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**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

Bureau of Consumer Financial Protection; State of Minnesota, by its Attorney General, Keith Ellison; State of North Carolina, *ex rel.* Joshua H. Stein, Attorney General; and The People of The State of California, Michael N. Feuer, Los Angeles City Attorney,

Plaintiffs,

v.

Consumer Advocacy Center Inc., d/b/a Premier Student Loan Center; True Count Staffing Inc., d/b/a SL Account Management; Prime Consulting LLC, d/b/a Financial Preparation Services; TAS 2019 LLC d/b/a Trusted Account Services; Horizon Consultants LLC; First Priority LLC d/b/a Priority Account Management; Albert Kim, a/k/a Albert King; Kaine Wen, a/k/a Wenting Kaine Dai, Wen Ting Dai, and Kaine Wen Dai in his individual capacity and as trustee of the Kaine Wen 2017 Trust; and Tuong Nguyen, a/k/a Tom Nelson,

Defendants, and

Infinite Management Corp., f/k/a Infinite Management Solutions Inc.; Hold The Door, Corp.; TN Accounting Inc.; Mice and Men LLC; 1st Generation Holdings, LLC; Sarah Kim; Anan Enterprise, Inc.; and Judy Dai in her individual capacity and as trustee of the Judy Dai 2017 Trust,

Relief Defendants.

Case No: SACV 19-1998-MWF(KSx)

THIRD AMENDED COMPLAINT

INTRODUCTION

1. The Bureau of Consumer Financial Protection (Bureau) brings this action under §§ 1031, 1036(a), 1054, and 1055 of the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531, 5536(a), 5564 & 5565;

1 under and the Telemarketing and Consumer Fraud and Abuse Prevention Act
2 (Telemarketing Act), 15 U.S.C. §§ 6101-6108, and its implementing regulation,
3 the Telemarketing Sales Rule (TSR), 16 C.F.R. Part 310; under § 3304(b)(1) of
4 the Federal Debt Collection Procedures Act (FDCPA), 28 U.S.C. §§ 3001-
5 3308; under § 3439.04(a) of the California Uniform Voidable Transactions Act
6 (UVTA), Cal Civ. Code §§ 3439-3439.14; and under the Court's ancillary
7 enforcement jurisdiction. The Bureau brings this action against the student-loan
8 debt-relief operation involving Defendants Consumer Advocacy Center Inc.,
9 d/b/a Premier Student Loan Center; True Count Staffing Inc., d/b/a SL Account
10 Management; Prime Consulting LLC, d/b/a Financial Preparation Services
11 (collectively, Student Loan Debt Relief Companies); Defendants TAS 2019
12 LLC, d/b/a Trusted Account Services, Horizon Consultants LLC, and First
13 Priority LLC (collectively, Payment Companies); and Defendants Albert Kim;
14 Kaine Wen, in his individual capacity and as trustee of the Kaine Wen 2017
15 Trust; and Tuong Nguyen (collectively, Individual Defendants). (Student Loan
16 Debt Relief Companies, Payment Companies, and Individual Defendants are
17 referred to, collectively, as Defendants.)

18 2. The State of Minnesota, by its Attorney General, brings this
19 enforcement action to, among other things, obtain temporary, preliminary, and
20 permanent injunctive relief, restitution, and civil penalties for Defendants' acts
21 or practices in violation of the Minnesota Prevention of Consumer Fraud Act
22 (MNCFA), Minn. Stat. §§ 325F.68-.694; the Minnesota Uniform Deceptive
23 Trade Practices Act (MNDTPA), Minn. Stat. §§ 325D.43-.48; and the
24 Telemarketing Act, 15 U.S.C. §§ 6101-6108, and its implementing regulation,
25 the TSR, 16 C.F.R. Part 310, in connection with Defendants' student-loan debt-
26 relief operation.

27 3. The State of North Carolina, by its Attorney General, brings this
28 enforcement action to, among other things, obtain temporary, preliminary, and

1 permanent injunctive relief, restitution, and civil penalties for Defendants’ acts
2 or practices in violation of North Carolina’s Debt Adjusting Act, N.C. Gen.
3 Stat. § 14-423, *et seq.*, (NCDAAs); North Carolina’s Unfair and Deceptive
4 Practices Act, N.C. Gen. Stat. § 75-1.1 (NCUDPA); North Carolina’s
5 Telephonic Seller Registration Act, N.C. Gen. Stat. § 66-260, *et seq.*
6 (NCTSRA); and the Telemarketing Act, 15 U.S.C. §§ 6101-6108, and its
7 implementing regulation, the TSR, 16 C.F.R. Part 310, in connection with
8 Defendants’ student-loan debt-relief operation.

9 4. The People of the State of California (collectively with the States
10 of Minnesota and North Carolina, “the States”), by and through Michael N.
11 Feuer, Los Angeles City Attorney, bring this enforcement action to, among
12 other things, obtain temporary, preliminary, and permanent injunctive relief,
13 restitution, and civil penalties for Defendants’ acts or practices in violation of
14 California’s Business and Professions Code section 17200 *et seq.* (the “Unfair
15 Competition Law,” or “UCL”), the UVTA, Cal. Civil Code sections 3439
16 through 3439.14, and the Telemarketing Act, 15 U.S.C. §§ 6101-6108, and its
17 implementing regulation, the TSR, 16 C.F.R. Part 310, in connection with
18 student-loan debt-relief operation.

19 5. Defendants engaged in an unlawful student-loan debt-relief
20 business that harmed consumers nationwide by charging consumers unlawful
21 advance fees and misrepresenting the terms and conditions of their services.

22 6. The Bureau and the States bring this action to stop Defendants’
23 unlawful conduct, obtain relief for harmed consumers, avoid certain fraudulent
24 transfers to satisfy any judgment in favor of the Bureau and the People of the
25 State of California against Defendant Kaine Wen, and impose civil money
26 penalties on Defendants for their unlawful actions.

27 7. The Bureau and the States also bring this action against Infinite
28 Management Corporation; Hold the Door, Corp.; TN Accounting Inc.; Mice

1 and Men LLC; 1st Generation Holdings, LLC; Sarah Kim; Anan Enterprise,
2 Inc.; and Judy Dai in her individual capacity and as trustee of the Judy Dai 2017
3 Trust, as Relief Defendants.

4 **OVERVIEW**

5 8. From at least 2015 until the filing of this action, Defendants
6 operated a debt-relief enterprise that deceived thousands of federal-student-loan
7 borrowers and collected over \$95 million in illegal advance fees, in violation of
8 the TSR, the CFPA, the MNCFA, the MNDTPA, the NCDA, the NCUDPA,
9 the NCTSRA, and the UCL. Unless otherwise noted, all references to
10 “borrowers” and “consumers” in this Complaint include California, Minnesota,
11 and North Carolina borrowers and consumers.

12 9. The Student Loan Debt Relief Companies, controlled by the
13 Individual Defendants, purported to help federal-student-loan borrowers obtain
14 loan forgiveness or lower monthly payments through programs administered by
15 the U.S. Department of Education (DOE).

16 10. In fact, the Student Loan Debt Relief Companies deceived
17 consumers, including by misrepresenting that consumers would qualify for loan
18 forgiveness in a matter of months, when forgiveness takes at least 10 years of
19 on-time payments and is determined by DOE; that consumers were approved
20 for lower monthly payments on their student loans, when consumers had not yet
21 been approved or when the new payment amount was approved based on false
22 information; and that consumers’ lower payments would be permanent when in
23 fact they are subject to change based on changes in the consumers’ family size,
24 income, and marital status.

25 11. The Student Loan Debt Relief Companies also falsely told
26 consumers, or led consumers to believe, that the consumers’ payments to the
27 companies would go toward paying consumers’ student-loan balances.
28

1 12. When describing the services offered to consumers, the Student
2 Loan Debt Relief Companies failed to inform consumers that it was their
3 practice to request that consumers' loans be placed into forbearance or that
4 interest would continue to accrue during the forbearance period, thereby
5 increasing consumers' overall loan balances.

6 13. When describing the services offered to consumers, the Student
7 Loan Debt Relief Companies failed to inform consumers that it was their
8 practice to submit false information about consumers' income, family size, and
9 marital status on loan adjustment applications in order to try to qualify
10 consumers for lower monthly payments.

11 14. The Student Loan Debt Relief Companies charged consumers an
12 initial fee of \$900-\$1,750 for their services. This initial fee was typically levied
13 well before consumers had been accepted to and made a payment under their
14 new loan agreement, in violation of the TSR.

15 15. At no time did the Student Loan Debt Relief Companies hold
16 consumer payments in independent third-party accounts.

17 16. At no time did the Student Loan Debt Relief Companies use
18 payments from consumers to make payments toward consumers' student-loan
19 debts.

20 17. The Individual Defendants conducted this operation using a
21 network of several interrelated companies and over a dozen unregistered and
22 fictitious business names. The Student Loan Debt Relief Companies operated as
23 a common enterprise controlled by the Individual Defendants, rendering each
24 jointly and severally liable for the illegal acts of the Student Loan Debt Relief
25 Companies.

26 **JURISDICTION AND VENUE**

27 18. This Court has subject-matter jurisdiction over this action because
28 it is brought under federal consumer financial law, 12 U.S.C. § 5565(a)(1),

1 presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of
2 the United States, 28 U.S.C. § 1345. This Court has supplemental jurisdiction
3 over the States’ claims pursuant to 28 U.S.C. § 1367.

4 19. Venue is proper in this district pursuant to 12 U.S.C. § 5564(f)
5 because Defendants are located, reside, or do business in this district.

6 **PARTIES**

7 20. The Bureau is an independent agency charged with enforcing
8 violations of Federal consumer financial laws. 12 U.S.C. § 5491(a). The Bureau
9 has independent litigating authority, 12 U.S.C. § 5564(a)-(b), including the
10 authority to enforce the CFPA’s prohibitions on unfair, deceptive, and abusive
11 acts or practices, 12 U.S.C. §§ 1031, 1036, the TSR as it applies to persons
12 subject to the CFPA, 15 U.S.C. §§6102(c), 6105(d), the FDCPA as to a debt
13 owed to the Bureau, and therefore the United States, 28 U.S.C. §§ 3001,
14 3002(1)(A), (3), (15)(B), and any judgment it obtains, including by invoking the
15 court’s ancillary jurisdiction.

16 21. The Bureau has authority to bring civil actions against persons
17 violating federal consumer-financial laws and to “seek all appropriate legal and
18 equitable relief including a permanent or temporary injunction as permitted by
19 law.” 12 U.S.C. § 5564(a).

20 22. Keith Ellison, Attorney General of the State of Minnesota, is
21 authorized under Minnesota Statutes chapter 8; the MNCFA, Minn. Stat. §
22 325F.69, *et seq.*; the MNDTPA, Minn. Stat. § 325D.44, *et seq.*; the
23 Telemarketing Act, 15 U.S.C. § 6103(a); and has common law authority,
24 including *parens patriae* authority, to bring this action on behalf of the State of
25 Minnesota and its citizens to enforce Minnesota law.

26 23. The State of North Carolina is acting through its Attorney General
27 Joshua H. Stein, pursuant to authority granted by Chapters 14, 66, 75, and 114
28

1 of the North Carolina General Statutes, and the Telemarketing Act, 15 U.S.C. §
2 6103(a).

3 24. Michael N. Feuer, City Attorney for the City of Los Angeles, is
4 authorized under the UCL, UVTA, and the Telemarketing Act, 15 U.S.C. §
5 6103(a) and (f)(2), to bring this civil law enforcement action on behalf of the
6 People of the State of California.

7 25. Defendant Consumer Advocacy Center Inc. (CAC) is a California
8 corporation formed on August 6, 2014, and it has held itself out as doing
9 business at the following addresses: 173 Technology Drive, Suite 202, Irvine,
10 CA 92618; 29901 Santa Margarita Pkwy, Suite 200F, Rancho Santa Margarita,
11 CA 92688; 8 Hughes Parkway, Irvine, CA 92618; 5350 E Suncrest Rd.,
12 Anaheim, CA 92807; and 24852 Acropolis Dr., Mission Viejo, CA 92691.

13 26. CAC has held itself out as doing business as Premier Student Loan
14 Center.

15 27. CAC transacted its student-loan debt-relief business in the Central
16 District of California since at least November 2015.

17 28. On January 16, 2019, CAC filed for protection under chapter 11 of
18 the Bankruptcy Code in the United States Bankruptcy Court for the Southern
19 District of Florida. *See In re Consumer Advocacy Center, Inc.*, No. 19-10655-
20 BKC-JKO (Bankr. S.D. Fla.).

21 29. Defendant True Count Staffing Inc. (True Count) registered as a
22 California corporation on February 13, 2017, and it has held itself out as doing
23 business at the following addresses: 173 Technology Dr., Ste 202, Irvine, CA
24 92618; 777 E. Sierra Madre Ave, Azusa, CA 91702; 8 Hughes Parkway, Irvine,
25 CA 92618; and 7545 Irvine Center Drive, Suite 200, PMB #108, Irvine, CA,
26 92618.

27 30. True Count has held itself out as doing business as SL Account
28 Management.

1 31. Defendant Prime Consulting LLC (Prime) is a Wyoming limited-
2 liability company that registered with the California Secretary of State on April
3 25, 2018, and it has held itself out as doing business at 11932 Klingerman
4 Street, Suite 3, El Monte, CA, 91732 and 7545 Irvine Center Drive, Suite 200,
5 Room 108, Irvine, CA, 92618.

6 32. Prime has held itself out as doing business as Financial Preparation
7 Services.

8 33. Defendant TAS 2019 LLC, d/b/a Trusted Account Services (TAS)
9 is a Wyoming limited liability corporation that has held itself out as doing
10 business at two locations affiliated with companies providing resident agent
11 services in Wyoming, 109 E. 17th Street Suite 5656, Cheyenne, WY, 82001, and
12 30 N Gould Street, Suite R, Sheridan, WY 82801; a rented virtual office
13 address at 17011 Beach Blvd., Suite 900, Huntington Beach, CA 92467; and a
14 residential address affiliated with its purported owner, Kenny Huang, in
15 Arcadia, CA.

16 34. TAS 2019 LLC's operations and principal place of business were
17 located in the Central District of California.

18 35. Defendant Horizon Consultants LLC (Horizon) is a Wyoming
19 limited liability corporation that has been registered to operate in California
20 since October 2018. It has held itself out as doing business at 2522 Chambers
21 Rd Suite 100 Rm 209, Tustin, CA 92780.

22 36. Defendant First Priority LLC d/b/a Priority Account Management
23 (First Priority) is a Wyoming limited liability corporation that has been
24 registered to operate in California since May 2018. It has held itself out as
25 doing business at 1704 South Granada Ave, Alhambra, CA 91801.

26 37. Defendant Albert Kim (a/k/a Albert King) is CAC's primary
27 owner and founder.

28

1 38. Kim is a resident of the State of California and performed work for
2 CAC while residing in this jurisdiction.

3 39. Kim exercised substantial control over CAC's business practices.

4 40. Kim exercised managerial responsibility for CAC and participated
5 in the conduct of its affairs.

6 41. Defendant Kaine Wen (a/k/a Wenting Kaine Dai, Wen Ting Dai) is
7 True Count's primary owner and founder and has also been an owner and
8 manager of CAC. Wen incorporated True Count and has served as its chief
9 executive officer, director, partner, and president.

10 42. Wen is a resident of the State of California and performed work for
11 CAC and True Count while residing in this jurisdiction.

12 43. Wen exercised substantial control over True Count's business
13 practices.

14 44. Wen exercised managerial responsibility for True Count and
15 participated in the conduct of its affairs.

16 45. Wen exercised managerial responsibility for CAC and participated
17 in the conduct of its affairs.

18 46. Wen is the sole trustee, settlor, and named beneficiary (during his
19 lifetime) of the Kaine Wen 2017 Trust, a revocable trust created on or about
20 September 7, 2017, under the laws of the State of California.

21 47. Defendant Tuong Nguyen (a/k/a Tom Nelson) served as CAC's
22 controller and as True Count's secretary.

23 48. Nguyen is a resident of the State of California and performed work
24 for CAC and True Count while residing in this jurisdiction.

25 49. Nguyen exercised managerial responsibility for CAC and
26 participated in the conduct of its affairs.

27 50. Nguyen exercised managerial responsibility for True Count and
28 participated in the conduct of its affairs.

1 51. Relief Defendant Infinite Management Corp., f/k/a Infinite
2 Management Solutions Inc. (Infinite Management) registered as a California
3 corporation on September 8, 2016, and it has held itself out as doing business at
4 9228 City Lights Drive, Aliso Viejo, CA, 92656.

5 52. Kim served as Infinite Management’s registered agent and
6 president, and he is the sole signatory on a bank account belonging to it.

7 53. Relief Defendant Hold the Door Corp. (Hold the Door) registered
8 as a California corporation on December 30, 2016, and it listed its address as
9 777 E. Sierra Madre Ave, Azusa, CA 91702. It described its business type as
10 “consulting services” in corporate filings with the California Secretary of State.

11 54. Hold the Door was incorporated by Wen, and he has served as its
12 sole corporate officer.

13 55. Relief Defendant TN Accounting Inc. (TN Accounting) is a
14 California corporation that filed its Articles of Incorporation with the California
15 Secretary of State on February 8, 2017, and it has listed its principal place of
16 business address of 1704 S. Granada Ave, Alhambra, CA 91801 in corporate
17 filings with the Secretary of State.

18 56. Nguyen has served as TN Accounting’s president and sole
19 corporate officer.

20 57. Relief Defendant Mice and Men LLC (Mice and Men) is a
21 Wyoming corporation incorporated in December 2018 that has listed its
22 principal place of business as 30 N. Gould St, Ste R, Sheridan, WY 82801.

23 58. Registered Agents Inc., is Mice and Men’s registered agent in
24 Wyoming, and is the company that filed the Wyoming articles of organization
25 for Mice and Men. The address for Registered Agents, Inc., is 30 N. Gould St,
26 Ste R, Sheridan, WY 82801.

27 59. Mice and Men is purportedly owned by Relief Defendant Judy
28 Dai, Defendant Wen’s mother, who resides in Monterey Park, CA.

1 68. One such program is the income-driven repayment (IDR) program.
2 IDR plans may lower consumers' monthly payments to more affordable
3 amounts based on the consumers' income and family size. Consumers enrolled
4 in IDR plans who make qualifying payments may also have their outstanding
5 student-loan balances forgiven after 20-25 years.

6 69. Under another program, the Public Service Loan Forgiveness
7 program, consumers who work full-time for a qualifying public-service
8 employer, make 120 qualifying payments, and meet other eligibility criteria,
9 can apply to have their outstanding student-loan balances forgiven after 10
10 years.

11 70. Because a borrower's income and family size can fluctuate over
12 the life of the loan, consumers are required to recertify their eligibility for IDR
13 programs on an annual basis. Variables such as marital status and tax-filing
14 status (single, married filing separately, married filing jointly) may affect how
15 DOE calculates monthly payment amounts. As a result, monthly payments
16 under the IDR programs can vary from year to year.

17 **The Student Loan Debt Relief Companies**

18 71. CAC began offering student-loan debt-relief services purporting to
19 lower consumers' monthly loan payments and obtain loan forgiveness through
20 enrollment in loan forgiveness or IDR plans as early as November 2015.

21 72. Initially, CAC's internal structure included sales, processing, and
22 customer-service departments.

23 73. The sales department fielded incoming consumer calls, made
24 outbound marketing calls, and enrolled consumers in the Student Loan Debt
25 Relief Companies' services by providing consumers with contracts for
26 electronic signature during sales calls.

27 74. The processing department charged consumers the initial advance
28 fees, and prepared and submitted forbearance, loan-consolidation, and IDR

1 requests to consumers' student-loan servicers. The consumer's student-loan
2 servicer then evaluated the requests.

3 75. In March 2018, Kim and Wen moved CAC's processing and
4 customer-service operations into a new entity, True Count.

5 76. As part of this shift, CAC's processing and customer-service
6 departments physically moved to a new office location.

7 77. CAC continued to handle sales, while True Count took over
8 preparing and submitting loan-consolidation and IDR-plan applications and
9 collecting payments from consumers (including from consumers who had
10 enrolled for services with CAC).

11 78. As early as April 2018, CAC transferred its sales functions to a
12 new entity, Prime, which ultimately assumed CAC's role as the main sales
13 company enrolling consumers for True Count's services.

14 79. The Individual Defendants, through True Count and Prime, set up
15 First Priority, Horizon, and TAS to collect payments from consumers.

16 **Debt Relief Sales and Business Practices**

17 80. The Student Loan Debt Relief Companies marketed their debt-
18 relief services through inbound and outbound calls, websites, social media, and
19 direct mail.

20 81. When consumers called the front-end sales company (CAC or
21 Prime), the consumer first spoke with a sales representative.

22 82. Sales representatives instructed consumers on how to create an ID
23 and password for consumers' online accounts with Federal Student Aid (FSA),
24 an office of DOE, if the consumer had not previously done so. The sales
25 representatives then instructed the consumer to provide the sales representative
26 with the consumer's FSA ID and password.

27
28

1 83. Sales representatives downloaded student-loan data from the
2 consumer's online FSA account into the company's customer-relationship-
3 management system.

4 84. Sales representatives often stated that there was an urgent need to
5 sign up for the respective Student Loan Debt Relief Company's services.

6 85. For example, some sales representatives told consumers that they
7 had a limited time in which they could apply for an IDR program.

8 86. At times, sales representatives represented that the respective
9 Student Loan Debt Relief Company was affiliated with DOE.

10 **Representations about Fees**

11 87. During sales calls, sales representatives made affirmative
12 representations or material omissions about the purpose of the fees paid by
13 consumers to the Student Loan Debt Relief Companies.

14 88. Sales representatives frequently represented that the fees would be
15 applied to the balance of consumers' student loans.

16 89. In fact, all monies paid by the consumers to the Student Loan Debt
17 Relief Companies were fees retained by the companies and were not remitted to
18 student-loan servicers to be applied toward consumers' loan balances.

19 90. Sales representatives frequently represented that fees paid to the
20 Student Loan Debt Relief Companies would be the only payments consumers
21 would owe on their student loans after being accepted into a DOE repayment
22 program.

23 91. In fact, the fees paid to the Student Loan Debt Relief Companies
24 were in addition to, and did not relieve consumers of, their obligation to pay
25 their student loans.

26 92. Sales representatives frequently represented to consumers that the
27 fees charged by the Student Loan Debt Relief Companies were necessary to
28 participate and remain enrolled in a loan-forgiveness or IDR program.

1 93. In fact, consumers can apply free of charge for loan forgiveness or
2 IDR programs, either through their student-loan servicer or directly to the DOE.

3 94. Moreover, consumers can recertify annually their eligibility to
4 remain enrolled in their IDR plans through their student-loan servicer for free.

5 **Representations about Loan Forgiveness**

6 95. The Student Loan Debt Relief Companies' sales representatives
7 often told consumers that they were qualified or approved for loan forgiveness.

8 96. Sales representatives frequently represented to consumers that they
9 could get consumers' student loans forgiven in whole or in part shortly after
10 enrolling in the respective Student Loan Debt Relief Company's services.

11 97. The DOE's loan forgiveness programs require anywhere from 10-
12 25 years of qualifying payments, as well as satisfaction of other eligibility
13 criteria, to qualify for loan forgiveness.

14 98. Only the DOE can approve consumers for loan forgiveness.

15 99. Because only the DOE can approve consumers for loan
16 forgiveness, and only after a consumer makes qualifying monthly payments
17 over a period ranging from 10 to 25 years, the Student Loan Debt Relief
18 Companies' representations to consumers that all or part of their loans would be
19 forgiven upon payment of enrollment fees were false.

20 **Representations about Lower Monthly Payments**

21 100. The Student Loan Debt Relief Companies' sales representatives
22 often told consumers that they qualified or were approved for a specific lower
23 monthly payment.

24 101. In fact, the new, lower monthly payment amount identified by
25 sales representatives was often calculated based on an incorrect family size,
26 income, or marital status.

27 102. Sales representatives often represented that consumers' lower
28 monthly payment would be in place over the life of the loan.

1 103. In fact, monthly payment amounts are determined by student loan
2 servicers and can fluctuate year to year depending on changes in consumers’
3 income, family size, or marital status, and it is therefore not possible to
4 determine a set monthly payment for an IDR plan for the life of the loan.

5 **Preparing and Submitting Forbearance Requests and IDR Plan**
6 **Applications**

7 104. Following an initial sales call, consumers who purchased the
8 Student Loan Debt Relief Companies’ services were assigned to a company
9 representative called a “processor.”

10 105. Processors conducted a “welcome call” during which they
11 typically asked consumers for proof of income and, at times, verified certain
12 information.

13 106. Following the welcome call, processors submitted forbearance
14 requests to student-loan servicers on behalf of consumers.

15 107. Processors typically asked for a forbearance period of three months
16 in the forbearance requests they submitted.

17 108. If a servicer approves a forbearance request, the consumer is
18 excused from making his or her monthly student loan payments during the
19 period of forbearance. But interest on the consumer’s student loan accrues
20 during the period of forbearance and may be added to the principal balance.

21 109. Typically, consumers were not informed during sales calls or the
22 welcome call that processors would submit forbearance requests on their behalf.

23 110. Typically, consumers were not informed during sales calls or the
24 welcome call that interest on the consumer’s student loan accrues during the
25 period of forbearance and may be added to the principal balance.

26 111. In fact, most consumers did not ask the Student Loan Debt Relief
27 Companies for forbearance requests, and many consumers were not aware that
28

1 the Student Loan Debt Relief Companies submitted forbearance requests to
2 their student loan servicers on their behalf.

3 112. Processors signed the forbearance requests in the consumer's name
4 so that it appeared the request was submitted by the consumer.

5 113. Many consumers were unaware the fees they paid to the Student
6 Loan Debt Relief Companies were not paying down their student loans.

7 **Submitting Consolidation and IDR Requests with False Information**

8 114. Processors submitted IDR applications to servicers on behalf of
9 consumers with false information about consumers' income, family size, or
10 marital status.

11 115. For consumers who did not provide proof of income to the Student
12 Loan Debt Relief Companies, processors frequently listed those consumers as
13 unemployed on their IDR applications, even when the consumers were
14 employed at the time.

15 116. Processors frequently submitted IDR applications to consumers'
16 student loan servicers that listed consumers' family sizes greater than the
17 consumers' actual family size.

18 117. Processors frequently submitted IDR applications to consumers'
19 student loan servicers that listed consumers as single, even if the consumer had
20 informed the Student Loan Debt Relief Companies that he or she was married.

21 118. When submitting IDR applications to consumers' student loan
22 servicers, processors typically changed consumers' email address to an email
23 address created by the Student Loan Debt Relief Company in order to
24 temporarily divert all email correspondence from the consumer's student-loan
25 servicer to the Student Loan Debt Relief Company.

26 119. When submitting IDR applications to consumers' student-loan
27 servicers, processors typically changed consumers' mailing address to a mailing
28 address used by the Student Loan Debt Relief Company in order to temporarily

1 divert all postal mail from the consumer’s student-loan servicer to the Student
2 Loan Debt Relief Company.

3 120. After receiving confirmation from a consumer’s student loan
4 servicer that a consumer’s loan consolidation or IDR application had been
5 approved, processors typically logged back into the consumer’s loan account
6 and changed the consumers email and mailing address back to the consumer’s
7 actual information.

8 121. The Student Loan Debt Relief Companies’ practice of diverting
9 correspondence to consumers from the consumers’ student-loan servicers
10 helped conceal the Student Loan Debt Relief Companies’ practice of submitting
11 false information to student loan servicers.

12 **Representations about and Collection of Fees from Consumers**

13 122. The Student Loan Debt Relief Companies typically collected
14 enrollment fees from consumers before consumers had been approved for a loan
15 consolidation or an IDR plan.

16 123. The Student Loan Debt Relief Companies collected monthly fees,
17 typically ranging from \$10-\$42, before submitting the consumer’s
18 corresponding annual IDR plan recertification.

19 124. At all times material to this Complaint, the Student Loan Debt
20 Relief Companies did not track whether consumers had made an initial payment
21 on an adjusted loan.

22 125. As early as April 2018, the Student Loan Debt Relief Companies’
23 contracts began including a section entitled “No Advance Fees.”

24 126. The section of the Student Loan Debt Relief Companies’ contract
25 entitled “No Advance Fees” states that the company “does not take any advance
26 fees from Client” and further provides that consumer fees will be held in an
27 independent third party “trust account” and not paid to the company until the
28

1 consumer “has received a consolidation, adjustment, or otherwise satisfactory
2 result” and makes one payment “towards such.”

3 127. At all times material to this Complaint, the Student Loan Debt
4 Relief Companies did not use trust accounts to hold fees collected from
5 consumers before placing consumers into loan repayment plans – at no time did
6 the Student Loan Debt Relief Companies hold payments from consumers in
7 accordance with Section 310.4(a)(5)(ii) of the TSR.

8 128. Rather, fees collected from consumers by the Student Loan Debt
9 Relief Companies were directly deposited into the companies’ bank accounts
10 and commingled with company assets.

11 129. The Defendants have collected over \$95 million in illegal advance
12 fees from thousands of consumers nationwide.

13 **Roles of the Individual Defendants**

14 130. Albert Kim (a/k/a Albert King) is CAC’s primary owner and
15 manager.

16 131. Kim was in the office frequently and helped manage CAC’s and
17 True Count’s day-to-day operations.

18 132. Kim oversaw CAC’s marketing.

19 133. Kim signed CAC’s merchant-account applications or agreements
20 with at least three different payment processors.

21 134. At times, Kim personally responded to consumers’ complaints.

22 135. Kim controlled CAC’s bank accounts, and was an authorized user
23 on CAC’s and True Count’s bank accounts.

24 136. When Kim applied for a merchant account on CAC’s behalf in or
25 about July 2017, he agreed to maintain fraud and chargebacks below certain
26 levels.

27 137. Monthly account statements sent to CAC’s corporate address for
28 that merchant account identify tens of thousands of dollars in chargebacks and

1 hundreds of thousands of dollars in consumer refunds between August 2017 and
2 March 2019.

3 138. After CAC filed for bankruptcy, Kim personally generated
4 marketing leads for Prime.

5 139. Kaine Wen served as CAC's owner, managing partner, and general
6 counsel.

7 140. CAC's 2016 tax returns and U.K. registration documents list Wen
8 as CAC's 50% owner.

9 141. Wen made capital contributions to CAC in October 2015 that
10 accounted for 75% of capital contributions by members at that time.

11 142. Wen participated in the decision to move CAC's processing
12 functions to True Count.

13 143. Wen personally guaranteed True Count's lease agreement.

14 144. Wen set up payment-processing agreements for True Count.

15 145. Wen corresponded with payment processors regarding True
16 Count's excessive chargeback rates.

17 146. Wen represented to a payment processor that True Count
18 "understands, currently fully complies with, and during the term of the
19 Agreement will fully comply with" the TSR, CFPA, and "all other applicable
20 federal, state, and local laws, rules, and regulations."

21 147. Wen has been an authorized user on CAC's, Premier Student Loan
22 Center's, True Count's, and Hold the Door's bank accounts.

23 148. Wen was also a point of contact or signed for at least three
24 merchant accounts for CAC and at least one merchant account for True Count.

25 149. Wen has been a successor trustee of the Judy Dai 2017 Trust.

26 150. Wen has held power of attorney over the Judy Dai 2017 Trust bank
27 account at UBS Financial Services Inc. (Judy Dai 2017 Trust UBS Account)
28 since on or about August 23, 2018.

1 151. Wen’s power of attorney over the Judy Dai 2017 Trust UBS
2 Account has included authorizing Wen to order the purchase and sale of
3 securities and similar property and to transfer assets to accounts held in the
4 name of the Judy Dai 2017 Trust.

5 152. Tuong Nguyen served as the controller and provided accounting
6 services for CAC.

7 153. Nguyen was responsible for paying CAC’s bills, reviewed its bank
8 statements, and was a signatory on several of CAC’s bank accounts.

9 154. At times, Nguyen also responded to consumer complaints, and was
10 listed as a point of contact for CAC’s d/b/a, Premier Student Loan Center, in the
11 Bureau’s consumer-complaint portal.

12 155. True Count identified Nguyen as its secretary in some
13 communications with banks.

14 156. Nguyen was a point of contact for at least two of CAC’s merchant
15 accounts and one of True Count’s merchant accounts.

16 157. In January 2018, Nguyen signed a letter to a payment processor
17 acknowledging CAC had incurred “excessive chargebacks” during
18 “December/2017.”

19 158. Nguyen also acknowledged that the top chargeback reasons
20 included fraud.

21 159. Nguyen incorporated TN Accounting and served as its president
22 and sole corporate officer.

23 160. Nguyen has been a signatory on a bank account held by TN
24 Accounting.

25 161. TN Accounting’s primary source of income is over \$225,000 from
26 CAC and True Count from March 2017 through December 2018.

27 162. Nguyen was also an authorized user on bank accounts held by
28 CAC, Premier Student Loan Center, and True Count.

Roles of the Payment Companies

1
2 163. The Individual Defendants, True Count, and Prime used TAS,
3 Horizon, and First Priority to obtain merchant accounts and to collect fees from
4 consumers.

5 164. In September 2019, the Individual Defendants, True Count, and
6 Prime transferred customer payment processing to TAS.

7 165. TAS held itself out as an “independent third party” in its contracts
8 with consumers.

9 166. In fact, TAS was not independent of Defendants.

10 167. Rather, TAS was run from within True Count and Prime by the
11 Individual Defendants.

12 168. TAS’s domain credentials (username and password) were stored in
13 an account in Albert Kim’s name.

14 169. The Individual Defendants and the Student Loan Debt Relief
15 Companies controlled TAS’s email system, and the Student Loan Debt Relief
16 Companies’ employees reviewed and responded to consumers’ emails sent to
17 TAS. Defendant Wen executed or acted as TAS’s agent to handle the
18 application necessary for TAS to open a merchant account to process payments
19 from the Student Loan Debt Relief Companies’ consumers. Wen and True
20 Count’s Operations Manager created a fictional employee to interact with True
21 Count’s and Prime’s software provider to promote the appearance of TAS as an
22 entity independent of Defendants.

23 170. Since September 12, 2019, until the date of the temporary
24 restraining order issued by this Court, TAS collected approximately \$3 million
25 in payments from consumers.

26 171. The Individual Defendants, True Count, and Prime used Horizon
27 to process consumers’ payments to the student-loan debt-relief enterprise.
28

1 172. Horizon’s incorporation documents list Keneth Hu, an IT
2 professional employed by the Student Loan Debt Relief Companies, as its Chief
3 Executive Officer and President.

4 173. Notwithstanding Mr. Hu’s nominal ownership, Defendants Wen,
5 Nguyen, True Count, and Prime exercised substantial control over Horizon.

6 174. Defendant Nguyen was a signatory on a Horizon bank account.

7 175. Defendant Wen was Horizon’s designated contact on a merchant
8 account.

9 176. Defendant True Count asserts that Horizon holds over \$700,000
10 for its benefit.

11 177. Horizon’s stated business address was leased by Defendant Prime
12 Consulting.

13 178. Horizon applied for at least two merchant accounts to process
14 consumer payments (including any associated chargebacks or refunds) on
15 behalf of the Student Loan Debt Relief Companies.

16 179. Defendants Wen and Nguyen received a finalized payment
17 processor application for a merchant account with Quantum Electronic
18 Payments on Horizon’s behalf.

19 180. Defendant Wen later instructed Hu to sign the application for a
20 merchant account with Quantum Electronic Payments.

21 181. Horizon processed about \$9 million in consumer payments through
22 at least one of its payment processors accounts on behalf of the Student Loan
23 Debt Relief Companies.

24 182. The Individual Defendants, True Count, and Prime used First
25 Priority to open merchant accounts to receive consumer payments to the student
26 loan debt relief enterprise.

27
28

1 183. The Individual Defendants, True Count, and Prime used First
2 Priority to obtain and then copy documents, such as agreements and contracts,
3 for use by TAS in the student-loan debt-relief operation.

4 184. First Priority's corporate registration identifies Defendant Nguyen
5 as its president and sole owner.

6 185. Defendants Kim and Wen served as contacts on behalf of First
7 Priority for a payment processor.

8 186. First Priority's income in 2018 and 2019 consisted of
9 approximately \$400,000 in transfers from True Count and \$150,000 in
10 consumer fees collected through two payment processor accounts on behalf of
11 Prime and True Count.

12 **The Student Loan Debt Relief Companies Operated as a Common**
13 **Enterprise**

14 187. CAC, True Count, and Prime shared employees, customers,
15 scripts, and training materials, and they used the same database to store
16 consumers' information and track aspects of their business activity.

17 188. CAC, True Count, and Prime shared the proceeds of the debt-relief
18 enterprise.

19 189. For example, since April 2018, True Count, acting as the purported
20 "billing department" for CAC and Prime, has transferred at least \$12 million to
21 CAC and at least \$25 million to Prime.

22 190. CAC lent hundreds of thousands of dollars to True Count without
23 interest or any written agreement.

24 191. CAC stated in a lease guarantee that it had a "financial interest" in
25 True Count.

26 192. CAC guaranteed at least one lease on behalf of Prime Consulting
27 and two leases on behalf of True Count.
28

1 193. CAC, True Count, and Prime have used overlapping addresses to
2 carry out the debt-relief operation.

3 194. For example, addresses True Count identifies as its business
4 addresses are also business addresses for CAC, Prime, and Hold the Door.

5 195. To market their debt-relief services to consumers, CAC, True
6 Count, and Prime shared over a dozen fictitious names, including but not
7 limited to South Coast Financial Center, Direct Account Services, Financial
8 Loan Advisors, Account Preparation Services, Administrative Financial,
9 Tangible Savings Solutions, Coastal Shores Financial Group, First Choice
10 Financial Centre (a/k/a First Choice Financial Center), Administrative Account
11 Services, Primary Account Solutions, Prime Document Services, Financial
12 Accounting Center, Doc Management Solutions, First Priority LLC, ALW
13 Loans Administrative Accounting Center, Best Choice Financial Center, First
14 Document Services, Global Direct Accounting Solutions, Keystone Document
15 Center, Pacific Palm Financial Group, Pacific Shores Advisory, Sequoia
16 Account Management, Signature Loan Solutions, Yellowstone Account
17 Services, ClearStudentLoanDebt, and Clear Student Loan Debt.

18 196. The websites for Doc Management Solutions, Financial
19 Accounting Center, Prime Document Services, Primary Account Solutions,
20 Administrative Account Services, South Coast Financial Center, First Choice
21 Financial Center, Coastal Shores Financial Group, Tangible Savings Solutions,
22 Administrative Financial, Account Preparation Services, Financial Loan
23 Advisors, and Direct Account Services are nearly identical.

24 **Transfer of Assets to Relief Defendants**

25 197. Defendants Wen, Kim, and Nguyen directed and controlled Relief
26 Defendants Hold the Door, Infinite Management, and TN Accounting,
27 respectively.
28

1 198. Wen, Kim, and Nguyen are the signatories on bank accounts for
2 the respective companies and thus controlled the flow of money into and out of
3 their corporate accounts.

4 199. From 2017 to 2019, payments from CAC or True Count made up
5 most or almost all the income of Hold the Door, Infinite Management, and TN
6 Accounting.

7 200. Monies were transferred from Hold the Door, Infinite
8 Management, and TN Accounting to the respective individuals' personal
9 accounts or to pay their personal expenses.

10 201. Hold the Door made over \$200,000 in direct transfers to Wen's
11 personal bank accounts, and it made payments for purchases of art and for
12 Wen's Tesla and Mercedes Benz automobiles.

13 202. Infinite Management made more than \$300,000 in payments to pay
14 Kim's personal credit cards, wedding expenses, dental expenses, and to
15 purchase luxury cars.

16 203. Infinite Management purchased approximately \$87,500 in jewelry,
17 paid over \$200,000 to purchase a luxury vehicle, and spent approximately
18 \$60,000 as a down payment for a second luxury vehicle for Relief Defendant
19 Sarah Kim.

20 204. Sarah Kim is not employed by Infinite Management, nor has she
21 ever done business with Infinite Management.

22 205. TN Accounting transferred over \$100,000 to Nguyen's personal
23 bank accounts and made payments on Nguyen's personal credit cards and
24 Tesla.

25 206. In December 2018, Mice and Men opened a banking account with
26 Bank of America, listing Relief Defendant Judy L Dai as the signor, and a
27 related debit card was issued to Mice and Men LLC Judy L Dai.
28

1 207. In December 2018, a total of 14 deposits and credits were received
2 in the Mice and Men account at Bank of America from Prime Consulting,
3 totaling \$5,041,039. Thirteen of the deposits and credits were for purported
4 marketing expenses, and one was for purported residual expenses. During its
5 existence, no other deposits were made into this account.

6 208. In January 2019, a bank account in the name of Mice and Men was
7 opened with UBS, listing Judy L Dai as the signor.

8 209. In or around February 2019, Bank of America notified Mice and
9 Men that Bank of America was closing the Mice and Men account.

10 210. In February 2019, a bank check from Bank of America in the
11 amount of \$5,041,039 was deposited into the Mice and Men account at UBS.
12 This represented the entire balance in the Mice and Men Bank America
13 account.

14 211. In April 2019, Defendant Wen was granted third party access to
15 the Mice and Men account at UBS, which gave him the ability to view account
16 information, balances, monthly statements and tax information.

17 212. In the Corporate Financial Statement submitted by True Count
18 Staffing pursuant to the October 21, 2019 Temporary Restraining Order (TRO),
19 True Count identified the Mice and Men UBS account, which contained
20 approximately \$4 million, as being held by True Count Staffing.

21 213. Defendant Wen is the 100% owner of True Count Staffing.

22 214. Prime transferred approximately \$4 million to 1st Generation
23 Holdings over the last three years.

24 215. True Count's Corporate Financial Statement submitted pursuant to
25 the TRO identified funds in 1st Generation Holdings accounts as held for the
26 benefit of True Count.

27
28

1 216. Between 2017-2018, CAC paid Anan Enterprise approximately
2 \$3.6 million ostensibly for services, but Anan Enterprise never rendered those
3 services.

4 217. From 2016 through 2018, Wen transferred, or caused companies
5 he controlled to pay, more than \$^{REDACTED} to or for the benefit of Relief
6 Defendant Judy Dai or the Judy Dai 2017 Trust.

7 218. The funds that Wen transferred or caused to be transferred to or for
8 the benefit of Judy Dai or the Judy Dai 2017 Trust include funds he obtained
9 from, or commingled with funds from, the Student Loan Debt Relief
10 Companies.

11 219. For example, from on or about April 16, 2018, through June 5,
12 2018, ^{REDACTED} in the name of the Kaine Wen 2017 Trust received a total
13 of about \$^{REDACTED} in deposits, of which at least \$^{REDACTED} were from Hold
14 the Door.

15 220. From on or about June 1 through June 5, 2018, Wen transferred
16 \$^{REDACTED} from the same Kaine Wen 2017 Trust ^{REDACTED} identified in the
17 preceding paragraph to a ^{REDACTED} held by Judy Dai or the Judy Dai 2017
18 Trust.

19 221. As another example, Hold the Door paid over \$^{REDACTED} to lease a
20 Mercedes-Benz automobile for Judy Dai's use from at least 2017 through 2019.

21 222. As another example, in or about April 2019, Hold the Door paid
22 about \$^{REDACTED} for a Lexus automobile that has been registered to Judy Dai.

23 223. As another example, in 2019, True Count made over \$^{REDACTED} in
24 payments on a ^{REDACTED} name that has been secured by a
25 personal residence in Arcadia, CA (Arcadia Residence).

26 224. The Arcadia Residence has been owned in part by the Judy Dai
27 2017 Trust.

28

1 225. Judy Dai has no legitimate claim to the funds that Hold the Door,
2 True Count, and Wen transferred to her or for her benefit as described in
3 paragraphs 217-225.

4 226. Judy Dai and the Judy Dai 2017 Trust were never employed by
5 Hold the Door or True Count and provided no contemporaneous consideration
6 for the transfers and payments described at paragraphs 217-225.

7 **Avoidable Transfers**

8 **First Transfer**

9 227. On or about February 5, 2018, Defendant Wen or the Kaine Wen
10 2017 Trust transferred about \$REDACTED owned by the Judy
11 Dai 2017 Trust (First Transfer).

12 228. Judy Dai and the Judy Dai 2017 Trust did not provide any
13 reasonably equivalent consideration in exchange for the First Transfer.

14 229. At the time of the First Transfer, the Student Loan Debt Relief
15 Companies had unlawfully collected millions of dollars in fees from consumers
16 in violation of the CFPA and the TSR.

17 230. At the time of the First Transfer, Wen was liable for, jointly and
18 severally with other defendants in this action, millions of dollars to the Bureau
19 and the States based on violations of the CFPA and TSR, including for
20 damages, restitution, or disgorgement, but not including liability for civil
21 money penalties.

22 231. Based on the civil money penalty amounts set forth in 12 U.S.C.
23 § 5565(c)(1) & (2), Wen was subject to millions of dollars in penalties per
24 unlawful practice alleged at Counts I-III, V, VII, IX, and XI as of February 5,
25 2018, before considering the statutory mitigating factors set forth in section
26 5565(c)(3) and upward penalty adjustments for inflation under 12 C.F.R. §
27 1083.1. Wen was also subject to potential joint and several liability for millions
28

1 of dollars in statutory restitution orders and mandatory civil penalties per
2 unlawful act or practice under the UCL, as alleged in Count XXII.

3 232. Wen’s remaining assets immediately after the First Transfer were
4 worth less than his then-existing liabilities to the Bureau and the States as set
5 forth in paragraphs 229-232.

6 233. Wen failed to disclose the First Transfer as a gift on REDACTED
7 REDACTED

8 234. At the time of the first Transfer, Wen had been named in his
9 individual capacity in at least two lawsuits by consumers asserting that he and
10 other defendants violated the Telephone Consumer Protection Act, 47 U.S.C.
11 § 227, and related claims.

12 235. At the time of the First Transfer, Defendant CAC had received
13 inquiries from at least six state law enforcement agencies, including four state
14 attorneys general, regarding consumer complaints or potential violations of
15 state consumer protection laws.

16 236. For example, a state attorney general’s office issued a letter to
17 CAC in or about March 2017, attaching a consumer complaint that asserts that
18 CAC falsified the consumer’s marital status and family size to the Department
19 of Education by listing her as single with six children when in fact she was
20 married with two children.

21 237. As purported general counsel for CAC, Wen was aware of and
22 responded to each of the six state law enforcement inquiries on behalf of CAC.

23 238. In or about April 2017, the Better Business Bureau (BBB)
24 contacted CAC to inform it that “multiple sources” had alleged that CAC
25 charged upfront fees and that “[s]ome consumers allege that their information
26 was falsified on their [student-loan repayment] application by [listing] more
27 members in their household than they actually had.”
28

1 239. Wen responded to BBB within a week, presenting himself as
2 general counsel for CAC.

3 240. On or about February 12, 2018, just days after the First Transfer,
4 Wen signed a “Credit Repair Merchant Agreement Addendum” with a payment
5 processor, falsely warranting that True Count complied with numerous
6 consumer protection laws, including the TSR and the CFPA, and shortly
7 thereafter, he signed a “Debt Relief Service Merchant Agreement Addendum”
8 with similar provisions.

9 241. Before the First Transfer, Wen personally guaranteed at least two
10 of CAC’s payment processor accounts that received millions of dollars in
11 unlawfully obtained consumer fees.

12 242. As the sole corporate officer of True Count, Wen also assumed
13 increased liability risk when True Count took over some of CAC’s operations in
14 2018.

15 243. In or about February 2018, just days after the First Transfer, Kaine
16 Wen personally guaranteed at least three of True Count’s payment processor
17 accounts that received tens of millions of dollars in unlawfully obtained
18 consumer fees.

19 244. Wen’s personal guarantee of True Count’s merchant accounts
20 made him liable for consumer refund requests and chargebacks due to True
21 Count’s unlawful acts and practices.

22 245. In or about April 2018, Wen participated in an internal email chain
23 that included an email from a True Count manager who stated that “in most
24 cases” the Student Loan Debt Relief Companies “incorrectly” submit student-
25 loan-adjustment applications to servicers, including by always listing
26 consumers as single (whether married or not) and inaccurately inflating family
27 size.
28

1 246. After the First Transfer, Wen retained control over the proceeds of
2 the First Transfer by directing REDACTED in wire transfers
3 from a REDACTED held by the Judy Dai 2017 Trust, including directing an
4 over \$REDACTED from the Judy Dai 2017 Trust that was used as a
5 down payment on the Arcadia Residence

6 247. Since in or about August 2018, the Judy Dai 2017 Trust UBS
7 Account has held significant proceeds of the First Transfer.

8 **Second Transfer**

9 248. In or about July 2019, the Bureau, the State of North Carolina, and
10 the State of Minnesota filed proofs of claim seeking to recover tens of millions
11 of dollars in CAC's bankruptcy proceeding in United States Bankruptcy Court
12 in the Southern District of Florida.

13 249. The Bureau's proof of claim was for at least \$31 million in
14 unliquidated damages and undetermined civil money penalties based on CAC's
15 violations of the CFPA and TSR.

16 250. On or about August 20, 2019, the Kaine Wen 2017 Trust
17 transferred REDACTED from REDACTED
18 to the Judy Dai 2017 Trust UBS Account
19 (Second Transfer).

20 251. Before the Second Transfer, the Kaine Wen 2017 Trust had held
21 the funds traceable to the Second Transfer in REDACTED that
22 simultaneously held at least \$REDACTED that is traceable to the Student Loan Debt
23 Relief Companies' unlawful conduct.

24 252. Judy Dai and the Judy Dai 2017 Trust did not provide any
25 reasonably equivalent consideration in exchange for the Second Transfer.

26 253. At the time of the Second Transfer, the Student Loan Debt Relief
27 Companies had unlawfully collected tens of millions of dollars in fees from
28 consumers in violation of the CFPA and the TSR.

1 254. At the time of the Second Transfer, Wen was liable for, jointly and
2 severally with other defendants in this action, tens of millions of dollars to the
3 Bureau and the States based on violations of the CFPA and TSR, including for
4 damages, restitution, or disgorgement, but not including liability for civil
5 money penalties.

6 255. Based on the civil money penalty amounts set forth in 12 U.S.C.
7 § 5565(c)(1) & (2), Wen was subject to millions of dollars in penalties per
8 unlawful practice alleged at Counts I-III, V, VII, IX, and XI as of August 20,
9 2019, before considering the statutory mitigating factors set forth in section
10 5565(c)(3) and upward penalty adjustments for inflation under 12 C.F.R.
11 § 1083.1. Wen was also subject to potential joint and several liability for
12 millions of dollars in statutory restitution orders and mandatory civil penalties
13 per unlawful act or practice under the UCL, as alleged in Count XXII.

14 256. Wen's remaining assets after the Second Transfer were worth less
15 than his then-existing liability to the Bureau and the States as set forth in
16 paragraphs 253-255.

17 257. At the time of Second Transfer, Wen was aware of the Bureau's
18 investigation of the SLDR Companies and had retained counsel for True Count
19 related to the Bureau's investigation.

20 258. Around the time of the Second Transfer, Wen was aware that the
21 news media was inquiring about the SLDR Companies' business practices.

22 259. On the eve of the Second Transfer, Wen directed a Human
23 Resources manager for the SLDR Companies to instruct employees that the
24 press may try to contact them and that employees were not to speak with the
25 press.

26 260. Several days after the Second Transfer, the *Wall Street Journal*
27 published a story critical of the SLDR Companies.

28 261. Since at least November 1, 2019, Wen has concealed assets.

1 262. For example, for over a year after receiving service of the TRO on
2 October 25, 2019, Wen concealed from the Bureau REDACTED estimated to
3 be worth REDACTED contrary to the requirements of
4 Section VIII, paragraph A, of the TRO.

5 **LEGAL BACKGROUND**

6 **The TSR**

7 263. The TSR defines “debt relief service” as “any program or service
8 represented, directly or by implication, to renegotiate, settle, or in any way alter
9 the terms of payment or other terms of the debt between a person and one or
10 more unsecured creditors or debt collectors, including, but not limited to, a
11 reduction in the balance, interest rate, or fees owed by a person to an unsecured
12 creditor or debt collector.” 16 C.F.R. § 310.2(o).

13 264. The TSR defines a “seller” as “any person who, in connection with
14 a telemarketing transaction, provides, offers to provide, or arranges for others to
15 provide goods or services to the customer in exchange for consideration.” 16
16 C.F.R. § 310.2(dd).

17 265. The TSR defines “telemarketer” as “any person who, in connection
18 with telemarketing, initiates or receives telephone calls to or from a customer.”
19 16 C.F.R. § 310.2(ff).

20 266. The TSR defines “telemarketing” in relevant part as “a plan,
21 program, or campaign which is conducted to induce the purchase of goods or
22 services . . . by use of one or more telephones and which involves more than
23 one interstate telephone call.” 16 C.F.R. § 310.2(gg).

24 267. The Student Loan Debt Relief Companies offered services to
25 renegotiate, settle, or alter the terms of payments of consumers’ federal student
26 loans by submitting requests for loan forgiveness or IDR plans to consumers’
27 student-loan servicers.
28

1 268. The Student Loan Debt Relief Companies offered and provided
2 these services to consumers nationwide using the telephones and employed
3 more than one interstate telephone call.

4 269. The Student Loan Debt Relief Companies offered and provided
5 these services to consumers in exchange for payment of enrollment and
6 monthly fees in connection with a telemarketing transaction.

7 270. The Student Loan Debt Relief Companies are each a
8 “telemarketer” or “seller” offering a “debt relief service” under the TSR.

9 271. Kim arranged for CAC to provide debt-relief services to
10 consumers in exchange for consideration and personally generated marketing
11 leads for Prime. Kim is a “telemarketer” or “seller” offering a “debt relief
12 service” under the TSR. 16 C.F.R. § 310.2(dd), (ff), (o).

13 272. Wen arranged for CAC and True Count to provide debt-relief
14 services to consumers in exchange for consideration. Wen is a “seller” offering
15 a “debt relief service” under the TSR. 16 C.F.R. § 310.2(dd), (o).

16 273. Nguyen arranged for CAC and True Count to provide debt-relief
17 services to consumers in exchange for consideration. Nguyen is a “seller”
18 offering a “debt relief service” under the TSR. 16 C.F.R. § 310.2(dd), (o).

19 274. TAS is a “seller” because it provided, offered to provide, or
20 arranged for others to provide third-party dedicated account services to
21 consumers “in connection with a telemarketing transaction.” 16 C.F.R.
22 § 310.2(dd).

23 **The CFPA**

24 275. Sections 1031 and 1036(a)(1)(B) of the CFPA, 12 U.S.C. §§ 5531,
25 5536(a)(1)(B), prohibit “covered person[s]” and “service provider[s]” from
26 engaging in any “unfair, deceptive, or abusive act or practice.”

27 276. The Student Loan Debt Relief Companies are each “covered
28 persons” under the CFPA because they offer or provide consumer-financial

1 products or services, including financial-advisory services such as assisting
2 consumers with debt-management or debt-settlement and modifying the terms
3 of any extension of credit. 12 U.S.C. § 5481(5), (6), (15)(A)(viii).

4 277. TAS is a “covered person” under the CFPA because it offered or
5 provided consumer-financial products or services, including by “engaging in
6 deposit-taking activities, transmitting or exchanging funds, or otherwise acting
7 as a custodian of funds or any financial instrument for use by or on behalf of a
8 consumer.” 12 U.S.C. § 5481(15)(iv).

9 278. The CFPA also defines “covered person” to include “(B) any
10 affiliate of a person [that engages in offering or providing a consumer financial
11 product or service] if such affiliate acts as a service provider to such person.” 12
12 U.S.C. § 5481(6).

13 279. Section 1002(1) of the CFPA defines the term “affiliate” to mean
14 “any person that controls, is controlled by, or is under common control with
15 another person.” 12 U.S.C. § 5481(1).

16 280. Section 1002(26)(A) of the CFPA defines the term “service
17 provider” to mean “any person that provides a material service to a covered
18 person in connection with the offering or provision by such covered person of a
19 consumer financial product or service, including a person that-- ... (ii)
20 processes transactions relating to the consumer financial product or service ...”
21 12 U.S.C. § 5481(26)(A)(ii).

22 281. TAS, Horizon and First Priority are affiliates of the Student Loan
23 Debt Relief Companies because they are controlled by the Student Loan Debt
24 Relief Companies. Further, by processing consumer payments made to the
25 Student Loan Debt Relief Companies, TAS, Horizon, and First Priority acted as
26 service providers to the Student Loan Debt Relief Companies. TAS, Horizon,
27 and First Priority are each “covered persons” under the CFPA.
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1 282. Section 1002(25) of the CFPA defines the term “related person” to
2 mean “any director, officer, or employee charged with managerial responsibility
3 for, or controlling shareholder of,” or “any . . . other person . . . who materially
4 participates in the conduct of the affairs of” a non-bank provider of a consumer-
5 financial product or service. 12 U.S.C. § 5481(25)(C). Section 1002(25) further
6 provides that a “related person” shall be “deemed to mean a covered person for
7 all purposes of any provision of Federal consumer financial law.” 12 U.S.C. §
8 5481(25)(B).

9 283. Kim is a “related person” and “covered person” under the CFPA
10 because he is CAC’s owner and officer and had managerial responsibility for
11 CAC. He controlled CAC’s bank accounts, oversaw CAC’s sales and
12 marketing, entered into contractual relationships on CAC’s behalf with payment
13 processors, and responded to certain consumer complaints.

14 284. Wen is a “related person” and “covered person” under the CFPA
15 because he is True Count’s owner and officer, has been an owner and manager
16 of CAC, and has had managerial responsibility for both companies. He was
17 involved in making decisions for CAC, including the decision to shift CAC’s
18 processing function to True Count, entered into contractual relationships on
19 behalf of True Count with payment processors, and was a signatory on True
20 Count’s bank accounts.

21 285. Nguyen is a “related person” and “covered person” under the
22 CFPA because he is an officer of CAC and True Count and has managerial
23 responsibility for CAC, and because he materially participated in the conduct of
24 the Student Loan Debt Relief Companies. He managed CAC’s finances and
25 responded to consumers’ complaints on CAC’s behalf. He also was the point of
26 contact for several of CAC’s and True Count’s merchant accounts.

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1 **COUNT I**

2 **By the Bureau and the States**

3 **(Advance Fees in Violation of the TSR – Enrollment Fees)**

4 **(The Student Loan Debt Relief Companies and Individual Defendants)**

5 286. The allegations in paragraphs 1-274 are incorporated by reference.

6 287. Under the TSR, it is an abusive act or practice for a seller or
7 telemarketer to request or receive payment of any fee or consideration for any
8 debt-relief services unless and until (A) the seller or telemarketer has
9 renegotiated, settled, reduced, or otherwise altered the terms of at least one debt
10 pursuant to a settlement agreement, debt-management plan, or other such valid
11 contractual agreement executed by the customer; and (B) the customer has
12 made at least one payment pursuant to that settlement agreement, debt-
13 management plan, or other valid contractual agreement between the customer
14 and the creditor or debt collector. 16 C.F.R. § 310.4(a)(5)(i)(A)-(B).

15 288. In the course of providing, offering to provide, or arranging for
16 others to provide debt-relief services, the Student Loan Debt Relief Companies
17 and Individual Defendants charged and collected from consumers enrollment
18 fees before consumers had been approved for IDR plans and before consumers
19 had made any payments toward such IDR plans, in violation of the TSR. 16
20 C.F.R. § 310. 4(a)(5)(i)(A)-(B).

21 289. Moreover, because the IDR plans in which consumers were placed
22 often were based on false information about consumers’ family size, income,
23 and marital status that the Student Loan Debt Relief Companies submitted to
24 consumers’ student-loan servicers, none of the payments made by consumers in
25 these plans were made pursuant to a “valid contractual agreement” within the
26 meaning of the TSR and thus were collected in violation of the TSR. 16 C.F.R.
27 § 310.4(a)(5)(i)(A)-(B).

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COUNT II

By the Bureau and the States

(Advance Fees in Violation of the TSR – Monthly Fees)

(The Student Loan Debt Relief Companies and Individual Defendants)

290. The allegations in paragraphs 1-274 are incorporated by reference.

291. In the course of providing, offering to provide, or arranging for others to provide debt-relief services, the Student Loan Debt Relief Companies and Individual Defendants charged and collected from consumers monthly fees before consumers had completed their annual recertifications of eligibility for IDR plans and before consumers had made any payments toward such recertified IDR plans, in violation of the TSR. 16 C.F.R. § 310. 4(a)(5)(i)(A)-(B).

292. Moreover, because the IDR plans in which consumers were placed often were based on false information about consumers’ family size, income, and marital status that the Student Loan Debt Relief Companies submitted to consumers’ student-loan servicers, none of the payments made by consumers in these plans were made pursuant to a “valid contractual agreement” within the meaning of the TSR and thus were collected in violation of the TSR. 16 C.F.R. § 310.4(a)(5)(i)(A)-(B).

COUNT III

By the Bureau and the States

(Misrepresentations About Material

Aspects of Their Services in Violation of the TSR)

(The Student Loan Debt Relief Companies and Individual Defendants)

293. The allegations in paragraphs 1-274 are incorporated by reference.

294. It is a deceptive practice under the TSR for a seller or telemarketer to misrepresent any material aspect of the efficacy of their services and to

1 misrepresent any material aspect of a debt-relief service. 16 C.F.R. §
2 310.3(a)(2)(iii), (x).

3 295. Among other things, the Student Loan Debt Relief Companies and
4 Individual Defendants misrepresented, directly or indirectly, expressly or by
5 implication that:

6 a. fees paid by consumers were payments toward the
7 consumer's outstanding loan debt;

8 b. fees paid by consumers reflected the adjusted amount of the
9 consumers' periodic payments toward their outstanding loan balance;

10 c. consumers' loans would be forgiven in whole or in part
11 shortly after enrolling in the Student Loan Debt Relief Companies'
12 services;

13 d. consumers were eligible or approved for lower monthly
14 payments, including where such payment amounts had been calculated
15 based on an incorrect family size, income, or marital status;

16 e. consumers' monthly payment amount had been lowered for
17 the life of the repayment plan; and

18 f. any fees collected would be held in trust accounts
19 maintained by a third-party account provider until the Student Loan Debt
20 Relief Companies had performed certain services.

21 296. The Student Loan Debt Relief Companies and Individual
22 Defendants also failed to inform consumers that:

23 a. it was their practice to submit forbearance requests on
24 behalf of consumers; and

25 b. it was their practice to falsify consumers' family size,
26 marital status, and income to consumers' student-loan servicers.

1 297. The acts or practices of the Individual Defendants and Student
2 Loan Debt Relief Companies, as set forth in this Count, are deceptive acts or
3 practices that violate the TSR, 16 C.F.R. 310.3(a)(2)(iii), (x).

4 **COUNT IV**

5 **By the Bureau and the States**

6 **(Misrepresentations About Material**

7 **Aspects of Their Services in Violation of the TSR)**

8 **(True Count, Prime, and TAS)**

9 298. The allegations in paragraphs 1-274 are incorporated by reference.

10 299. It is a deceptive practice under the TSR for a seller or telemarketer
11 to misrepresent any material aspect of the efficacy of their services and to
12 misrepresent any material aspect of a debt-relief service. 16 C.F.R. §
13 310.3(a)(2)(iii), (x).

14 300. True Count, Prime, and TAS misrepresented, directly or indirectly,
15 expressly or by implication, that TAS was an independent third-party provider
16 of dedicated customer escrow accounts.

17 301. The misrepresentations relate to a material aspect of a debt-relief
18 service.

19 302. The acts or practices of the Individual Defendants, Student Loan
20 Debt Relief Companies, and TAS, as set forth in this paragraph, are deceptive
21 acts or practices that violate the TSR, 16 C.F.R. 310.3(a)(2)(iii), (x).

22 **COUNT V**

23 **By the Bureau and the States**

24 **(Substantial Assistance in Violation of the TSR)**

25 **(Individual Defendants)**

26 303. The allegations in paragraphs 1-274 are incorporated by reference.

27 304. The TSR prohibits any person from providing “substantial
28 assistance or support to any seller or telemarketer when that person knows or

1 consciously avoids knowing that the seller or telemarketer is engaged in any act
2 or practice that [constitutes deceptive or abusive conduct]” under the Rule. 16
3 C.F.R. § 310.3(b).

4 305. Kim managed both CAC’s and True Count’s day-to-day
5 operations. As CAC’s co-owner and president, Kim oversaw CAC’s marketing
6 and approved its sales scripts.

7 306. Kim knew, or recklessly avoided knowing, the material
8 misrepresentations and omissions that CAC’s and True Count’s sales
9 representatives and processors made to consumers.

10 307. Kim knew, or recklessly avoided knowing, that the Student Loan
11 Debt Relief Companies charged and collected enrollment and monthly fees
12 from consumers before the companies had obtained loan-repayment plans for
13 consumers and before consumers had made their first payments toward such
14 repayment plans.

15 308. Kim represented CAC in contractual relationships with payment
16 processors.

17 309. As CAC’s point of contact on a merchant account where he agreed
18 to keep chargebacks and fraud below a certain level, Kim knew, or recklessly
19 avoided knowing, that the merchant’s monthly statements identified tens of
20 thousands of dollars in chargebacks and hundreds of thousands of dollars in
21 consumer refunds between August 2017 and March 2019.

22 310. As CAC’s co-owner and officer and True Count’s owner and
23 officer, Wen entered into payment-processing agreements on CAC’s and True
24 Count’s behalf, including at least one where he represented that True Count
25 intended to fully comply with the TSR.

26 311. As a principal representative for CAC’s and True Count’s
27 merchant accounts and a signatory on the bank accounts from which refunds
28 and chargebacks to consumers were paid, Wen knew, or recklessly avoided

1 knowing, CAC's and True Count's high chargeback and refund rates, including
2 that during at least one period, the top chargeback reasons included "fraud."

3 312. Wen knew, or recklessly avoided knowing, the material
4 misrepresentations and omissions that CAC's and True Count's sales
5 representatives and processors made to consumers.

6 313. Wen knew, or recklessly avoided knowing, that the Student Loan
7 Debt Relief Companies charged and collected enrollment and monthly fees
8 from consumers before the companies had obtained loan-repayment plans for
9 consumers and before consumers had made their first payments toward such
10 repayment plans.

11 314. As an officer of CAC and True Count, Nguyen managed CAC's
12 finances, served as a point of contact for several of CAC's and True Count's
13 merchant accounts, and responded to consumer complaints on CAC's behalf.

14 315. Because he signed a January 2018 letter from CAC to a payment
15 processor in which he acknowledged that CAC had incurred excessive
16 chargebacks and that fraud was one of the top reasons for such chargebacks,
17 Nguyen knew, or recklessly avoided knowing, the material misrepresentations
18 and omissions that CAC's and True Count's sales representatives and
19 processors made to consumers.

20 316. Nguyen knew, or recklessly avoided knowing, that the Student
21 Loan Debt Relief Companies charged and collected enrollment and monthly
22 fees from consumers before the companies had obtained loan-repayment plans
23 for consumers and before consumers had made their first payments toward such
24 repayment plans.

25 317. Kim, Wen, and Nguyen provided substantial assistance to the
26 Student Loan Debt Relief Companies in their violations of the TSR.

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COUNT VI

By the Bureau and the States

(Substantial Assistance in Violation of the TSR)

(Payment Companies)

318. The allegations in paragraphs 1-274 are incorporated by reference.

319. The TSR prohibits any person from providing “substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act that [constitutes deceptive or abusive conduct]” under the Rule. 16 C.F.R. § 310.3(b).

320. The Payment Companies knew, or consciously avoided knowing, the material misrepresentations that the Student Loan Debt Relief Companies made to consumers.

321. The Payment Companies knew, or consciously avoided knowing, that the Student Loan Debt Relief Companies charged and received fees from consumers before consumers’ applications for loan consolidations, loan-repayment plans, and loan-forgiveness plans were approved, and before consumers had made the first payments under the altered terms of their student loans.

322. The Payment Companies provided substantial assistance to the Student Loan Debt Relief Companies in their violations of the TSR. 16 C.F.R. § 310.3(b)

COUNT VII

By the Bureau

(CFPA – Deception)

(The Student Loan Debt Relief Companies and Individual Defendants)

323. The allegations in paragraphs 1-262 and 275-285 are incorporated by reference.

1 324. Among other things, the Student Loan Debt Relief Companies and
2 Individual Defendants misrepresented, directly or indirectly, expressly or by
3 implication that:

4 a. fees paid by consumers were payments toward the
5 consumer's outstanding loan debt;

6 b. fees paid by consumers reflected the adjusted amount of the
7 consumers' periodic payments toward their outstanding loan balance;

8 c. consumers' loans would be forgiven in whole or in part
9 following payment of the initial enrollment fees;

10 d. consumers were eligible or approved for lower monthly
11 payments, including where such payment amounts have been calculated
12 based on an incorrect family size, income, or marital status;

13 e. consumers' monthly payment amounts had been lowered for
14 the life of the repayment plan; and

15 f. any fees collected would be held in trust accounts
16 maintained by a third-party account provider until the Student Loan
17 Debt Relief Companies had performed certain services.

18 325. The Student Loan Debt Relief Companies also failed to inform
19 consumers that:

20 a. it was their practice to submit forbearance requests on
21 behalf of consumers; and

22 b. it was their practice to falsify consumers' family size,
23 marital status, and income to consumers' student-loan servicers and the
24 consequences for consumers of that practice.

25 326. The Student Loan Debt Relief Companies' representations were
26 material and likely to mislead consumers acting reasonably under the
27 circumstances.
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1 327. Among other things, Kim generated marketing leads for Prime,
2 approved sales scripts for CAC, and managed day-to-day operations for CAC
3 and True Count. He was also aware of CAC's and True Count's high
4 chargeback and consumer-refund rates. He participated directly in these
5 representations or had the authority to control them as CAC's co-owner and
6 president and had knowledge of these representations, was recklessly
7 indifferent to the truth or falsity of the misrepresentations, or was aware of a
8 high probability of fraud along with an intentional avoidance of the truth.

9 328. Among other things, Wen managed payment-processor
10 relationships on behalf of True Count, was a signatory on True Count's bank
11 accounts, and was aware of CAC's and True Count's high chargeback and
12 consumer-refund rates. He participated directly in these representations or had
13 the authority to control them as CAC's co-owner and president and True
14 Count's owner and president and had knowledge of these representations, was
15 recklessly indifferent to the truth or falsity of the misrepresentations, or was
16 aware of a high probability of fraud along with an intentional avoidance of the
17 truth.

18 329. Among other things, Nguyen managed CAC's finances, responded
19 to consumer complaints, and served as point of contact on several of CAC's and
20 True Count's merchant accounts. He was aware of CAC's and True Count's
21 high chargeback and consumer-refund rates. He participated directly in these
22 representations or had the authority to control them and had knowledge of these
23 representations, was recklessly indifferent to the truth or falsity of the
24 misrepresentations, or was aware of a high probability of fraud along with an
25 intentional avoidance of the truth.

26 330. The Student Loan Debt Relief Companies and Individual
27 Defendants have therefore engaged in deceptive acts or practices in violation of
28 §§ 1031 and 1036 of the CFPB, 12 U.S.C. §§ 5531, 5536.

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COUNT VIII

By the Bureau

(CFPA – Deception)

(True Count, Prime, and TAS)

331. The allegations in paragraphs 1-262 and 275-285 are incorporated by reference.

332. True Count, Prime, and TAS misrepresented, directly or indirectly, expressly or by implication, that TAS was an independent third-party provider of dedicated customer accounts.

333. The representations were material and likely to mislead consumers acting reasonably under the circumstances.

334. True Count, Prime, and TAS have therefore engaged in deceptive acts or practices in violation of §§ 1031 and 1036 of the CFPA, 12 U.S.C. §§ 5531, 5536.

COUNT IX

By the Bureau

(Substantial Assistance in Violation of the CFPA)

(Individual Defendants)

335. The allegations in paragraphs 1-262 and 275-285 are incorporated by reference.

336. Section 1036(a)(3) of the CFPA prohibits any person from “knowingly or recklessly provid[ing] substantial assistance to a covered person or service provider in violation of the provisions of section 1031” and states that “the provider of such substantial assistance shall be deemed to be in violation of that section to the same extent as the person to whom such assistance is provided.” 12 U.S.C. § 5536(a)(3).

337. As CAC’s co-owner and president, and as someone who managed the day-to-day operations of CAC and True Count and who generated

1 marketing leads for Prime, Kim knowingly or recklessly provided substantial
2 assistance to the Student Loan Debt Relief Companies in their deceptive acts or
3 practices.

4 338. As CAC's co-owner and True Count's owner and president who
5 was aware that high chargeback and consumer refund rates were attributable at
6 least in part to fraud, Wen knowingly or recklessly provided substantial
7 assistance to the Student Loan Debt Relief Companies in their deceptive acts or
8 practices.

9 339. As an individual responsible for managing CAC's finances and
10 responding to consumers' complaints on behalf of CAC and who was aware
11 that the Student Loan Debt Relief Companies' high chargeback and consumer-
12 refund rates were attributable at least in part to fraud, Nguyen knowingly or
13 recklessly provided substantial assistance to the Student Loan Debt Relief
14 Companies in their deceptive acts or practices.

15 340. The Individual Defendants thus provided substantial assistance to
16 the Student Loan Debt Relief Companies in their deceptive acts or practices, in
17 violation of § 1036(a)(3) of the CFPA. 12 U.S.C. § 5563(a)(3).

18 **COUNT X**

19 **By the Bureau**

20 **(Substantial Assistance in Violation of the CFPA)**

21 **(Payment Companies)**

22 341. The allegations in paragraphs 1-262 and 275-285 are incorporated
23 by reference.

24 342. Section 1036(a)(3) of the CFPA prohibits any person from
25 "knowingly or recklessly provid[ing] substantial assistance to a covered person
26 or service provider in violation of the provisions of section 1031" and states that
27 "the provider of such substantial assistance shall be deemed to be in violation of
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1 that section to the same extent as the person to whom such assistance is
2 provided.” 12 U.S.C. § 5536(a)(3).

3 343. The Payment Companies knew, or recklessly avoided knowing, the
4 material misrepresentations that the Student Loan Debt Relief Companies made
5 to consumers.

6 344. The Payment Companies provided substantial assistance to the
7 Student Loan Debt Relief Companies in their deceptive acts or practices, in
8 violation of § 1036(a)(3) of the CFPA. 12 U.S.C. § 5563(a)(3).

9 **COUNT XI**

10 **By the Bureau**

11 **CFPA Violation Based on Violation of TSR**

12 **(All Defendants)**

13 345. The allegations in paragraphs 1-285 are incorporated by reference.

14 346. The Bureau is authorized to enforce the Telemarketing Act with
15 respect to the offering or provision of a consumer-financial product or service
16 subject to the CFPA. 15 U.S.C. § 6105(d).

17 347. A violation of the TSR “committed by a person subject to the
18 Consumer Financial Protection Act of 2010 shall be treated as a violation of a
19 rule under Section 1031 of [the CFPA] regarding unfair, deceptive, or abusive
20 acts or practices.” 15 U.S.C. § 6102.

21 348. Section 1031 of the CFPA provides that “[t]he Bureau may
22 prescribe rules applicable to a covered person or service provider identifying as
23 unlawful unfair, deceptive, or abusive acts or practices in connection with any
24 transaction with a consumer for a consumer financial product or service, or the
25 offering of a consumer financial product or service.” 12 U.S.C. § 5531(b).

26 349. Defendants’ violations of the TSR are treated as violations of a
27 rule under § 1031 of the CFPA. 15 U.S.C. § 6102(c).

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1 350. Because Defendants are “covered persons” who violated the TSR
2 by charging and collecting illegal advance fees from consumers and engaging in
3 deceptive conduct, they violated § 1036(a)(1)(A) of the CFPA. 12 U.S.C. §
4 5536(a)(1)(A).

5 **COUNT XII**

6 **By the Bureau and the States**

7 **(Relief Defendants)**

8 351. The allegations in paragraphs 1-285 are incorporated by reference.

9 352. Relief Defendants Hold the Door, Infinite Management, TN
10 Accounting, Mice and Men, 1st Generation Holdings, Sarah Kim, Anan
11 Enterprise, and Judy Dai (in her individual capacity and as the trustee of the
12 Judy Dai 2017 Trust) have received, directly or indirectly, funds or other assets
13 from Defendants that are traceable to, or commingled with, funds obtained from
14 consumers through the deceptive and unlawful practices described herein.

15 353. The Relief Defendants are not bona fide purchasers with legal or
16 equitable title to the funds or other assets received from Defendants.

17 354. The Relief Defendants would be unjustly enriched if not required
18 to disgorge funds or the value of the benefits received as a result of Defendants’
19 unlawful acts or practices.

20 355. The Relief Defendants therefore hold funds and assets in
21 constructive trust for the benefit of the Student Loan Debt Relief Companies’
22 customers.

23 **AVOIDANCE OF FRAUDULENT TRANSFERS**

24 356. Defendant Kaine Wen has made over \$**REDACTED** in transfers to
25 Relief Defendant Judy Dai that are fraudulent and can be voided under the
26 Federal Debt Collection Procedures Act or the California Uniform Voidable
27 Transactions Act.
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1 357. Defendant Kaine Wen does not have sufficient financial resources
2 to satisfy his debts to the Bureau and the States as described in paragraphs 8,
3 129, 229-232 and 253-256 and Counts I-III, V, VII, IX, XI, and XXII.

4 **COUNT XIII**

5 **By the Bureau**

6 **Fraudulent Transfers under the Federal Debt Collection Procedures Act,**

7 **28 U.S.C. § 3304(b)(1)(A)**

8 **(Relief Defendant Judy Dai)**

9 358. The allegations in paragraphs 1-285 are incorporated by reference.

10 359. Wen is subject to, jointly and severally with other defendants in
11 this action, a claim for a debt to the Bureau in excess of \$100 million, including
12 for damages, restitution, disgorgement, and civil money penalties for violations
13 of the CFPA and TSR. Counts I-III, V, VII, IX, and XI. This debt constitutes a
14 “debt” under 28 U.S.C. §§ 3002(3)(B) and 3304(b)(1) and Wen is a “debtor”
15 under 28 U.S.C. §§ 3002(4) and 3304(b)(1).

16 360. As set forth in paragraphs 227-262, through the First and Second
17 Transfers, Wen transferred cash and investments directly or indirectly to Relief
18 Defendant Judy Dai (individually and as a trustee of the Judy Dai 2017 Trust)
19 with actual intent to hinder, delay, or defraud a creditor.

20 361. Wen’s actual intent to hinder, delay, or defraud a creditor is
21 demonstrated by the allegations in this Third Amended Complaint, including
22 the following:

23 a. Judy Dai was Wen’s mother and therefore an insider within
24 the meaning of 28 U.S.C. §§ 3301(5), 3304(b)(2)(A). Paragraph 65.

25 b. Wen retained control over the assets transferred, including
26 because Judy Dai granted him power of attorney over the Judy Dai 2017
27 Trust UBS Account and he directed large wires on behalf of the Judy Dai
28

1 2017 Trust. 28 U.S.C. § 3304(b)(2)(B). Paragraphs 150-151 and 246-
2 247.

3 c. Wen failed to disclose the First Transfer on his REDACTED
4 REDACTED 28 U.S.C. § 3304(b)(2)(C). Paragraph 233.

5 d. At the time of the First Transfer, Wen had been sued and
6 threatened with suit. 28 U.S.C. § 3304(b)(2)(D). Paragraphs 234-245.

7 e. At the time of the Second Transfer, Wen had been further
8 threatened with suit. 28 U.S.C. § 3304(b)(2)(D). Paragraphs 234-245 and
9 248-249, 257-260.

10 f. Wen concealed significant assets from the Bureau for over a
11 year after entry of the TRO. 28 U.S.C. § 3304(b)(2)(G). Paragraph 261-
12 262.

13 g. Wen did not receive reasonably equivalent consideration in
14 exchange for the First or Second Transfer. 28 U.S.C. § 3304(b)(2)(H).
15 Paragraphs 228 and 252.

16 h. At the time of the First and Second Transfers, or shortly
17 thereafter, Wen was insolvent as he faced millions of dollars in liability
18 to the Bureau for its claims, which significantly exceeded his assets at
19 each of those times. 28 U.S.C. § 3304(b)(2)(I). Paragraphs 229-232 and
20 253-256.

21 i. The First and Second Transfers occurred shortly before Wen
22 incurred substantial debt, including as the personal guarantor on at least
23 three of True Count's payment processor accounts that collectively
24 received tens of millions of dollars in unlawfully obtained consumer fees
25 in violation of the CFPA and TSR in the months after the First Transfer.
26 28 U.S.C. § 3304(b)(2)(J). Paragraphs 229-231, 241-245, and 253-255.

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1 362. The transfers described above should be adjudged fraudulent and
2 avoidable to the extent necessary to satisfy any judgment for the Bureau, and
3 therefore the United States, 28 U.S.C. § 3002(15)(B), in this proceeding.

4 **COUNT XIV**

5 **By the Bureau**

6 **Fraudulent Transfers under the Federal Debt Collection Procedures Act,**

7 **28 U.S.C. § 3304(b)(1)(B)**

8 **(Relief Defendant Judy Dai)**

9 363. The allegations in paragraphs 1-285 are incorporated by reference.

10 364. Wen is subject to, jointly and severally with other defendants in
11 this action, a claim for a debt to the Bureau in excess of \$100 million, including
12 for damages, restitution, disgorgement, and civil money penalties for violations
13 of the CFPA and TSR. Counts I-III, V, VII, IX, and XI. This debt constitutes a
14 “debt” under 28 U.S.C. §§ 3002(3)(B) and 3304(b)(1) and Wen is a “debtor”
15 under 28 U.S.C. §§ 3002(4) and 3304(b)(1).

16 365. As set forth in paragraphs 227-262, through the First and Second
17 Transfers, Wen transferred **REDACTED** directly or indirectly to Relief
18 Defendant Judy Dai (both individually and as a trustee of the Judy Dai 2017
19 Trust), who did not provide reasonably equivalent value to Wen in exchange for
20 the transfers.

21 366. At the time of the First and Second Transfers, Wen was engaged in
22 or about to engage in transactions for which the remainder of his assets were
23 unreasonably small, or Wen believed or reasonably should have believed that
24 he would incur debts beyond his ability to pay them, including because at the
25 time of each transfer his assets were worth far less than the tens of millions of
26 dollars in liabilities under the CFPA and TSR that he had incurred or was about
27 to incur, including based on personally guaranteeing CAC’s and True Count’s
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1 merchant accounts as set forth in paragraphs 227-262, in violation of 28 U.S.C.
2 § 3304(b)(1)(B)(i), (ii).

3 367. The transfers described above should be adjudged fraudulent and
4 avoidable to the extent necessary to satisfy any judgment for the Bureau, and
5 therefore the United States, 28 U.S.C. § 3002(15)(B), in this proceeding.

6 **COUNT XV**

7 **By the People of the State of California**

8 **Avoidable Transfers under the California Uniform Voidable Transactions**
9 **Act (UVTA), and by the Bureau (in the alternative),**

10 **Cal. Civ. Code § 3439.04(a)(1)**

11 **(Relief Defendant Judy Dai)**

12 368. The allegations in paragraphs 1-285 are incorporated by reference.

13 369. Wen’s liability to the Bureau and the States, jointly and severally
14 with other defendants in this action, exceeds \$100 million, including for
15 damages, restitution, disgorgement, and civil money penalties for violations of
16 the CFPA, TSR, and UCL. Counts I-III, V, VII, IX, XI and XXII. These
17 Counts include harm to California consumers occurring before the First
18 Transfer. Thus, Wen is a “debtor” and the Bureau, and the People of the State
19 of California are “creditors” with a “claim” within the meaning of the UVTA.
20 Cal. Civ. Code § 3439.01(b), (c), (e).

21 370. As set forth in paragraphs 227-262, through the First and Second
22 Transfers, Wen transferred **REDACTED** directly or indirectly to Relief
23 Defendant Judy Dai (both individually and as a trustee of the Judy Dai 2017
24 Trust) with actual intent to hinder, delay, or defraud a creditor.

25 371. Wen’s actual intent to hinder, delay, or defraud a creditor is
26 demonstrated by the allegations in this Third Amended Complaint, including
27 the following:
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1 a. Judy Dai was Wen’s mother and therefore an insider within
2 the meaning of Cal Civ. Code § 3439.04(b)(1). Paragraph 65.

3 b. Wen retained control over the assets transferred, including
4 because Judy Dai granted him power of attorney over the Judy Dai 2017
5 Trust UBS Account and he directed large wires on behalf of the Judy Dai
6 2017 Trust. Cal Civ. Code § 3439.04(b)(2). Paragraph 150-151 and 246-
7 247.

8 c. Wen failed to disclose the First Transfer on his REDACTED
9 REDACTED Cal Civ. Code § 3439.04(b)(3). Paragraph 233.

10 d. At the time of the First Transfer, Wen had been sued and
11 threatened with suit. Cal Civ. Code § 3439.04(b)(4). Paragraphs 234-
12 245.

13 e. At the time of the Second Transfer, Wen had been further
14 threatened with suit. Cal Civ. Code § 3439.04(b)(4). Paragraphs 234-245
15 and 248-249, 257-260.

16 f. Wen concealed significant assets from the Bureau for over a
17 year after entry of the TRO. Cal Civ. Code § 3439.04(b)(7). Paragraph
18 261-262.

19 g. Wen did not receive reasonably equivalent consideration in
20 exchange for the First or Second Transfer. Cal Civ. Code
21 § 3439.04(b)(8). Paragraphs 228 and 252.

22 h. At the time of the First and Second Transfers, or shortly
23 thereafter, Wen was insolvent as he faced millions of dollars in liability
24 to the Bureau and the States for their claims, which significantly
25 exceeded his assets at each of those times. Cal Civ. Code §
26 3439.04(b)(9). Paragraphs 229-232 and 253-256.

27 i. The First and Second Transfers occurred shortly before Wen
28 incurred substantial debt, including as the personal guarantor on at least

1 three of True Count’s payment processor accounts that collectively
2 received tens of millions of dollars in unlawfully obtained consumer fees
3 in violation of the CFPA, TSR, and UCL in the months after the First
4 Transfer. Cal Civ. Code § 3439.04(b)(10). Paragraphs 229-231, 241-245,
5 and 253-255.

6 372. The transfers described above should be adjudged fraudulent and
7 void to the extent necessary to satisfy any judgment for the Bureau or the
8 People of the State of California in this proceeding.

9 **COUNT XVI**

10 **By the People of the State of California**

11 **Avoidable Transfers under the California Uniform Voidable Transactions**

12 **Act, and by the Bureau (in the alternative),**

13 **Cal. Civ. Code §§ 3439.04(a)(2)**

14 **(Relief Defendant Judy Dai)**

15 373. The allegations in paragraphs 1-285 are incorporated by reference.

16 374. Wen’s liability to the Bureau and the States, jointly and severally
17 with other defendants in this action, exceeds \$100 million, including for
18 damages, restitution, disgorgement, and civil money penalties for violations of
19 the CFPA, TSR, and UCL. Counts I-III, V, VII, IX, XI, and XXII. These
20 Counts include harm to California consumers occurring before the First
21 Transfer. Thus, Wen is a “debtor” and the Bureau, and the People of the State
22 of California are “creditors” with a “claim” within the meaning of the UVTA.
23 Cal. Civ. Code § 3439.01(b), (c), (e).

24 375. As set forth in paragraphs 227-262, through the First and Second
25 Transfers, Wen transferred cash and investments directly or indirectly to Relief
26 Defendant Judy Dai (both individually and as a trustee of the Judy Dai 2017
27 Trust), who did not provide reasonably equivalent value to Wen in exchange for
28 the transfers.

1 376. At the time of the First and Second Transfers, Wen was engaged in
2 or about to engage in transactions for which the remainder of his assets were
3 unreasonably small, or Wen believed or reasonably should have believed that
4 he would incur debts beyond his ability to pay them, including because at the
5 time of each transfer his assets were worth far less than the tens of millions of
6 dollars in liabilities under the CFPB, TSR, and UCL, that he had incurred or
7 was about to incur, including based on personally guaranteeing CAC's and True
8 Count's merchant accounts as set forth in paragraphs 227-262, in violation of
9 Cal. Civ. Code § 3439.04(a)(2).

10 377. The transfers described above should be adjudged fraudulent and
11 void to the extent necessary to satisfy any judgment for the Bureau or the
12 People of the State of California in this proceeding.

13 **COUNT XVII**

14 **By the State of Minnesota**

15 **Prevention of Consumer Fraud Act**

16 **Minn. Stat. § 325F.69, et seq.**

17 **(The Student Loan Debt Relief Companies and Individual Defendants)**

18 378. The allegations in paragraphs 1-322 and 351-355 are incorporated
19 by reference.

20 379. Minnesota Statutes section 325F.69, subdivision 1 reads:

21 380. The act, use, or employment by any person of any fraud, false
22 pretense, false promise, misrepresentation, misleading statement or deceptive
23 practice, with the intent that others rely thereon in connection with the sale of
24 any merchandise, whether or not any person has in fact been misled, deceived,
25 or damaged thereby, is enjoined as provided in section 325F.70.

26 381. The term "merchandise" within the meaning of Minnesota Statutes
27 section 325F.69 includes services. See Minn. Stat. § 325F.68, subd. 2.
28

1 382. The term “person” includes “any natural person or legal
2 representative, partnership, corporation (domestic and foreign), company, trust,
3 business entity, or association, and any agent, employee, salesperson, partner,
4 officer, director, member, stockholder, associate, trustee, or cestui que thereof.”
5 Minn. Stat. § 325F.68, subd. 3. The Student Loan Debt Relief Companies and
6 Individual Defendants are “persons” within the meaning of the statute.

7 383. The Student Loan Debt Relief Companies and Individual
8 Defendants repeatedly violated Minnesota Statutes section 325F.69, subdivision
9 1, by engaging in the deceptive and fraudulent practices described in this
10 Complaint, with the intent that others rely thereon in connection with the sale of
11 their student loan debt relief services. This conduct includes, but is not limited
12 to:

13 a. Misrepresenting to consumers that the Student Loan Debt
14 Relief Companies could forgive consumers’ loans and otherwise
15 misrepresenting their ability to reduce or eliminate student loan debt;

16 b. Misrepresenting to consumers that the consumers were
17 “approved” for student loan relief, and otherwise misrepresenting their
18 ability to qualify borrowers for government programs;

19 c. Misrepresenting and falsely leading consumers to believe
20 that the Student Loan Debt Relief Companies would apply payments
21 made to it to consumers’ loans;

22 d. Misrepresenting and falsely leading consumers to believe
23 that fees paid by consumers reflected the adjusted amount of the
24 consumers’ periodic payments toward their outstanding loan balance;

25 e. Misrepresenting to consumers that the amount owed on their
26 student loans would be reduced;

27 f. Misrepresenting to consumers that their loans would be
28 forgiven in whole or in part following payment of the enrollment fees;

1 g. Misrepresenting to consumers that their monthly student
2 loan payment amount had been lowered for the life of the repayment
3 plan;

4 h. Misrepresenting to consumers that fees collected would be
5 held in trust accounts maintained by a third-party account provider until
6 the Student Loan Debt Relief Companies had performed certain services;

7 i. Misleading consumers to believe that the Student Loan Debt
8 Relief Companies were tied to or had a relationship with the federal
9 government or a particular federal debt relief plan;

10 j. Misrepresenting government programs and payment plan
11 terms to consumers; and

12 k. The other practices described in this Complaint.

13 384. Due to the deceptive and fraudulent conduct described in this
14 Complaint, Minnesota consumers made payments to Defendants for services
15 that they otherwise would not have purchased, thereby causing harm to those
16 consumers.

17 385. Defendants' conduct, practices, and actions described in this
18 Complaint constitute multiple, separate violations of Minnesota Statutes section
19 325F.69.

20 **COUNT XVIII**

21 **By the State of Minnesota**

22 **Uniform Deceptive Trade Practices Act**

23 **Minn. Stat. § 325D.43, et seq.**

24 **(The Student Loan Debt Relief Companies and Individual Defendants)**

25 386. The allegations in paragraphs 1-322, 351-355, and 378-385 are
26 incorporated by reference.

27 387. Minnesota Statutes section 325D.44, subdivision 1 provides, in
28 part that:

1 A person engages in a deceptive trade practice when, in the course of
2 business, vocation, or occupation, the person:

3 (2) causes likelihood of confusion or of misunderstanding as to the
4 source, sponsorship, approval, or certification of goods or services;

5 (5) represents that goods or services have sponsorship, approval,
6 characteristics, ingredients, uses, benefits, or quantities that they do not
7 have or that a person has a sponsorship, approval, status, affiliation, or
8 connection that the person does not have;

8 (7) represents that goods or services are of a particular standard [or]
9 quality . . . if they are of another;

10 (9) advertises goods or services with intent not to sell them as advertised;
11 [or]

12 (13) engages in any other conduct which similarly creates a likelihood of
13 confusion or of misunderstanding.

14 388. The Student Loan Debt Relief Companies and Individual
15 Defendants are “persons” within the meaning of the statute.

16 389. The Student Loan Debt Relief Companies and Individual
17 Defendants repeatedly violated Minnesota Statutes section 325D.44,
18 subdivision 1, by, in the course of business, engaging in the deceptive and
19 fraudulent practices described in this Complaint that caused a likelihood of
20 confusion or of misunderstanding among consumers in connection with the sale
21 of Defendants’ student loan debt relief services, including by making false,
22 deceptive, fraudulent, and/or misleading representations to consumers regarding
23 its advertised services. These practices include but are not limited to:

24 a. Misrepresenting to consumers that the Student Loan Debt
25 Relief Companies could forgive consumers’ loans and otherwise
26 misrepresenting their ability to reduce or eliminate student loan debt;

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1 b. Misrepresenting to consumers that the consumers were
2 “approved” for student loan relief, and otherwise misrepresenting their
3 ability to qualify borrowers for government programs;

4 c. Misrepresenting and falsely leading consumers to believe
5 that the Student Loan Debt Relief Companies would apply payments
6 made to it to consumers’ loans;

7 d. Misrepresenting and falsely leading consumers to believe
8 that fees paid by consumers reflected the adjusted amount of the
9 consumers’ periodic payments toward their outstanding loan balance;

10 e. Misrepresenting to consumers that the amount owed on their
11 student loans would be reduced;

12 f. Misrepresenting to consumers that their loans would be
13 forgiven in whole or in part following payment of the enrollment fees;

14 g. Misrepresenting to consumers that their monthly student
15 loan payment amount had been lowered for the life of the repayment
16 plan;

17 h. Misrepresenting to consumers that fees collected would be
18 held in trust accounts maintained by a third-party account provider until
19 the Student Loan Debt Relief Companies had performed certain services;

20 i. Misleading consumers to believe that the Student Loan Debt
21 Relief Companies were tied to or had a relationship with the federal
22 government or a particular federal debt relief plan;

23 j. Misrepresenting government programs and payment plan
24 terms to consumers; and

25 k. The other practices described in this Complaint.

26 390. Due to the deceptive and fraudulent conduct described in this
27 Complaint, Minnesota consumers made payments to Defendants for services
28

1 that they otherwise would not have purchased, thereby causing harm to those
2 consumers.

3 391. Defendants’ conduct, practices, and actions described in this
4 Complaint constitute multiple, separate violations of Minnesota Statutes section
5 325D.44.

6 **Count XIX**

7 **By the State of North Carolina**

8 **North Carolina Debt Adjusting Act**

9 **N.C. Gen. Stat. § 14-423, et seq.**

10 **(The Student Loan Debt Relief Companies and Individual Defendants)**

11 392. The allegations in paragraphs 1-322 and 351-357 are incorporated
12 by reference.

13 393. The Student Loan Debt Relief Companies engaged in illegal “debt
14 adjusting” as that term is defined in Article 56 of Chapter 14 of the North
15 Carolina General Statutes. Specifically, N.C. Gen. Stat. § 14-423(2) defines
16 “debt adjusting” as any of the following:

17 “Debt adjusting” means entering into or making
18 a contract, express or implied, with a particular debtor
19 whereby the debtor agrees to pay a certain amount of
20 money periodically to the person engaged in the debt
21 adjusting business and that person, for consideration,
22 agrees to distribute, or distributes the same among
23 certain specified creditors in accordance with a plan
24 agreed upon.

25 Debt adjusting includes the business or practice
26 of any person who holds himself out as acting or
27 offering or attempting to act for consideration as an
28 intermediary between a debtor and his creditors for the
purpose of settling, compounding, or in any way
altering the terms of payment of any debt of a debtor,
and to that end receives money or other property from
the debtor, or on behalf of the debtor, for the payment
to, or distribution among, the creditors of the debtor.

Debt adjusting also includes the business or
practice of debt settlement . . . whereby any person
holds himself or herself out as acting for consideration
as an intermediary between a debtor and the debtor’s
creditors for the purpose of reducing, settling, or

1 altering the terms of the payment of any debt of the
2 debtor, whether or not the person distributes the
3 debtor's funds or property among the creditors, and
4 receives a fee or other consideration for reducing,
5 settling, or altering the terms of the
6 payment of the debt in advance of the debt settlement
7 having been completed or in advance of all the services
8 agreed to having been rendered in full.

9 394. Debt adjusting is prohibited by N.C. Gen. Stat. § 14-424, which
10 provides that “[i]f any person shall engage in, or offer to or attempt to, engage
11 in the business or practice of debt adjusting, or if any person shall hereafter act,
12 offer to act, or attempt to act as a debt adjuster, he shall be guilty of a Class 2
13 misdemeanor.”

14 395. The Student Loan Debt Relief Companies and Individual
15 Defendants’ offering and purported rendering of debt adjusting services was in
16 violation of North Carolina’s debt adjusting statute.

17 396. The Student Loan Debt Relief Companies have entered into
18 contracts with North Carolina student loan debtors whereby the debtors agreed
19 to pay certain amounts of money periodically to the Student Loan Debt Relief
20 Companies, and the Student Loan Debt Relief Companies, for consideration,
21 represented or implied that they would distribute debtors’ money among
22 debtors’ student loan servicers or lenders and/or DOE in accordance with a plan
23 agreed upon.

24 397. The Student Loan Debt Relief Companies and Individual
25 Defendants have engaged in the business or practice of holding themselves out
26 as acting or offering or attempting to act for consideration, as an intermediary
27 between North Carolina student loan debtors and their servicers or lenders
28 and/or DOE for the purpose of settling, compounding, or altering the terms of
payment of the student loan debts of the debtors, and to that end received
money from the debtors, or on behalf of the debtors, for the payment to, or
distribution among, the student loan creditors of the debtors.

1 unfair and deceptive acts and practices in trade or commerce in violation of
2 N.C. Gen. Stat. § 75-1.1.

3 402. The Student Loan Debt Relief Companies were engaged in trade or
4 commerce in the State of North Carolina.

5 403. The Student Loan Debt Relief Companies' unfair or deceptive acts
6 and practices include, but are not limited to, the following:

7 404. Engaging in violations of the TSR, as set forth supra, which are
8 specifically prohibited by 16 C.F.R. Part 310;

9 405. Engaging in illegal debt adjusting activities, as set forth supra,
10 which are specifically prohibited by N.C. Gen. Stat. 14-423, et seq.;

11 406. Failing to register as a telephonic seller under North Carolina's
12 Telephonic Seller Registration Act, N.C. Gen. Stat §§ 66-260 and 66-261, as set
13 forth infra; and

14 407. Making deceptive and misleading representations to consumers,
15 including but not limited to:

16 a. Misrepresenting to consumers that the Student Loan Debt
17 Relief Companies could forgive consumers' loans and otherwise
18 misrepresenting the Student Loan Debt Relief Companies' ability to
19 reduce or eliminate student loan debt;

20 b. Misrepresenting to consumers that the consumers were
21 "approved" for student loan relief, and otherwise misrepresenting their
22 ability to qualify borrowers for government programs;

23 c. Misrepresenting and falsely leading consumers to believe
24 that the Student Loan Debt Relief Companies would apply payments
25 made to the Student Loan Debt Relief Companies and Payment
26 Companies to the consumers' outstanding loans;

1 d. Misrepresenting and falsely leading consumers to believe
2 that fees paid by consumers reflected the adjusted amount of the
3 consumers' periodic payments toward their outstanding loan balance;

4 e. Misrepresenting to consumers that the amount owed on their
5 student loans would be reduced if students signed up for the Student
6 Loan Debt Relief Companies' services;

7 f. Misrepresenting to consumers that their loans would be
8 forgiven in whole or in part shortly after enrolling in the Student Loan
9 Debt Relief Companies' services;

10 g. Misrepresenting to consumers that their monthly student
11 loan payment amount had been lowered for the life of the repayment
12 plan;

13 h. Misrepresenting that consumers were eligible or approved
14 for lower monthly payments, including where such payment amounts had
15 been calculated based on an incorrect family size, income, or marital
16 status;

17 i. Misrepresenting to consumers that fees collected would be
18 held in trust accounts maintained by a third-party account provider until
19 the Student Loan Debt Relief Companies had performed certain services;

20 j. Misrepresenting to consumers that TAS was an independent
21 third-party provider of dedicated customer accounts;

22 k. Misleading consumers to believe that the Student Loan Debt
23 Relief Companies were tied to or had a relationship with the federal
24 government or a particular federal debt relief plan;

25 l. Failing to inform consumers that it was their practice to
26 submit false information about consumers' income, family size, and
27 marital status on loan adjustment applications in order to try to qualify
28 consumers for lower monthly payments;

1 m. Misrepresenting government programs and payment plan
2 terms to consumers; and

3 n. The other practices described in this Third Amended
4 Complaint.

5 408. The Attorney General is authorized to seek an injunction against
6 Defendants' practices under N.C. Gen. Stat. § 75-14, the restoration of any
7 moneys obtained by Defendants from North Carolina consumers as well as the
8 cancellation of Defendants' contracts with North Carolina consumers under
9 N.C. Gen. Stat. § 75-15.1, civil penalties under N.C. Gen. Stat. § 75-15.2, and
10 attorneys' fees under N.C. Gen. Stat. § 75-16.1.

11 **Count XXI**

12 **By the State of North Carolina**

13 **North Carolina Telephonic Seller Registration Act**

14 **N.C. Gen. Stat. § 66-260**

15 **(The Student Loan Debt Relief Companies and Individual Defendants)**

16 409. The allegations in paragraphs 1-322, 351-357, and 392-408 are
17 incorporated by reference.

18 410. North Carolina's Telephonic Seller Registration Act, N.C. Gen.
19 Stat §§ 66-260 and 66-261, requires any non-exempt person engaged in
20 telephonic solicitations directed to North Carolina consumers to: (a) register
21 with the North Carolina Secretary of State not less than 10 days before
22 commencing telephone solicitations; (b) provide specified information on a
23 form provided by the Secretary of State that contains the notarized signature of
24 each principal of the telephonic seller; and (c) pay a \$100.00 filing fee.

25 411. Pursuant to N.C. Gen. Stat. § 66-261(c), a registration of a
26 telephonic seller is valid for one year from the effective date of the provision of
27 all required information, and may be renewed annually by making the filing
28 required by N.C. Gen. Stat. § 66-262, and paying the filing fee of \$100.00.

1 412. Each of the Student Loan Debt Relief Companies was a
2 “telephonic seller” as defined in N.C. Gen. Stat. § 66-260(11), as the Student
3 Loan Debt Relief Companies caused directly, or through employees or agents,
4 telephone solicitations or attempted telephone solicitations to occur, and the
5 Student Loan Debt Relief Companies are not exempt from the Act.

6 413. The Student Loan Debt Relief Companies engaged in violations of
7 the Telephonic Seller Registration Act, N.C. Gen. Stat. § 66-260, et seq., by
8 failing to register with the North Carolina Secretary of State as a telephonic
9 seller; by failing to provide the North Carolina Secretary of State with the
10 information mandated by N.C. Gen. Stat. § 66-262; by failing to pay the filing
11 fee of \$100.00; and by failing to register in each year the Student Loan Debt
12 Relief Companies engaged in telephonic solicitations.

13 414. N.C. Gen. Stat. § 66-266(a) provides that any violation of the
14 Telephonic Seller Registration Act “shall constitute an unfair and deceptive
15 trade practice in violation of N.C. Gen. Stat. §75-1.1.”

16 415. N.C. Gen. Stat. § 66-266(c) further provides that the remedies and
17 penalties available under the section “shall be supplemental to others available
18 under the law, both civil and criminal.”

19 416. Pursuant to N.C. Gen. Stat. §§ 66-266(b), in an action by the
20 Attorney General against a telephonic seller for violation of the Telephonic
21 Seller Registration Act, or for any other act or practice by a telephonic seller
22 constituting a violation of N.C. Gen. Stat. § 75-1.1, the court may impose civil
23 penalties of up to \$25,000 for each violation involving North Carolina
24 purchasers or prospective purchasers who are 65 years of age or older.
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Count XXII

By the People of the State of California
California Unfair Competition Law
Cal. Bus. & Prof. Code § 17200 et seq.
(All Defendants and Relief Defendants)

417. The People of the State of California re-allege and incorporate herein paragraphs 1 through 350 of this Complaint.

418. California’s UCL, Business and Professions Code section 17200, prohibits any “unlawful, unfair or fraudulent business act[s] or practice[s].” Cal. Bus. & Prof. Code § 17200.

419. Section 17203 of the UCL provides that “(a)ny person performing or proposing to perform an act of unfair competition within this state may be enjoined in any court of competent jurisdiction.” Section 17203 also permits recovery of any “interest in money or property, real or personal” acquired by a violation of the UCL. Cal. Bus. & Prof. Code § 17203.

420. Section 17206, subdivision (a), of the UCL provides that any person violating Section 17200 “shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each violation, which shall be assessed and recovered in a civil action brought in the name of the [P]eople of the State of California . . . by any city attorney of a city having a population in excess of 750,000,” thereby authorizing the City Attorney of Los Angeles, which has a population in excess of 750,000, to bring such an action. Cal. Bus. & Prof. Code § 17206.

421. Under the UCL’s Section 17205, these remedies and penalties are “cumulative to each other and to the remedies or penalties available under all other laws of this state.” Cal. Bus. & Prof. Code § 17205.

422. Defendants are all “persons” within the meaning of the UCL. Cal. Bus. & Prof. Code § 17201.

1 423. “Unlawful” acts or practices, “unfair” acts or practices, and
2 “fraudulent” acts or practices each independently violate Section 17200.
3 Beginning no later than 2015, and continuing to the filing of this action,
4 Defendants, and each of them, have repeatedly violated the UCL by engaging in
5 “unlawful, unfair, or fraudulent business act[s] or practice[s]” with the sale of
6 their purported student loan debt settlement services. Cal. Bus. & Prof. Code §
7 17200. These violations include, but are not limited to:

8 a. Violating the UCL through the following unlawful acts or
9 practices committed against California consumers, including in the City
10 and County of Los Angeles:

11 i. As to the Student Loan Debt Relief Companies and
12 Individual Defendants, violating California Financial Code §
13 12000 et seq., the California Check Sellers, Bill Payers and
14 Proraters Law, by acting as a check seller, bill payer, or prorater
15 without first obtaining a license from the California Commissioner
16 of Business Oversight. Cal. Fin. Code § 12200;

17 1. As alleged in this Complaint, including but not
18 limited to in paragraphs 8-285, California consumers
19 provided funds to Defendants based upon assurances and
20 representations that Defendants would assist them in
21 reducing or otherwise managing their student loan debts
22 and/or negotiate with their creditors and distribute payments.

23 2. At all relevant times, the Student Loan Debt
24 Relief Companies and Individual Defendants were not
25 licensed by the California Corporations Commissioner as
26 required by Financial Code § 12000 et seq.

27 ii. As to the Student Loan Debt Relief Companies and
28 Individual Defendants, violating California Financial Code section

1 28100, et seq., the California Student Loan Servicing Act, which
2 requires Student Loan Servicers to be licensed to lawfully operate,
3 by engaging in the business of servicing student loans in California
4 without obtaining a license as required under the Act;

5 1. The Student Loan Debt Relief Companies and
6 Individual Defendants are “persons” under the Student Loan
7 Servicing Act. Cal. Fin. Code § 28104, subd. (j).

8 2. As alleged in this Complaint, including but not
9 limited to in paragraphs 8-285, the Student Loan Debt Relief
10 Companies and Individual Defendants have engaged in the
11 business of servicing student loans in California. Cal. Fin.
12 Code § 28104, subs. (f), (g), (l), (m), (n).

13 3. The Student Loan Debt Relief Companies and
14 Individual Defendants never obtained a license to service
15 student loans as required under the California Student Loan
16 Servicing Act. Cal. Fin. Code § 28102, subd. (a).

17 iii. As to all Defendants, violating the Telemarketing
18 Sales Rule (“TSR”), which is specifically set forth in 16 C.F.R.
19 Part 310, as set forth in this Complaint, including but not limited to
20 in paragraphs 8-322 (Count I (Advance Fees in Violation of the
21 TSR – Enrollment Fees), Count II (Advance Fees in Violation of
22 the TSR – Monthly Fees), Count III (Misrepresentations About
23 Material Aspects of Their Services in Violation of the TSR) (The
24 Student Loan Debt Relief Companies and Individual Defendants),
25 Count IV (Misrepresentations About Material Aspects of Their
26 Services in Violation of the TSR) (True Count, Prime, and TAS),
27 Count V (Substantial Assistance in Violation of the TSR)
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1 (Individual Defendants), and Count VI (Substantial Assistance in
2 Violation of the TSR) (Payment Companies)).

3 iv. As to all Defendants, violating the Consumer
4 Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531 et
5 seq., as set forth in this Complaint, including but not limited to in
6 paragraphs 8-285 and paragraphs 323-350 (Count VII (CFPA –
7 Deception) (The Student Loan Debt Relief Companies and
8 Individual Defendants), Count VIII (CFPA – Deception) (True
9 Count, Prime, and TAS), Count IX (Substantial Assistance in
10 Violation of the CFPA) (Individual Defendants), Count X
11 (Substantial Assistance in Violation of the CFPA) (Payment
12 Companies), and Count XI (CFPA Violation Based on Violation of
13 TSR)).

14 v. As to the Relief Defendants, by receiving, directly or
15 indirectly, funds or other assets from Defendants that are traceable
16 to funds obtained from consumers through the deceptive and
17 unlawful practices as set forth in this Complaint, without having
18 legal or equitable title to funds or other assets received from
19 Defendants as bona fide purchasers, and/or in violation of the
20 Federal Debt Collection Procedure Act, U.S.C. Code section 3304
21 and the California Uniform Voidable Transactions Act, Cal. Civil
22 Code section 3439 et seq. and as further alleged in paragraphs 8-
23 285 and paragraphs 351-355 (Count XII).

24 b. The Student Loan Debt Relief Companies and Individual
25 Defendants also violated the UCL through the following unlawful,
26 fraudulent and/or unfair acts or practices committed against California
27 consumers, including consumers in the City and County of Los Angeles:
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1 i. Misrepresenting to consumers that Defendants could
2 forgive consumers’ loans and otherwise misrepresenting
3 Defendants’ ability to reduce or eliminate student loan debt;

4 ii. Misrepresenting to consumers that the consumers
5 were “approved” for student loan relief, and otherwise
6 misrepresenting their ability to qualify borrowers for government
7 programs;

8 iii. Misrepresenting and falsely leading consumers to
9 believe that Defendants would apply payments made to Defendants
10 to the consumers’ outstanding loans;

11 iv. Misrepresenting and falsely leading consumers to
12 believe that fees paid by consumers reflected the adjusted amount
13 of the consumers’ periodic payments toward their outstanding loan
14 balance;

15 v. Misrepresenting to consumers that the amount owed
16 on their student loans would be reduced if students signed up for
17 Student Loan Debt Relief Companies’ services;

18 vi. Misrepresenting to consumers that their loans would
19 be forgiven in whole or in part shortly after enrolling in Student
20 Loan Debt Relief Companies’ services;

21 vii. Misrepresenting to consumers that their monthly
22 student loan payment amount had been lowered for the life of the
23 repayment plan;

24 viii. Misrepresenting that consumers were eligible or
25 approved for lower monthly payments, including where such
26 payment amounts had been calculated based on an incorrect family
27 size, income, or marital status;

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1 ix. Misrepresenting to consumers that fees collected
2 would be held in trust accounts maintained by a third-party account
3 provider until the Student Loan Debt Relief Companies had
4 performed certain services;

5 x. Misleading consumers to believe that the Student
6 Loan Debt Relief Companies are tied to or have a relationship with
7 the federal government or a particular federal debt relief plan;

8 xi. Failing to inform consumers that it was their practice
9 to submit false information about consumers’ income, family size,
10 and marital status on loan adjustment applications in order to try to
11 qualify consumers for lower monthly payments;

12 xii. Misrepresenting government programs and payment
13 plan terms to consumers; and

14 xiii. The other practices described in this Complaint.

15 424. Due to the deceptive and fraudulent conduct described in this
16 Complaint, California consumers made payments to Defendants for services
17 that they otherwise would not have purchased, thereby causing harm to those
18 consumers.

19 425. Defendants’ conduct, practices, and actions described in this
20 Complaint constitute multiple, separate violations of California Business and
21 Professions Code section 17200.

22 **DEMAND FOR RELIEF**

23 426. WHEREFORE, the Bureau and the States request, under 12 U.S.C.
24 §§ 5538(a), 5565(a); 28 U.S.C. § 3306; Cal. Civ. Code § 3439.07; Minn. Stat.
25 §§ 8.31, 325D.45, and 325F.70; the State of Minnesota’s common law
26 authority, including *parens patriae* authority; N.C. Gen. Stat. §§ 14-424, 75-14,
27 75-15.1, 75-16.1, and 66-266; and Cal. Bus. & Prof. Code §§ 17200 et seq., and
28

1 the Court's equitable and ancillary authority to protect and enforce federal
2 judgments, that the Court:

3 a. award the Bureau and the States such preliminary and
4 injunctive and ancillary relief as may be necessary to avert the likelihood
5 of consumer injury during the pendency of this action, including but not
6 limited to a temporary and preliminary injunction, an order freezing
7 assets, immediate access to business premises, and appointment of a
8 Receiver against Defendants and Relief Defendants;

9 b. permanently enjoin Defendants from committing future
10 violations of the TSR, the CFPA, the MNCFA, the MNDTPA, the
11 NCDA, the NCUDPA, the NCTSR, and the UCL, and enter such
12 other injunctive relief as appropriate;

13 c. permanently enjoin Defendants from the advertisement,
14 marketing, promotion, offering for sale, or selling of any consumer-
15 financial product or service, including but not limited to any debt relief
16 service;

17 d. grant additional injunctive relief as the Court may deem to
18 be just and proper;

19 e. award damages and other monetary relief against
20 Defendants and Relief Defendants as the Court finds necessary to redress
21 injury to consumers resulting from Defendants' violations of the CFPA,
22 the TSR, the FDCPA, the MNCFA, the MNDTPA, the NCDA, the
23 NCUDPA, the NCTSR, and the California UVTA, including but not
24 limited to rescission or reformation of contracts, the refund of monies
25 paid, restitution, disgorgement or compensation for unjust enrichment;

26 f. award restitution against Defendants and Relief Defendants
27 as the Court finds necessary to redress injury to consumers resulting from
28 Defendants' violations of the UCL;

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KEITH ELLISON
Attorney General of Minnesota

/s/ Evan S. Romanoff

Evan S. Romanoff (admitted *pro hac vice*)
Assistant Attorney General

*Attorney for the State of Minnesota,
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*Attorney for the People of the State of
California*

I, Sarah Preis, attest that all other signatories listed, and on whose behalf the filing is submitted, concur in the filing’s content and have authorized the filing.

/s/ Sarah Preis

Sarah Preis