UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 15-23070-Civ-COOKE/TORRES

Consumer Financial Protection Bureau,
Plaintiff,

v.

ORION PROCESSING, LLC, a Texas limited liability company, d/b/a World Law Processing, Wld Credit Repair, and World Law Debt; FAMILY CAPITAL INVESTMENT & MANAGEMENT LLC, a Delaware limited liability company, a/k/a FCIAM Property Management; WORLD LAW DEBT SERVICES, LLC, a Delaware limited liability company; WORLD LAW PROCESSING, LLC, a Delaware limited liability company; DERIN SCOTT, an individual; DAVID KLEIN, an individual; and BRADLEY JAMES HASKINS, individually and d/b/a World Law Group, LLP, World Law Group America, LLP, WLD Price Global, Inc., World Law Forms and Mediation, and World Law South;
Defendants,

Shannon Scott, an individual,

Relief Defendant.

PLAINTIFF'S MOTION FOR JUDGMENT UPON DEFAULT AGAINST WORLD LAW DEBT SERVICES, LLC, WORLD LAW PROCESSING, LLC, AND FAMILY CAPITAL INVESTMENT & MANAGEMENT LLC

Pursuant to Federal Rule 55(b)(2) and Local Rule 7.1, Plaintiff, the Consumer Financial Protection Bureau ("Bureau") seeks a default judgment against three of the corporate defendants in this action — World Law Debt Services, LLC, World Law Processing, LLC, and Family Capital Investment & Management LLC ("Default Defendants"). The Default Defendants were served with the summons and Complaint, but failed to file an answer or otherwise defend, resulting in the Clerk's entry of default on

December 21, 2015. *See* Clerk's Default, Dkt. No. 75 (Dec. 21, 2015). The Bureau now requests that the Court enter the attached proposed Default Judgment and Order for Permanent Injunction, Other Equitable Relief, and Civil Money Penalties ("Default Judgment"). The Default Judgment award includes injunctive relief, an equitable monetary judgment of $106,813,049, and a civil money penalty of $40 million to be imposed against the Default Defendants, jointly and severally.

I. FACTUAL AND PROCEDURAL BACKGROUND

A. Plaintiff's Allegations

The Bureau filed its complaint on August 17, 2015 to obtain permanent injunctive relief, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, civil money penalties, and other equitable relief from Defendants (a) Orion Processing, LLC, a Texas limited liability company, d/b/a World Law Processing, Wld Credit Repair, and World Law Debt; (b) Family Capital Investment & Management LLC, a Delaware limited liability company, a/k/a FCIAM Property Management ("FCIAM"); (c) World Law Debt Services, LLC, a Delaware limited liability company; (d) World Law Processing, LLC, a Delaware limited liability company; (e) Derin Scott, an individual; (f) David Klein, an individual; and (g) Bradley James Haskins, individually and d/b/a as World Law Group, LLP, World Law Group America, LLP, WLD Price Global, Inc., World Law Forms and Mediation, and World Law South (collectively, "World Law"). The Complaint alleges that Defendants, operating as a common enterprise, violated the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. §§ 6102(c)(2), 6105(d), the Telemarketing Sales Rule ("TSR"), 16 C.F.R. pt. 310, and sections 1031(a), 1036(a), 1054(a), and 1055 of the Consumer Financial Protection Act of 2010 ("CFPA"), 12 U.S.C. §§ 5531(a), 5536(a), 5564(a), and 5581, in connection with the marketing and sale of debt relief services by taking unlawful advance fees from consumers and by making false promises of legal representation. *See* Compl. ¶¶ 1, 33.

The Complaint alleges that a few months before October 2010, when the TSR's prohibition on charging consumers advance fees for debt relief services went into effect, Defendants developed a plan to avoid the advance fee ban by operating under the guise of providing legal services. Compl. ¶ 36. They promised consumers both debt relief services and legal representation, claiming to employ lawyers in every state. Compl. ¶ 37. In reality,

consumers rarely, if ever, communicated with a lawyer, and the vast majority of services – if services were provided at all – were provided by non-lawyers. Compl. ¶ 38.

Defendants used third party marketers to advertise their debt relief services nationwide through television commercials, radio advertisements, targeted mailers, billboards, internet search engines and internet ads claiming that consumers would be assigned a "team of attorneys" and be represented by a "debt relief law firm" and have a local attorney or "personally assigned state attorney." Compl. ¶¶ 41-42. Defendants hired a diffuse set of marketers, called Enrollment Specialists, who generally used hard-sale tactics approved by Defendants to lure in these consumers. Compl. ¶ 44. Defendants' Enrollment Specialists promised that World Law's network of attorneys would provide legal representation, negotiate settlements of consumers' unsecured debt, and represent them in any associated legal matters. Compl. ¶ 45.

The contracts consumers signed specified that World Law would provide "debt negotiations and settlement services on [the client's] behalf." Compl. ¶ 50. They contained an onerous schedule of front-loaded fees for World Law's services, ranging from 20% to 39% of the consumer's unsecured or credit card debts. These schedules provided that the vast majority of Defendants' fees would be collected before any settlements were reached with consumers' creditors. Specifically, Defendants charged consumers:

- "Initial Fees" of at least $199 that were usually collected from a client's account over the first three months of the program;
- "Bundled Legal Service Fees" that ranged from ten to fifteen percent of the consumer's combined outstanding debts and were usually collected over the first 13 months of the program; and
- "Attorney Monthly Service Fees" in the amount of $84.95 that were collected every month a consumer participated in the program. Compl. ¶ 51.

Indeed, approximately 99% of consumers paid fees to Defendants before receiving any debt relief services. Compl. ¶ 40.

The contract further stated that consumers would be assigned a local attorney who is in good standing with the State Bar where the consumer is located to represent them in the negotiation and settlement of their debts and in any creditor suits on their debts. Compl. ¶ 50. Unfortunately, Defendants' consumers rarely received any legal representation, nor did consumers have contact with local lawyers. Compl. ¶¶ 38, 53, 55. Instead, non-attorney

Orion employees negotiated with creditors, fielded phone calls from consumers, and sent consumers emails. Compl. ¶ 54. "Legal assistants" at Orion made regular calls to consumers to reassure them to stay in the program—usually once a month right before their payment was due. Compl. ¶ 54. For the first year or more, almost all payments went directly to Defendants for their fees, leaving virtually no money to settle with or pay consumers' creditors.

Defendants instructed consumers to cease making payments on any debts once they enrolled in the World Law Program, and as a result, consumers fell further behind on their bills and faced increased efforts at debt collection from their original creditors. Compl. ¶ 57. In many instances, creditors then sued consumers, and Defendants failed to provide the promised legal representation. Compl. ¶¶ 55-56. Instead, World Law sent consumers generic legal pleadings that were not personalized to the consumer's particular circumstances or jurisdiction, and instructed consumers to file these documents *pro se*. Compl. ¶¶ 55-56. These filings were often rejected by courts for failure to comply with local rules or were full of untrue statements—such as claims denying the consumer incurred the debt in the first instance—causing the non-legally educated consumer to file false statements. Defendants also did not represent consumers at in-person court proceedings. Compl. ¶¶ 55-56. In the end, many consumers had judgments entered against them and lost property, wages, and bank accounts through writs of execution. Compl. ¶ 57. Consumers were left in deeper debt and some ended up filing for bankruptcy.

B. Procedural History Related to Defendants' Default

On August 18, 2015, this Court entered an *ex parte* temporary restraining order ("TRO"), finding good cause to believe the Bureau would prevail on the merits of its claims and that immediate and irreparable harm would result from allowing Defendants' operations to continue. Among other things, the TRO froze the Defendants' assets and set a hearing for August 28, 2015 for Defendants to appear and show cause why a preliminary injunction should not be entered.

On August 20, 2015, the Bureau served Default Defendant FCIAM with the summons and Complaint and a copy of the TRO at FCIAM's offices, and on August 24, 2015, the Bureau served Default Defendants World Law Debt Services, LLC and World Law Processing, LLC with the summons and Complaint and a copy of the TRO by serving their registered agent. *See* Proofs of Service, (Dkt. Nos. 15, 17) (August 25, 2015). Under

Federal Rule of Civil Procedure 12(a)(1)(A)(i), the original deadline for Default Defendants to respond to the Complaint was September 10, 2015 for FCIAM and September 14, 2015 for Default Defendants World Law Debt Services, LLC and World Law Processing, LLC. Default Defendants failed to appear at the August 28, 2015 hearing, and on September 2, 2015, this Court entered a preliminary injunction ("PI") against Default Defendants World Law Debt Services, LLC, and World Law Processing, LLC (Dkt. No. 28). On September 14, 2015 the Court entered a similar preliminary injunction against Defendant FCIAM (Dkt. No. 42). Among other things, the PIs continued the asset freeze and appointed a Receiver over Default Defendants.

Default Defendants failed to file an answer or otherwise defend in this action, and the Clerk entered default against them on December 21, 2015 (Dkt. No. 75). The proposed Default Judgment contains injunctive relief addressing the misconduct by Default Defendants described in the Complaint, monetary relief to redress the consumer injury caused by that misconduct, and civil penalties as prescribed by statute.

II. ARGUMENT

A. Standard for Entering Default Judgment

Under Federal Rule 55(b)(2), this Court may enter a default judgment against a defendant that has failed to appear and defend. Entry of a default judgment is appropriate if the defendant's liability is well-pled in the complaint and the defendant has failed to participate in the litigation in good faith. *Eagle Hosp. Physicians v. SRG Consulting*, 561 F.3d 1298, 1307 (11th Cir. 2009); *Buchanan v. Bowman*, 820 F.2d 359, 361 (11th Cir. 1987). Default judgment is appropriate here against Default Defendants because their liability is well-pled and they have failed to participate in the litigation in good faith.

B. The Bureau's Well-Pled Allegations Support Entry of a Default Judgment

1. Defendants are sellers or telemarketers of debt relief services under the TSR and covered persons under the CFPA

The TSR defines "seller" as "any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration." 16 C.F.R. § 310.2(aa). The TSR defines "telemarketer" as "any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor" and "debt relief service" as "any program or

service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector." 16 C.F.R. §§ 310.2(cc), (m). The TSR defines "telemarketing" as "a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call." 16 C.F.R. § 310.2(dd).

A "covered person" under the CFPA means any person, including any individual or business entity, that engages in "offering or providing a consumer financial product or service." 12 U.S.C. § 5481(6)(A) and (19). A "consumer financial product or service" includes "providing services to assist a consumer with debt management or debt settlement, [or] modifying the terms of any extension of credit." 12 U.S.C. § 5481(15)(A)(viii). The CFPA provides that "[i]t shall be unlawful for any covered person . . . to engage in any . . . deceptive . . . act or practice." 12 U.S.C. § 5536(a)(1)(B); *see also* 12 U.S.C. § 5531(a).

The Complaint contains well-pled factual allegations supporting a finding that Defendants are "sellers" or "telemarketers" of a "debt relief service" who engage in "telemarketing," as defined in the TSR. Defendants and their agents receive calls from customers, making them "telemarketers," and they offer to provide or arrange for others to provide debt relief services in exchange for consideration, making them "sellers" under the TSR. Compl. ¶¶ 12-14, 41-50, 70. Further, because Defendants offer or provide these debt relief services, they provide a consumer financial product or service that is covered by the CFPA. Compl. ¶¶ 12-14, 41-50, 76. Therefore, Default Defendants are each a "covered person" under the CFPA and are subject to the CFPA's prohibition on deceptive acts or practices or other violations of a Federal consumer financial law.

2. Count 1: Violation of the Advance Fee Ban under the TSR

The TSR prohibits debt relief companies engaged in telemarketing from requesting or receiving advance fees before renegotiating, settling, reducing, or otherwise altering the terms of at least one of a consumer's debts. 16 C.F.R. § 310.4(a)(5)(i). The Complaint contains well-pled factual allegations supporting a finding of liability against Default Defendants on Count 1:

- Defendants offered debt relief services to consumers, promising to negotiate their

unsecured debts with their creditors in exchange for fees paid up-front. Compl. ¶¶ 1-2, 37.

- Defendants requested and received hundreds of dollars in advance fees from consumers' accounts each month for debt settlement services, including charging and collecting "Initial Fees" in the amount of $199 (usually collected from the consumers' account over the first three months of the program); "Bundled Legal Service Fees" that ranged from 10-15% of the consumer's combined outstanding debts (usually collected over the first 13 months of the program); and "Attorney Monthly Service Fees" in the amount of $84.95 (collected every month the consumer participated in the program). Compl. ¶¶ 2, 39-40, 51, 75.
- These fees were all charged before any of the consumer's debts were negotiated and settled. Compl. ¶ 39-40, 75.
- Defendants have charged advance fees to 99% of the enrolled consumers, at least 21,000 consumers, before settling any of their debts. Compl. ¶ 2, 40, 58.

Given these well-pled allegations and Default Defendants' failure to answer or defend, the Court should enter a default judgment against Default Defendants for violations of the TSR, 16 C.F.R. § 310.4(a)(5)(i). *See, e.g.*, *CFPB v. Harper*, No. 14-cv-80931 (S.D. Fla. May 28, 2015) (awarding default judgment against corporate defendants for violations of the CFPA and other consumer protection laws) (attached as Ex. 2); *CFPB v. Jalan*, No. 12-cv-02088 (C.D. Cal. July 23, 2013) (awarding default judgment against a corporation and two individual defendants for violations of Regulation O—the Mortgage Assistance Relief Services Rule, and other consumer protection laws) (attached as Ex. 3).

3. Counts II and III: False Representations in Violation of the TSR and the CFPA

The TSR prohibits a seller or telemarketer from misrepresenting any material aspect of its goods or services. 16 C.F.R. § 310.3(a)(2)(iii). The CFPA renders it unlawful for any covered person or service provider to engage in any unfair, deceptive, or abusive act or practice. 12 U.S.C. §§ 5531(a) and 5536(a)(1)(B). The Complaint contains well-pled factual allegations supporting a finding of liability on Counts II and III for violations of the TSR, 16 C.F.R. § 310.3(a)(2)(iii) and (x), and Sections 1031 and 1036 of the CFPA, 12 U.S.C §§ 5531, 5536, respectively, including as follows:

- Defendants promised consumers both debt relief services and legal representation, including by a local attorney, claiming to employ lawyers in every state. They also touted that consumers would receive the skill and expertise of a licensed lawyer to negotiate with creditors regarding their unsecured debts. Compl. ¶¶ 1, 37, 41-42, 45, 50, 78, 84.
- In fact, in numerous instances, consumers did not receive legal representation, were not represented by a local attorney, and did not have settlements of their debts negotiated with their creditors by an attorney. Compl. ¶¶ 38, 53-56, 79, 85.
- Defendants' representations as described in the complaint and above violate the TSR, 16 C.F.R. § 310.3(a)(2)(iii) and (x), and are deceptive acts or practices in telemarketing. Compl. ¶ 80.
- Defendants' representations described in the complaint and above are false and misleading, and constitute deceptive acts or practices in violation of sections 1031 and 1036 of the CFPA, 12 U.S.C § 5531, 5536. Compl. ¶ 86.

Given these well-pled allegations and Default Defendants' failure to answer or defend, the Court should enter a default judgment against Default Defendants for violations of the TSR, 16 C.F.R. § 310.3(a)(2)(iii) and (x) and for violations of sections 1031(a) and 1036(a)(1) of the CFPA, 12 U.S.C. §§ 5531, 5536. *See, e.g., Harper*, Ex. 2; *Jalan,* Ex. 3.

4. Defendants' Joint and Several Liability as a Common Enterprise

The Bureau pled facts sufficient to show that the Default Defendants operated as a common enterprise with the other Defendants, and are therefore jointly and severally liable for the misconduct alleged in the Complaint. Default Defendants World Law Debt Services, LLC and World Law Processing, LLC each were "owned by or under common ownership with 'World Law Group,' a purported consortium of international law firms" controlled by Defendant Haskins that offered and provided debt relief services as part of the World Law Program in concert with Default Defendant FCIAM and the other Defendants. Compl. ¶¶ 10, 12, 14, 16-17, 19, 33, 36. FCIAM was owned and controlled by Defendant Scott and managed by Defendant Klein who was its Chief Operating Officer. Compl. ¶¶ 21, 25; Answer of Defendants Derin Scott and David Klein (Dkt. No. 44) ¶¶ 1, 8. The Complaint alleges that Defendants operated their scheme "through an interrelated network of companies that have common business functions, employees, and office locations." Compl.

¶ 33. Further, Defendants have "commingled funds and shared operations and proceeds of the unlawful activity." *Id*.

Based on Plaintiffs' well-pled factual allegations, the Court should find that the Default Defendants operated as a common enterprise in effectuating the debt relief scheme, and are therefore jointly and severally liable for all of the violations alleged in the complaint. Where one or more defendants operate in a common enterprise, each may be held liable for the deceptive acts and practices of the other. *Sunshine Art Studios, Inc. v. FTC*, 481 F.2d 1171, 1175 (1st Cir.1973); *FTC v. Wolf*, No. 94-8119-CIV-FERGUSON, 1996 WL 812940, *7–8 (S.D. Fla. Jan. 31, 1996); *Commodity Futures Trading Comm'n. v. Int'l Berkshire Grp. Holdings*, No. 05-61588-CIV-ALTONAGA, 2006 WL 3716390, *7 (S.D. Fla. Nov. 3, 2006).

C. Injunctive Relief, Restitution, and Penalties Are Appropriate

It is within the Court's discretion to enter injunctive and monetary relief at this stage, without holding an evidentiary hearing. *Tara Prods.*, 449 F. App'x at 911–12. In this case, the Complaint against Default Defendants seeks (1) a permanent injunction to prevent future violations of the TSR and CFPA; (2) monetary relief to redress injury to consumers; and (3) civil money penalties. These forms of relief are authorized under the CFPA, 12 U.S.C. § 5565.

1. Injunctive Relief to Prevent Future Violations

The Bureau seeks injunctive relief against Default Defendants for the violations of law pled in the Complaint. The requested relief is detailed in the proposed Default Judgment and is tailored to the allegations of the Complaint, including a permanent ban on telemarketing or assisting others engaged in telemarketing any Consumer Financial Product or Service; a permanent ban on marketing, offering, or providing any Debt Relief Product or Service; prohibitions on misrepresenting any Consumer Financial Product or Service; directing the Court-appointed Receiver to permanently wind down the Default Defendants; directing the Receiver to cooperate with Plaintiffs to identify and locate affected consumers and determine the fees they paid; directing the Receiver to liquidate all remaining assets of the Default Defendants; and establishing a process by which the Receiver will pursue any remaining, viable assets and dissolve the Receivership.

This relief is authorized by Section 1055 of the CFPA, 12 U.S.C. § 5565. A permanent injunction is justified when there is a "cognizable danger of recurrent violation," *United States v. W.T. Grant Co.*, 345 U.S. 629, 633 (1953), and where courts can infer "from

the defendant's prior conduct, viewed in light of present circumstances," that there is a "reasonable likelihood of future transgressions." *SEC v. Zale Corp.*, 650 F.2d 718, 720–21 (5th Cir. 1981); *see also Int'l Berkshire Grp. Holdings*, 2006 WL 3716390 at *11. In cases of this kind, involving elaborate, illegal schemes to defraud consumers, "broader 'fencing-in provisions are needed to prevent similar and related violations from occurring in the future.'" *Jalan*, Ex. 3 at 11 (quoting *Trans World Accounts v. F.T.C.*, 594 F.2d 212, 215 (9th Cir. 1979)); *FTC v. 1st Guar. Mortg. Corp.*, No. 09-61840-CIV-O'SULLIVAN, 2011 WL 1233207, *19–21 (S.D. Fla. Mar. 30, 2011). Here, Default Defendants were part of a scheme investigated and sued by no fewer than four State Attorneys General. They should be enjoined from future misconduct.

2. Equitable Monetary Relief to Compensate Consumers

The Bureau has established that at least 21,900 consumers were victimized by and paid money to Defendants from at least July 2010 until operations ceased pursuant to the TRO and PIs in this case in August 2015. *See* Decl. of Timothy Hanson at ¶4 (attached as Ex. 1). In sum, as demonstrated by the attached declaration and supporting evidence, defendants collected $106,813,049 from consumers in connection with their unlawful scheme. Hanson Decl. ¶7.

The CFPA authorizes the Court to grant relief, including refund of moneys, restitution, and disgorgement or compensation for unjust enrichment. 12 U.S.C. § 5655(a)(2)(B), (C), and (D). As shown in numerous deception, mortgage relief, and telemarketing cases brought by the Consumer Financial Protection Bureau and the Federal Trade Commission, the proper measure of consumer redress is the total amount consumers paid to purchase goods or services, less refunds already returned. *McGregor v. Chierico*, 206 F.3d 1378, 1389 (11th Cir. 2000); *Jalan*, No. 12-cv-02088, at 11 (attached as Ex. 3); *FTC v. 1st Guar. Mortg. Corp.*, No. 09-61840-CIV-O'SULLIVAN, 2011 WL 1233207, *22 (S.D. Fla. Mar. 30, 2011); *Wolf*, 1996 WL 812940, *9 (S.D. Fla. Jan. 31, 1996). Defendants are liable for the entire amount spent by consumers, regardless of whether consumers received anything of value; the relevant factor is the "fraud in the selling, not the value of the thing sold." *Chierico*, 206 F.3d at 1389 (quoting *FTC v. Figgie Int'l*, 994 F.2d 595, 606 (9th Cir. 1993)).

In seeking a default judgment, Plaintiff bears the burden of proving damages. It may do so through affidavits and other documentary evidence showing the amount and

calculation of damages: an evidentiary hearing is unnecessary, particularly where the evidence before the Court is not controverted. *Tara Prods.*, 449 F. App'x at 911–12. Where two or more individuals or entities collaborate or have a close relationship in engaging in illegal conduct, it is appropriate to hold them jointly and severally liable. *Jalan*, No. 12-02088, at 12 (attached as Ex. 3); *SEC v. Rosen*, No. 01-0369-CIV-MIDDLEBROOKS, 2002 WL 34414715, *12 (S.D. Fla. Apr. 24, 2002) (noting the difficulty of apportioning damages among closely-collaborating defendants); *Wolf*, 1996 WL 812940, *7–8 (S.D. Fla. Jan. 31, 1996).

Here, the proposed order includes a judgment against Default Defendants, jointly and severally, for restitution of $106,813,049. As explained in the attached declaration of Timothy Hanson, this figure was derived from Defendants' records, the records of Defendants' third-party payment processor, and bank statements. Hanson Decl. ¶¶3-7. The total amount was calculated by adding consumer payments received through payment processors, checks, and direct deposits. *Id*. The Bureau calculates that from October 27, 2010 through August 27, 2014, Defendants' third party payment processor paid Defendants $89,172,224 in fees directly from consumers' dedicated accounts. Hanson Decl. ¶4, Ex. A. Additionally, the Court-appointed Receiver compiled data from bank records for the accounts where consumer funds were deposited between September 20, 2014 and September 17, 2015, the period after Defendants' payment processor discontinued doing business with World Law until the business shut down. *Id*. ¶5, Ex. B. The amount of those deposits of consumer funds was $17,640,825. *Id*. ¶¶ 5-6. The total amount, $106,813,049, therefore represents a reasonable approximation of consumer loss. *Id*. ¶ 7.

Because the Defendants operated as a common enterprise for purposes of this illegal scheme, the apportionment of proceeds received by the various entities cannot be determined with any certainty. Absent robust rebuttal evidence from the defendants, the Court should require the Default Defendants to repay this amount, jointly and severally, as restitution.

3. Civil Money Penalties

A civil penalty is warranted in this case; it will punish the Default Defendants and deter others from committing similar violations in the future. *S.E.C. v. Lauer*, No. 03-80612-CIV-JOHNSON, 2008 WL 4372896, *26 (S.D. Fla. Sept. 24, 2008), *aff'd*, 478 F. App'x 550 (11th Cir. 2012). The CFPA authorizes the Court to order civil money penalties. 12 U.S.C.

§ 5565(a)(2)(H). Specifically, the CFPA provides that "[a]ny person that violates, through any act or omission, any provision of Federal consumer financial law shall forfeit and pay a civil penalty…." 12 U.S.C. § 5565(c)(1). There are three tiers of penalties, based on the degree of scienter: up to $5,000 per day for any violation; up to $25,000 per day for each reckless violation; and up to $1,000,000 per day for each knowing violation. 12 U.S.C. § 5565(c)(2). The Default Defendants' conduct was at least reckless, if not knowing, and lasted *almost five years*. As a result, they could face an exceptionally large penalty under the CFPA.

The size of the civil penalty also depends on various statutory factors, including "good faith," "the size of financial resources . . . of the person charged," "the gravity of the violation," "the severity of the risks to or losses of the consumer," "the history of previous violations," and "such other matters as justice may require." 12 U.S.C. § 5655(c)(3). Each of these factors weigh in favor of a significant civil money penalty.

Default Defendants have acted in bad faith by attempting to evade the TSR's ban on upfront fees for debt relief services, using deceptive claims of "legal representation" in a failed attempt to circumvent the law. Defendants, including Default Defendants, attempted to avoid accountability by operating through a network of shell businesses and using a variety of bank accounts, routinely commingling funds and dissipating assets. Default Defendants' financial resources known to the Bureau are currently limited to the funds in their frozen bank accounts, but any limits on their financial resources are due to their dissipation of assets while Defendants' scheme was still operating.

The gravity of this scheme was tremendous. Default Defendants violated the TSR's ban on upfront fees for debt relief services for years, a practice the Federal Trade Commission concluded was so abusive and harmful to consumers that it warranted an outright ban. Defendants also falsely promised legal representation, specifically promising consumers a local lawyer to negotiate and settle consumers' debts and to represent consumers if they were sued. This scheme targeted financially-distressed consumers who were struggling to pay their bills, and Defendants ultimately bilked these consumers out of over $100 million. These consumers were often left even deeper in debt. Many were sued by their creditors, but were not provided with the legal representation they had been promised. Finally, Default Defendants have a history of law violations; over the past several years, the World Law debt relief operation has been the subject of a series of enforcement actions by state Attorneys General.

Accordingly, based on Default Defendants blatant violations of federal law, their bad faith conduct, and the significant consumer harm resulting from their illegal activity, the Bureau submits that a civil penalty of at least $40 million is appropriate. *See CFPB v. Morgan Drexen, Inc., et al.*, No. 8:13-cv-01267 (C.D. Cal. March 16, 2016) (awarding $40 million civil penalty for debt relief scheme that violated the CFPA and the TSR) (attached as Exhibit 4); *Harper*, Ex. 2 (awarding $10 million civil penalty in a default judgment against corporate defendants for violations of the CFPA and other consumer protection laws) (attached as Exhibit 2); *Jalan,* Ex. 3 (awarding civil penalty in a default judgment against a corporation and two individual defendants for violations of consumer protection laws) (attached as Exhibit 3).

D. Entry of the Proposed Default Judgment is in the Public Interest

The Bureau is a government entity charged with enforcing federal consumer financial protection laws. The relief it seeks is in the public interest. As the Supreme Court has stated, "since the public interest is involved in [an enforcement] proceeding of this nature," the district court's "equitable powers assume an even broader and more flexible character than when only a private controversy is at stake." *Porter v. Warner Holding Co.*, 328 U.S. 395, 398 (1946). The Eleventh Circuit has concluded that "the court's authority to exercise full equitable powers is especially appropriate in a case like the one at bar," where the statutes at issue "play an important role in enabling [the government] to enforce consumer protection laws." *FTC v. Gem Merchandising Corp.*, 87 F.3d 466, 470 (11th Cir. 1996). The Bureau would be prejudiced if a default judgment were not entered because, without a final judgment against the Default Defendants, there would be no permanent injunction preventing future violations of law, to the public's detriment. In addition, without a judgment for monetary relief, the Bureau would be unable to return funds to consumers who fell victim to Defendants' scheme. Finally, the failure to award default judgment here would create a perverse incentive for future defendants in public enforcement actions, by rewarding the Default Defendants' failure to answer or defend this action. These considerations weigh heavily in favor of entering the Default Judgment here.

CONCLUSION

For these reasons, the Bureau respectfully requests that the Court enter the proposed Default Judgment against the Default Defendants.

Dated: July 5, 2015

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on July 5, 2016, I filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that the foregoing document is being served on this day on all counsel who have identified themselves to Plaintiff or who have entered an appearance in this matter, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronic Notices of Electronic Filing.

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