

TESTIMONY OF
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BEFORE THE

COMMITTEE ON FINANCIAL SERVICES
UNITES STATES HOUSE OF REPRESENTATIVES

AT A HEARING ENTITLED,
“EXAMINING LEGISLATION TO PROTECT CONSUMER AND
SMALL BUSINESS OWNER FROM ABUSIVE DEBT
COLLECTION PRACTICES”

SEPTEMBER 26, 2019

Chairwoman Waters, Ranking Member McHenry, and House Financial Services Committee Members:

Thank you for inviting me to testify about the work of the credit and collection industry. This is a very important time for consumers and debt collectors in the wake of the Bureau's landmark release of the first ever proposal for rules implementing the Fair Debt Collection Practices Act (FDCPA). The credit and collection industry has been seeking clear regulatory guidance on the FDCPA since its enactment in 1977. Industry supported regulation in 1977 and industry supports clear, fair regulation today. The Federal Trade Commission (FTC), the previous primary agency with jurisdiction over the debt collection industry, did not have rulemaking authority under the FDCPA. As a result, this lack of regulatory guidance in conjunction with Congress's failure to update the statute has resulted in outdated requirements and a patchwork of interpretations of the FDCPA by courts throughout the country. The absence of clear regulation has also given birth to a cottage industry of consumer attorneys who have done little to protect consumers. Dodd Frank gave the CFPB rulemaking authority. The Bureau's proposal for implementing the FDCPA, although flawed in many respects, is an important step forward in providing much needed clarity to the financial services marketplace, including consumers.

I have been practicing law in Georgia for over 20 years. My practice focuses on representing debt collectors, asset buyers, creditors, and attorneys. I help clients stay in compliance with the myriad of federal and state laws regulating their businesses. I also defend civil litigation and investigations brought by consumers and by government. In my role as managing attorney at Bedard Law Group, I am a recognized authority on the FDCPA and the Fair Credit Reporting Act. I am also a former member of the Board of Directors of the industry's leading professional trade

organization, ACA International, The Association of Credit and Collection Professionals. I serve as the State of Georgia Compliance Chairperson for ACA International and am a former Chairperson and Program Designation award recipient of ACA International's Members Attorney Program. I travel the country auditing the compliance practices of debt collectors and educating them on the requirements of consumer financial laws.

Debt collectors play a critical role in ensuring that consumers can continue to access credit and services. A healthy connection between debt collectors and consumers increases access to credit. It encourages the local appliance store to sell that washing machine on terms. It encourages the local dentist to provide those braces on the promise of future payment. And it gives comfort to the auto mechanic that they will be paid tomorrow for their repairs today.

I have seen firsthand the problems a lack of clear regulatory guidance can create for both consumers and industry, and the CFPB has at times exacerbated these problems through unfair and agenda driven enforcement actions. Regulation by enforcement is wrong. It is unlawful. It is happening today, and it needs to stop. To fulfill its statutory mission and obligations properly, the Bureau must first articulate rules, and then strictly adhere to fair, clear, and transparent enforcement practices. I have represented clients and personally observed the Bureau's actions fall short of these standards. Many targets of Bureau enforcement actions have experienced one-sided Bureau interpretations of the law and are often pressured into onerous settlement terms which impose obligations well beyond legal requirements, just to avoid the extreme costs associated with disrupting business operations and defending the allegations.

The conveniences of modern technology can no longer be ignored. The Bureau's proposal appropriately acknowledges the need to bridge the

communication gap between consumers and debt collectors. There can be little dispute that clear, fair regulation of the collection industry helps consumers and industry. The Bureau's proposal gives unconditional control to consumers over the communication methods used by debt collectors. This control gives consumers unprecedented power over the debt collection process while at the same time building a stronger technology bridge between consumers and debt collectors.

Thank you again for the opportunity to appear before this Committee today. I look forward to answering your questions.