General”), has initiated an investigation and examination of certain acts or practices of Turtle Creek Assets, Ltd. (“Turtle Creek”) and Gordon Engle, individually (collectively, Turtle Creek and Mr. Engle will be referred to as “Respondents”). To resolve the issues that are the subject of this investigation, the parties are willing to enter into an Assurance of Voluntary Compliance (“Assurance”) pursuant to O.C.G.A. § 10-1-402. It is therefore stipulated and agreed as follows:

I.

Respondents have engaged in consumer transactions, acts, or practices in the conduct of trade or commerce in part or wholly within the State of Georgia, as defined in O.C.G.A. § 10-1-392.

II.

Turtle Creek is headquartered in Texas and operating from North Carolina. Gordon Engle is the owner, president, and CEO of Turtle Creek. Turtle Creek and Mr. Engle can be

served in connection with this Assurance through Gordon Engle, at 5331 Spring Valley Road, Dallas, Texas 75254 and/or gordon@forwardproperties.net.

III.

The parties acknowledge that jurisdiction and venue shall lie in the Superior Court of Fulton County, Georgia.

IV.

The Attorney General contends that Respondents have engaged in unfair or deceptive acts or practices during the course of consumer transactions in trade or commerce, as declared unlawful by O.C.G.A. § 10-1-390 *et seq.* Specifically, the Attorney General alleges that Respondents engaged in the following unlawful, unfair or deceptive acts or practices:

- A. Threatening to take actions that cannot legally be taken or that are not intended to be taken, in violation of 15 U.S.C. § 1692e(5) and O.C.G.A. § 10-1-393(a).
- B. Representing that nonpayment of any debt will result in the arrest or imprisonment of the consumer, when such action was not lawful, in violation of 15 U.S.C. § 1692e(4) and O.C.G.A. § 10-1-393(a).
- C. Failing to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer was oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and the failure to disclose in subsequent communications that the communication is from a debt collector, in violation of 15 U.S.C. § 1692e(11) and O.C.G.A. § 10-1-393(a).
- D. Failing to provide, within five days after the initial communication with a consumer in connection with the collection of any debt, written notice containing the information

required by 15 U.S.C. § 1692g(a). This conduct violates 15 U.S.C. § 1692g(a) and O.C.G.A. § 10-1-393(a).

V.

Pursuant to O.C.G.A. §§ 10-1-397(b) and 10-1-402, which provide that an Assurance of Voluntary Compliance shall not be considered an admission of violation of the FBPA for any purpose, Respondents hereby deny engaging in any unfair or deceptive acts or practices, any violation of the FBPA, and any violation of the Fair Debt Collection Practices Act, 15 U.S.C. §§ 1692– 1692p (“FDCPA”), and Respondents enter into this Assurance to resolve this matter without the necessity of formal legal action. Respondents further deny the FDCPA applies to Respondents or their conduct, including their recovery of leased property, within the State of Georgia. Acceptance of this Assurance by the Attorney General does not constitute approval of any of Respondents’ business practices by the Attorney General.

VI.

In accepting this Assurance, the Attorney General hereby agrees not to initiate further legal action against Respondents for any conduct that occurred prior to the date of execution of this Assurance concerning the matters covered in this Assurance; subject, however, to the provisions of O.C.G.A. § 10-1-402, and contingent upon Respondents’ full compliance with all the terms and conditions set forth herein.

VII.

Respondents hereby acknowledge receipt of copies of the FBPA and the FDCPA. Respondents further expressly acknowledge that they have had an opportunity to consult with counsel regarding the interpretation and application of these statutes.

VIII.

Effective as of the date of execution of this Assurance by the Attorney General, Respondents shall abide by the following conditions when collecting debt, as defined in 15 U.S.C. § 1692a(5), which only for the purpose of Part VIII of this Assurance Respondents agree shall include the recovery of leased property, in Georgia and/or from Georgia consumers:

- A. Respondents, including Respondents' owners, agents, employees, representatives, and successor enterprises, shall make every reasonable effort to comply fully with the FBPA and related applicable laws.
- B. Respondents shall comply fully with the FDCPA, including but not limited to refraining from:
 - 1. representing or implying that nonpayment of any debt will result in the arrest or imprisonment of consumers or the seizure, garnishment, attachment, or sale of any property or wages of consumers unless such action is lawful and Respondents intend to take such action;
 - 2. threatening to take actions that cannot legally be taken or that are not intended to be taken;
 - 3. failing to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer was oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose, and in subsequent communications failing to disclose that the communication is from a debt collector;

4. failing to provide, within five days after the initial communication with a consumer in connection with the collection of any debt, written notice containing the information required by 15 U.S.C. § 1692g(a).
- C. Respondents shall not represent, suggest, or imply that a person shall be presumed to have knowingly committed theft by conversion, as defined by O.C.G.A. § 16-8-4, if such person fails to return personal property and/or respond to a letter; provided that Respondents may take other lawful action, including, but not limited to, causing the filing of a complaint or warrant application against such person if such action is permitted under Georgia law.
 - D. For a period of three (3) years from the date of execution of this Assurance, if Respondents knowingly engage in activity the purpose of which is the collection of debt in Georgia and/or with Georgia consumers, for the purpose of confirming compliance with this Assurance, Respondents shall adopt and implement a policy of recording all incoming, internal, and outgoing telephone calls relating to debt collection and/or property recovery activities, and Respondents shall maintain such recordings for at least six (6) months from the date of the call.
 - E. For a period of three (3) years from the date of execution of this Assurance, Respondents shall respond in a timely manner, but in no case later than seven (7) business days, to all inquiries from the Attorney General's Consumer Protection Division ("CPD") related to the subject of this Assurance.
 - F. For a period of three (3) years from the date of execution of this Assurance, upon request by the Attorney General, Respondents shall provide, within seven (7) business days, information related to this Assurance and/or to assist the Attorney General in assessing

compliance with this Assurance as specified by CPD, including, but not limited to, call recordings, consumer files, records of consumer complaints, and copies of policies, training materials, letter templates, and scripts, as those materials apply to its conduct in Georgia and/or with Georgia consumers. Such requests by CPD may be made to the following:

Gordon Engle
5331 Spring Valley Road
Dallas, Texas 75254
gordon@forwardproperties.net

With a copy to:

Bryan Mosca
1200 19th Street, NW
Washington, DC 20036
bmosca@cozen.com

- G. Respondents shall notify the Attorney General in writing of any of the following for a period of three (3) years from the date of execution of this Assurance:
1. Any formation of a successor entity to Turtle Creek if such entity will be engaged in the collection of debt from Georgia consumers, no later than ten (10) business days prior to the commencement of operations of said entity; and
 2. Any change in name or the use of any aliases or fictitious names within ten (10) business days of the change to any business engaged in the collection of debt from Georgia consumers; and,
 3. Any business which Mr. Engle has an ownership interest in, directly or indirectly controls, has a managerial role, has the right to receive income from the profits of the business, or has the ability to approve of company policies, if such business is engaged in the collection of debt from Georgia consumers.

H. In order to induce the Attorney General to enter into this Assurance, Respondents, collectively and individually, represent and warrant that they currently own one or more Georgia consumer accounts more particularly described in Exhibit A (“Accounts”) attached hereto. Upon submission of this Assurance, Respondents shall provide to the Attorney General the complete records relating to and in any way concerning the Accounts, including, but not limited to, records which establish and verify Respondents’ ownership of such Accounts. The complete records will be on file with the Attorney General and not attached to this Assurance to protect the identity and privacy of the consumers. Said Accounts include a total alleged contract value of over \$19,000,000, and Respondents represent and warrant that these Accounts are intended to comprise all of the consumer accounts of Georgia consumers currently owned by Respondents, individually and collectively. Respondents understand that the validity of the Accounts is disputed and/or that the Attorney General questions the enforceability of one or more of the Accounts, and as a result, Respondents represent and warrant as follows:

1. Respondents will immediately designate each of the Accounts as disputed with a zero balance due;
2. Respondents will cease collection and/or recovery activities on the Accounts, and Respondents will not hire, retain, or authorize any other person or entity to engage in debt collection activities on the Accounts;
3. Respondents shall transfer custody of these Accounts, along with all consumer information, including but not limited to full name, address, amount of debt, original creditor, and any other account information, to CPD; and,

4. Other than as provided under the terms of this Assurance, Respondents will not sell or transfer or purport to sell or transfer the Accounts to any person or entity. Mr. Engle will provide a sworn statement attesting that the Accounts have been reduced to a zero balance and that all provisions in numbers 1 through 4 in this Paragraph (VIII(H)) have been satisfied.

IX.

Respondents shall remit the following:

- A. Court Costs. Upon submission of this Assurance to the Attorney General, a filing fee in the amount of ONE HUNDRED NINETEEN AND 35/100 DOLLARS (\$119.35) shall be paid by certified check or money order made payable to "Department of Law."
- B. Payments: Respondents shall pay Eighty Three Thousand AND 00/100 DOLLARS (\$83,000.00), to be used by the Attorney General's Office for purposes that may include, but are not limited to, civil penalties, attorneys' fees, and other costs of investigation and litigation, or to be placed in, or applied to, any consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation or local consumer aid fund or revolving fund, used to defray the costs of the inquiry leading hereto, or for other uses permitted by state law, at the sole discretion of the Attorney General. Respondents shall make this payment by certified check or money order payable to the "Department of Law."

1. The first installment of Forty One Thousand Five Hundred AND 00/100 DOLLARS (\$41,500.00) shall be paid upon submission of this Assurance to the Attorney General.

2. One final installment of Forty One Thousand Five Hundred AND 00/100 DOLLARS (\$41,500.00) shall be paid by June 1, 2024. Respondents shall not be required to pay this final payment if the following conditions below have been met:

- a. Respondents have complied in full with the provisions of this Assurance; and,
- b. The Attorney General has received from Respondents a request that the final payment be waived and a certification, under penalty of perjury, that Respondents have fully complied with all provisions of this Assurance. Said certification and request shall be submitted to the Attorney General between April 1, 2024, and April 15, 2024. The Attorney General will determine whether the conditions for waiver of the final payment have been met and he will notify Respondents either that the final payment has been waived or, if the conditions have not been met, he will provide notice why the final payment will not be waived.

X.

- A. Default: In the event the Attorney General believes Respondents have violated any term of this Assurance and therefore considers Respondents in default, the Attorney General shall provide notice to Respondents identifying Respondents' actions that allegedly constitute a default under this Assurance and shall provide Respondents ten (10) business days to explain why a default has not occurred. This default notice shall be sent to the contact provided in part VIII.F.
- B. The Attorney General shall decide in his sole discretion whether a default has occurred.
- C. If, after considering Respondents' explanation, the Attorney General determines that a default of this Assurance has occurred, any and all remaining payments, including but not

limited to the final installment, will become immediately due and payable to the Attorney General.

- D. In the event the Attorney General determines that a default of this Assurance has occurred, the Attorney General may take any and all action available to pursue enforcement and collection of amounts owed to the Attorney General less any installment payments received by the Attorney General.
- E. In the event the Attorney General determines that a default of this Assurance has occurred, the Attorney General may pursue all rights and remedies available under the laws of the State of Georgia to compel Respondents' compliance with the relevant provisions of this Assurance.

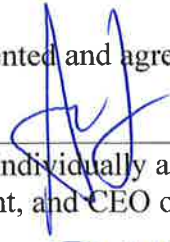
XI.

This Assurance, when accepted by the Attorney General, shall bind Respondents and their successors and/or assigns who take with notice of the terms and provisions thereof. Respondents hereby agree to give notice of this Assurance to its successors and/or assigns, principals, officers, directors, owners, and employees/agents.

This Assurance, made and entered into by and between the undersigned parties, is effective upon the date of acceptance by the Attorney General.

[SIGNATURES ON FOLLOWING PAGE]

Proposed, consented and agreed to by:



Gordon Engle, Individually and as
Owner, President, and CEO of Turtle Creek Assets, Ltd

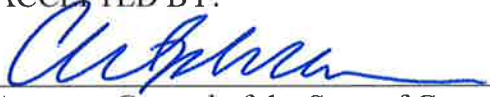
Date: 7-12-21

Sworn to and subscribed before me, this
12 day of July, 2021

Ashley L Sherrill
NOTARY PUBLIC
My commission expires: 09-04-2024

ASHLEY L. SHERRILL
NOTARY PUBLIC
Lincoln County, North Carolina
My Commission Expires 09/04/2024

ACCEPTED BY:



Attorney General of the State of Georgia

Date: 07-19-2021

EXHIBIT A

Summary of Accounts	Number of Accounts	Contract Payments Remaining
Turtle Creek – Aaron's Consumer Accounts	16,937	\$19,805,924.23