

4. Defendant James Perkins (Perkins) was and is an employee and sales person at Defendant Freedom Debt. His actions were either expressly or implicitly endorsed by Defendant Freedom Debt.

5. Defendant Perkins directly participates in the activities of Freedom Debt pursuant to 18 U.S.C. 1962(c) and N.J.S.A. 2C:41-2(b).

6. Defendant David Doyle (Doyle) was and is an employee and salesperson at Defendant Freedom Debt. His actions were either expressly or implicitly endorsed by Defendant Freedom Debt.

7. Defendant Doyle directly participates in the activities of Freedom Debt pursuant to 18 U.S.C. 1962(c) and N.J.S.A. 2C:41-2(b) as described below.

8. Defendant Colby R. Gaskey is the president of Freedom Debt and is personally responsible for the acts of the enterprise and its employees pursuant to 18 U.S.C. 1962(c) and N.J.S.A. 2C:41-2(b).

9. Defendant Colby R. Gaskey participates directly in the conduct of the activities of Freedom Debt as related to the issues raised by the plaintiffs.

10. Defendant Colby R. Gaskey's participation was through the same pattern of racketeering activity described below.

11. Defendant Rocky Mountain Bank & Trust ("Rocky Mountain Bank") is an FDIC non-member bank with a principal place of business address of 101 E. Main, Florence, Colorado 81226. Rocky Mountain Bank may be served with process through its registered agent, Douglas L. McClure, 755 Cheyenne Meadows, Colorado Springs, Colorado 80906.

12. Defendant Douglas L. McClure is the president of Rocky Mountain Bank and is personally responsible for the acts of the enterprise and its employees pursuant to 18 U.S.C. 1962(c) and N.J.S.A. 2C:41-2(b).

13. Defendant Douglas L. McClure participates directly in the conduct of the activities of Rocky Mountain Bank as related to the issues raised by the plaintiffs.

14. Defendant Douglas L. McClure's participation was through the same pattern of racketeering activity described below.

15. Defendant Defendant Global Client Solutions, LLC ("Global") is a Limited Liability Corporation located in Tulsa, Oklahoma and is an agent of Defendant Rocky Mountain Bank. Global's principal place of business is 4500 S. 129th East Ave., Suite 175, Tulsa, Oklahoma, 74134. Global may be served with process through its registered agent, Timothy Merrick, 9820 E. 41st St., Suite 400, Tulsa, Oklahoma 74146.

16. Defendant Michael Hendrix is the president of Global and is personally responsible for the acts of the enterprise and its employees pursuant to 18 U.S.C. 1962(c) and N.J.S.A. 2C:41-2(b).

17. Defendant Michael Hendrix participates directly in the conduct of the activities of Global as related to the issues raised by the plaintiffs.

18. Defendant Michael Hendrix's participation was through the same pattern of racketeering activity described below.

FACTUAL BACKGROUND

19. Defendant Freedom Debt operates an enterprise offering to assist consumers in debt to eliminate their debt by participating in a program that attempts to negotiate reduced payoffs in settlement of the debts.

20. Defendant Freedom Debt presented a television commercial also known as an “infomercial” that promised consumers that it would eliminate their debt in one to three years.

21. Plaintiffs Perry and Lori Mugno responded to the commercial and called defendant Freedom Debt.

22. At the time of the initial call, Perry and Lori Mugno had a very good credit rating with few late and no missed payments.

23. During the initial telephone conversation, Defendant Perkins told Mr. Mugno that Defendant Freedom Debt would reduce his and Mrs. Mugno’s credit card debts by fifty percent or more.

24. Defendant Perkins told Mr. Mugno that after joining the program he should stop making payments to his creditors and make payments only to Defendant Freedom Debt.

25. Perry Mugno told Defendant Perkins repeatedly that he did not want to lose his good credit rating and Defendant Perkins told Perry Mugno that he and Lori Mugno would maintain the same rating as long as they completed the program.

26. Approximately two weeks after the initial inquiry, Defendant Doyle told Perry Mugno that his credit rating would not decline if Perry and Lori Mugno signed up for Defendant Freedom Debt’s debt settlement services.

27. Defendant Doyle told Perry Mugno that he would not receive harassing telephone calls from credit card companies after he stopped making payments.

28. Defendant Doyle told Perry Mugno that if he and Lori Mugno joined the program, they would not get sued, but if they did, Defendant Freedom Debt would send a representative to court with them to explain the program.

29. Defendant Freedom Debt solicited payments from Perry and Lori Mugno over the telephone and through the mail delivered by the United States Postal Service.

30. In reliance on these statements and the television commercial, Perry and Lori Mugno entered an agreement with Defendant Freedom Debt on December 3, 2008.

31. Perry and Lori Mugno paid Defendants Freedom Debt, Global and Rocky Mountain Bank \$1,373.58 on December 18, 2008, January 18, 2009 and February 18, 2009. Defendant Freedom Debt told Perry Mugno this money was being used for debt settlement services.

32. Defendant Rocky Mountain Bank diverted the entire amount of all three payments to Defendant Freedom Debt for partial payment of their fees, less a \$15.00 fee Defendant Rocky Mountain Bank kept for itself. Perry and Lori Mugno had no funds in their account at Defendant Rocky Mountain Bank after making the first three payments.

33. Defendant Rocky Mountain Bank, through its agent Defendant Global, charged Perry and Lori Mugno a \$15 monthly maintenance fee for managing its debt settlement account.

34. On March 18, 2009 through June 18, 2009, Defendant Global withdrew three more payments of \$1,373.58 from Perry and Lori Mugno's personal checking account.

Defendant Rocky Mountain Bank diverted \$561.86 of each payment to Defendant Freedom Debt and kept \$15 for its own fees.

35. Defendants Freedom Debt, Global and Rocky Mountain Bank charged Perry and Lori Mugno \$6,322.58 before any services were provided.

36. Immediately after Perry and Lori Mugno missed their first credit card payment, they began receiving harassing telephone calls from their credit card companies.

37. On July 27, 2009, after making \$9,510.06 in payments to settle their debts, Perry and Lori Mugno were sued by JP Morgan Chase.

38. Based on the advice received from Defendant Freedom Debt, Plaintiff Perry Mugno did not answer the complaint. Defendant Freedom Debt said it would be able to settle the account even after the judgment was taken.

39. JP Morgan Chase proceeded to execute on the judgment and Perry and Lori Mugno are contemplating bankruptcy to stop the collection activities.

40. Before seeing Defendant Freedom Debt's television commercial and receiving more information over the telephone and United States Mail, plaintiffs Perry and Lori Mugno had no accounts in collection.

41. After paying \$9,510.06 to defendants Freedom Debt, Global and Rocky Mountain Bank, virtually all of their unsecured debts are in collection.

FIRST COUNT

DEBT ADJUSTMENT AND CREDIT COUNSELING ACT

42. Paragraphs 1 through 41 are hereby incorporated as though fully set forth herein.

43. New Jersey defines “Debt Adjuster” as follows:

A person who either (a) acts or offers to act for a consideration as an intermediary between a debtor and his creditors for the purpose of settling, compounding, or otherwise altering the terms of payment of any debts of the debtor, or (b) who, to that end, receives money or other property from the debtor, or on behalf of the debtor, for payment to, or distribution among, the creditors of the debtor. N.J.S.A. 17:16G-1.

44. New Jersey requires that any person engaged in debt adjustment be licensed by the Department of Banking and Insurance. In order to get a license, the company must be a non-profit organization that charges less than \$15.00 in fees per month. N.J.S.A. 17:16G-2 through 17:16G-8.

45. Defendant Freedom Debt is a debt adjuster as defined by N.J.S.A. 17:16G-1.

46. Defendant Global is a debt adjuster as defined by N.J.S.A. 17:16G-1.

47. Defendant Rocky Mountain Bank is a debt adjuster as defined by N.J.S.A. 17:16G-1.

48. Defendant Doyle is a debt adjuster as defined by N.J.S.A. 17:16G-1.

49. Defendant Perkins is a debt adjuster as defined by N.J.S.A. 17:16G-1.

50. Defendant Gaskey is a debt adjuster as defined by N.J.S.A. 17:16G-1.

51. Defendant Hendrix is a debt adjuster as defined by N.J.S.A. 17:16G-1.

52. Defendant McClure is a debt adjuster as defined by N.J.S.A. 17:16G-1.

53. Defenants Freedom Debt, Perkins, Doyle, Gaskey, Rocky Mountain Bank, McClure, Hendrix and Global are not licensed by the New Jersey Department of Banking and Insurance.

54. Perry and Lori Mugno suffered damages as a result of Defendants' illegal debt adjusting activities.

WHEREFORE, the Plaintiffs, Perry Mugno and Lori Mugno, demand judgment against the Defendants for violation of N.J.S.A. 17:16G-2 with damages pursuant to N.J.S.A.17:16G-8 as follows:

- A. Compensatory damages;
- B. Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Reasonable attorney's fees;
- F. Such other relief as the court deems just and equitable.

SECOND COUNT

COMMON LAW FRAUD

55. Perry and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First count of the complaint as though set forth fully at length.

56. Perry and Lori Mugno saw a television "infomercial" from Defendant Freedom Debt promising to cut their debts by half or more. The advertisement also said Freedom Debt would "stop harassing phone calls" and serve as an alternative to bankruptcy.

57. Defendants Perkins, Doyle and Freedom Debt told Perry and Lori Mugno that their credit rating would remain high, they would not receive harassing telephone calls, and they would not be sued by creditors if they joined their program.

58. Defendants Perkins, Doyle and Freedom Debt told Perry and Lori Mugno that if they were sued, Defendant Freedom Debt would represent them in court.

59. Plaintiffs Perry and Lori Mugno relied on these representations and entered a contract with Defendants Freedom Debt, Global, and Rocky Mountain Bank for debt adjustment services.

60. As a result of their reliance on the misrepresentations, Perry and Lori Mugno's credit has completely deteriorated. They have suffered damages.

WHEREFORE, the Plaintiffs, Perry Mugno and Lori Mugno, demand judgment against the Defendants for common law fraud with damages as follows:

- A. Compensatory damages;
- B. Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Reasonable attorney's fees;
- F. Such other relief as the court deems just and equitable.

THIRD COUNT

NEW JERSEY CONSUMER FRAUD ACT

61. Plaintiffs Perry Mugno and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First and Second counts of the complaint as though set forth fully at length.

62. Defendants Freedom Debt, Perkins, Doyle, Global and Rocky Mountain Bank used fraudulent, misleading, deceptive and unconscionable business practices in the sale of debt settlement services to Perry and Lori Mugno in violation of N.J.S.A. 56:8-2, *et seq.*

63. Perry and Lori Mugno relied on these deceptive acts and practices to their detriment and suffered immeasurable harm.

WHEREFORE, the Plaintiffs, Perry Mugno and Lori Mugno, demand judgment against the Defendants for common law fraud with damages as follows:

- A. Compensatory damages and treble damages;
- B. Attorneys' fees and Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Such other relief as the court deems just and equitable.

FOURTH COUNT

NEW JERSEY RACKETEER INFLUENCED AND CORRUPT

ORGANIZATIONS (NJRICO)

64. Plaintiffs Perry Mugno and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First, Second and Third counts of the complaint as though set forth fully at length.

65. Defendants Freedom Debt, Rocky Mountain Bank, Global, Perkins, Doyle, Gaskey, McClure and Hendrix engaged in deceptive business practices as defined by N.J.S.A. 2C:21-7(e).

66. Under New Jersey's RICO statutes, "it shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in or activities of which affect trade or commerce." N.J.S.A. 2C:41-2(b).

67. N.J.S.A. 2C:41-1 (NJRICO) includes violation of N.J.S.A. 2C:21-7(e) as “racketeering”.

68. Defendants Freedom Debt, Rocky Mountain Bank, Global, Perkins, Doyle, Gaskey, McClure and Hendrix have received income from racketeering and used this income to engage in the enterprise of debt adjusting.

69. Defendants Freedom Debt, Rocky Mountain Bank and Global have thus violated N.J.S.A. 2C:41-2, the NJRICO statute.

WHEREFORE, Plaintiffs, Perry and Lori Mugno, demand judgment against the Defendants for violation of NJRICO and damages as follows:

- A. Compensatory damages and treble damages;
- B. Attorneys’ fees and Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Such other relief as the court deems just and equitable.

FIFTH COUNT

VIOLATIONS OF 18 U.S.C. § 1962 (RICO)

70. Plaintiffs Perry Mugno and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First, Second, Third and Fourth counts of the complaint as though set forth fully at length.

71. Defendants Freedom Debt, Rocky Mountain Bank and Global are distinct enterprises as defined in 18 U.S.C. §1692 (4).

72. Defendants Freedom Debt, Rocky Mountain Bank and Global have engaged in a pattern of racketeering activities at least two times in violation of 18 U.S.C. § 1962(a). The

predicate offenses committed by Freedom Debt, Rocky Mountain Bank and Global include mail fraud under 18 U.S.C. §1341 and wire fraud pursuant to 18 U.S.C. §1643.

73. Defendants Freedom Debt, Rocky Mountain Bank, Global, Perkins, Doyle, Gaskey, McClure and Hendrix have used the mail to assist their activities of deceiving clients such as the plaintiffs herein. The defendants have committed mail fraud in their activity to induce clients such as Perry and Lori Mugno to participate in the enterprise's "debt relief" program.

74. Perry and Lori Mugno received the written hard copy "application" to participate in Freedom Debt's program via the regular United States Postal Service. Perry and Lori Mugno returned the hard copy of the application via the United States Mail and via facsimile transmission over telephone lines.

75. Defendants Freedom Debt, Rocky Mountain Bank and Global have committed wire fraud in contacting plaintiffs via telephone, by e-mail, and by the use of wire transfers in taking \$1,373.58 on seven separate occasions as described above.

76. Defendants Freedom Debt, Rocky Mountain Bank and Global racketeering activities to recruit and enlist clients such as the plaintiffs through the use of the United States Mail is an element of a scheme to defraud consumers such as Perry and Lori Mugno as they were desperate to lower their monthly debt burden.

77. Defendants Freedom Debt, Rocky Mountain Bank and Global's racketeering activities to solicit clients such as Perry and Lori Mugno and to obtain access to the clients' bank account for the purpose of withdrawing funds electronically is an element of the scheme to defraud clients such as Perry and Lori Mugno.

78. Defendant corporations Freedom Debt, Rocky Mountain Bank and Global are liable for the actions of its officers, agents, and employees under the principle of *respondet superior*, because the individuals took the alleged actions on behalf of the defendant corporations.

79. Defendants Freedom Debt, Rocky Mountain Bank and Global benefitted directly from the actions taken by their officers, agents and employees as they accepted the payments from Perry and Lori Mugno.

80. The enterprise known as Freedom Debt Solutions, LLC is engaged in or effects interstate commerce.

81. The enterprise known as Rocky Mountain Bank and Trust is engaged in or effects interstate commerce.

82. The enterprise known as Global Client Solutions, LLC is engaged in or effects interstate commerce.

83. As a standard practice Defendant Freedom Debt made the following representations to Perry and Lori Mugno:

a. Freedom Debt sent Perry and Lori Mugno through the United States Mail, from its offices in Roanoke, Texas to Highland Lakes, New Jersey, information and literature claiming that Perry and Lori Mugno would be debt free in two years if they followed the Freedom Debt Program. At the time of the mailing, Perry and Lori Mugno were not behind on any of their debts. The consequences of these misrepresentations are that Perry and Lori Mugno paid Freedom Debt \$6,322.58 in fees and were sued by one or more creditors.

b. Defendant Freedom Debt used the United States Mail and the telephone, from its offices in Roanoke, Texas to plaintiffs' home in Highland Lakes, New Jersey, to tell Perry

and Lori Mugno to stop making payments to their creditors and to allow Global to wire transfer funds to Rocky Mountain Bank for payment to Freedom Debt. As a consequence, Perry and Lori Mugno went from having a very good credit score to being sued by a creditor and being constantly harassed by other creditors.

c. The mail fraud and wire fraud detailed in paragraphs 27 through 40 above are elements of a scheme to defraud Mr. and Mrs. Mugno and other persons, and were made for the purpose of executing the scheme.

WHEREFORE, the Plaintiffs, Perry Mugno and Lori Mugno, demand judgment against the Defendants as follows:

- A. Compensatory damages and treble damages pursuant to 18 U.S.C. §1965©;
- B. Attorneys' fees and Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Such other relief as the court deems just and equitable.

SIXTH COUNT

ILLEGAL CONTRACT

84. Plaintiffs Perry and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First, Second, Third, Fourth and Fifth counts of the complaint as though set forth fully at length.

85. Contracts involving illegal acts are void on their face.

86. Defendants Freedom Debt, Global and Rocky Mountain Bank entered contracts with Perry and Lori Mugno for debt adjustor services even though none of the

defendants was licensed to perform that service in New Jersey. N.J.S.A. 17:16G-1 prohibits debt adjusters from doing business in this state without a license.

WHEREFORE, the Plaintiffs Perry Mugno and Lori Mugno demand judgment against the Defendants that the contract was void for illegality and damages as follows:

- A. Compensatory damages and treble damages;
- B. Attorneys' fees and Cost of Suit;
- C. Punitive damages;
- D. Interest;
- E. Such other relief as the court deems just and equitable.

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SEVENTH COUNT

ILLUSORY CONTRACT

87. Plaintiffs Perry Mugno and Lori Mugno repeat, reiterate and reallege each and every allegation set forth in the First, Second, Third, Fourth, Fifth and Sixth counts of the complaint as though set forth fully at length.

88. The terms of the contract required Perry and Lori Mugno to pay a total of \$9,491.85 in fees.

89. In exchange for the fees, Defendant Freedom Debt agreed to negotiate with Perry and Lori Mugno's creditors for a lower payoff than otherwise required.

90. The terms of the contract did not require Defendant Freedom Debt to reach a settlement on the loans and the contract specifically stated that Defendant Freedom Debt was not obligated to reach a settlement. The contract also stated that the fees were nonrefundable, regardless of whether any settlement was reached.

91. The contract that Perry and Lori Mugno signed was illusory and is thus void.

WHEREFORE, the Plaintiffs, Perry and Lori Mugno, demand judgment against Defendants as follows:

- A. Rescission of the contract and reimbursement of all payments made to date;
- B. Compensatory damages, trebled;
- C. Attorneys' fees and costs of suit;
- D. Punitive Damages;
- E. Interest;
- F. Such other relief as the court deems just and equitable.

EIGHTH COUNT

UNCONSCIONABILITY

92. Plaintiffs, Perry Mugno and Lori Mugno, repeat each and every allegation contained in the First, Second, Third, Fourth, Fifth, Sixth and Seventh Count as if set forth at length herein.

93. Defendant Freedom Debt provided Perry and Lori Mugno with a contract to sign. Defendant Freedom Debt did not give Perry and Lori Mugno the opportunity to change any terms of the contract.

94. The terms of the contract required Perry and Lori Mugno to pay over \$9,491.85 in fees.

95. In exchange for the fees, Defendant Freedom Debt agreed to negotiate with Perry and Lori Mugno's creditors for a lower payoff than otherwise required. This business activity is illegal in the State of New Jersey.

96. Freedom Debt did not promise to reach a settlement on the loans and specifically stated that they were not obligated to reach a settlement. The contract also stated that the fees were nonrefundable, regardless of whether any settlement was reached.

97. The terms of the contract were both procedurally and substantively unconscionable. Thus the contract violated the Consumer Fraud Act N.J.S.A. 56:8-2.

WHEREFORE, the Plaintiffs, Perry and Lori Mugno, demand judgment against Defendants as follows:

- A. Rescission of the contract and reimbursement of all payments made to date.
- B. Compensatory damages and treble damages;
- C. Attorneys' fees and costs of suit;
- D. Punitive Damages;
- E. Such other relief as the court deems just and equitable.

DATED:

ZISA & HITSCHERICH, ESQS
Attorneys for Plaintiffs

/s _____
TRISHA M. CONNORS, ESQ.

DEMAND FOR TRIAL BY JURY

Plaintiffs Perry and Lori Mugno hereby demand a trial by jury on all issues.

DATED:

ZISA & HITSCHERICH, ESQS
Attorneys for Plaintiffs

/s _____
TRISHA M. CONNORS, ESQ.

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CERTIFICATION PURSUANT TO R. 4:5-1

The undersigned hereby certifies upon information and belief that the matter in controversy is not the subject of any other action pending in any court or arbitration proceeding.

Dated:

ZISA & HITSCHERICH
Attorneys for Plaintiffs

_____/s_____
TRISHA M. CONNORS, ESQ.

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DESIGNATION OF TRIAL COUNSEL

Please take notice that attorney TRISHA M. CONNORS is hereby designated as trial counsel in the above captioned litigation.

ZISA & HITSCHERICH, ESQS.

Dated:

/s
TRISHA M. CONNORS, ESQ.

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