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19 **UNITED STATES DISTRICT COURT**
20 **NORTHERN DISTRICT OF CALIFORNIA**
21 **SAN FRANCISCO DIVISION**

22 Consumer Financial Protection
23 Bureau,

24 Plaintiff,

25 v.

26 Freedom Debt Relief, LLC and
27 Andrew Houser,

28 Defendants.

Case No. 3:17-cv-6484-EDL

**DECLARATION OF LAWRENCE D.
BROWN IN OPPOSITION TO
DEFENDANTS' MOTION TO STAY**

Judge: Hon. Elizabeth D. Laporte

Date: January 16, 2018

Time: 9:00 a.m.

Courtroom: E, 15th Floor

1 I, Lawrence D. Brown, declare:

2
3 1. I am a counsel of record for the Consumer Financial Protection
4 Bureau (Bureau), the plaintiff in this matter. I am competent to make this
5 declaration. The facts set forth in this declaration are based on my personal
6 knowledge or information made known to me in the course of my official duties.

7
8 2. I was personally involved in the investigation that uncovered the
9 practices set forth in the Bureau's Complaint against defendants Freedom Debt
10 Relief, LLC (Freedom) and Andrew Housser as well as in pre-filing settlement
11 negotiations with counsel for defendants.

12
13 3. Negotiations commenced on September 26, 2017, when the Bureau
14 presented proposed settlement terms to defense counsel. Bureau counsel
15 subsequently had telephone calls with defense counsel to discuss settlement on
16 October 2, October 9, October 12, October 20, October 23, and November 1, 2017.

17
18 4. In addition to these telephonic discussions, the Bureau and defense
19 counsel exchanged multiple emails during this period conveying offers and
20 counter-offers.

21
22 5. Ultimately, on November 8, 2017, after six weeks of negotiation
23 without any meaningful progress on the material terms of a settlement, the
24 Bureau filed the Complaint.

25
26 6. On January 31, 2017, the Bureau issued a civil investigative demand
27 (CID) to Freedom that included an interrogatory requiring Freedom to identify
28 creditors having policies against negotiating with Freedom and other debt-
settlement companies. On February 23, 2017, Freedom's counsel sent a letter to
the Bureau representing that Freedom "does not know the corporate policies of
creditors with respect to negotiating with debt settlement companies" and

1 therefore could not respond to the Bureau's request. The Bureau relied on this
2 representation to modify the interrogatory in the CID.

3 7. On July 26, 2017, the Bureau conducted an investigational hearing of
4 Freedom. Freedom designated Andrew Houser to testify on its behalf. In
5 response to questioning by me at the hearing, Defendant Houser testified that
6 he was aware of certain creditors that had taken the position that they would not
7 negotiate with debt-settlement companies, including Chase, Macy's, American
8 Express, and maybe Discover. Attached hereto as Exhibit 1 are true and correct
9 redacted copies of transcript excerpts containing the above-referenced sworn
10 testimony of Andrew Houser.

11 8. In response to the Bureau CID issued on January 31, 2017, Freedom
12 produced a document appearing to be a form email sent to Freedom customers
13 stating, "The purpose of this email is to request your assistance to negotiate a
14 settlement on your Chase account. At this time, Chase has a policy of direct client
15 involvement when settling an account." The document includes "some tips to
16 pursue settlement of your Chase account[s]," including how much to offer, how
17 to pay, how to negotiate through various scenarios, and an admonition not to
18 mention "enrollment with the Freedom Debt Relief [because] (they will assume
19 we coached you and less likely to give you a good offer)." A true and correct
20 copy of this document and accompanying "Certificate of Compliance -
21 Documents" is attached hereto as Exhibit 2.

22 9. At the July 26, 2017 investigational hearing, in response to
23 questioning by me, Defendant Houser testified that in some instances Freedom
24 needed to get customers on the phone directly with Chase to negotiate
25 settlements of their debts and in such circumstances Freedom provided coaching
26 to the customers. Attached hereto as Exhibit 3 is a true and correct copy of a
27

1 transcript excerpt containing the above-referenced sworn testimony of Andrew
2 Houser.

3 10. The CID the Bureau issued on January 31, 2017 included report
4 requests intended to obtain data regarding the number of consumers who
5 received coaching from Freedom and the total fees paid by those consumers. On
6 February 9 and 14, 2017, I participated in meet-and-confer telephone calls
7 regarding the CID with Freedom's counsel. In those calls, Freedom's counsel
8 denied that Freedom could conduct a system search to identify instances where
9 consumers negotiated their own debt settlements (with only "coaching" from
10 Freedom) – so-called "coached settlements." In the follow-up letter requesting
11 modification of the CID, dated February 23, 2017, Freedom's counsel wrote,
12 "Freedom's records are not maintained in a manner that will permit a systems
13 search to easily identify instances in which consumers were involved in
14 settlement negotiations." Instead, Freedom proposed a manual review of a
15 sample of files. The Bureau relied upon this representation to accept estimates
16 from Freedom, rather than automated reports.

17 11. A company email subsequently produced by Freedom in response to
18 an April 27, 2017 Bureau CID contained the following in the subject line:
19 "coaching total for the year [redacted number]/ [redacted number] a week." The
20 email states, "We have a total for the year of [redacted number] coaching
21 settlements close idea it would be around [redacted number] accounts per
22 week[.]" The email continues, "I have ran [sic] a report on the biggest coaching
23 creditors we have: Chase, Amex, Macy s [sic] . . . Synchrony. The base report I
24 used for these numbers are saved to the review folder" The email contains a
25 list of 35 "creditors" with entities bearing the above company names. Across
26 from the list of creditors is a column of numbers corresponding to each creditor,
27 with a total "year to date" amount at the bottom. A true and correct redacted
28

1 copy of this document and accompanying "Certificate of Compliance -
2 Documents," is attached hereto as Exhibit 4.

3 12. At the July 26, 2017 Bureau investigational hearing, Housser testified
4 in response to questioning by me:

- 5 a. that it was Freedom's policy to prefer to use National Litigation
6 Law Group (NLLG) or client involvement for certain creditors;
7 b. that NLLG is a law firm used by Freedom to assist clients in debt-
8 settlement negotiations;
9 c. that not all consumer accounts with Chase, Discover, and
10 American Express were referred to NLLG for resolution;
11 d. that client-coached settlements continue, though they amount to
12 an increasingly small minority of all Freedom settlements; and
13 e. that Freedom has not stopped enrolling consumers having
14 accounts with creditors who have taken the position that they will
15 not negotiate with debt-settlement companies.

16 13. Attached hereto as Exhibit 5 are true and correct redacted copies of
17 transcript excerpts containing the above-referenced sworn testimony of Andrew
18 Housser.

19
20 I declare under penalty of perjury that the foregoing is true and correct.

21 Executed on December 26, 2017.

22
23 /s/ Lawrence D. Brown

24 Lawrence D. Brown

25 Attorney for Plaintiff

26 Consumer Financial Protection Bureau