

1 CLOTHILDE V. HEWLETT
 Commissioner
 2 MARY ANN SMITH
 Deputy Commissioner
 3 BORYANA ARSOVA
 Assistant Chief Counsel
 4 SALLY HONG (State Bar No. 317754)
 Counsel
 5
 6 Department of Financial Protection and Innovation
 One Sansome Street, Suite 600
 7 San Francisco, California 94014
 Telephone: (415) 740-8127
 8
 9 Attorneys for Complainant

10
 11 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
 12 OF THE STATE OF CALIFORNIA

13
 14 In the Matter of:)
)
 15 THE COMMISSIONER OF FINANCIAL) DESIST AND REFRAIN ORDER and
 PROTECTION AND INNOVATION,) ORDER ASSESSING PENALTIES
 16)
 17 Complainant,)
 v.)
 18)
 19 BELLGATE ASSOCIATES,) (Cal. Fin. Code § 90015 (b), (c), (d)(1))
)
 20 Respondent.)
)
 21)
 22)
)

23
 24
 25
 26 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner)
 27 of the Department of Financial Protection and Innovation (Department), is informed and believes,
 28 and based on such information and belief, finds the following:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

I.

Introduction

1. The Commissioner has jurisdiction over the licensing and regulation of persons engaged in the business of debt collection in California under the Debt Collection Licensing Act (DCLA) (Cal. Fin. Code §§ 100000-100025).

2. The Commissioner has jurisdiction over the regulation of persons who engage, have engaged, and propose to engage in offering or providing a consumer financial product or service in California and affiliated service providers under the California Consumer Financial Protection Law (CCFPL) (Cal. Fin. Code §§ 90000-90019).

3. At all relevant times, Bellgate Associates aka Belgate Associates aka Bell Gate (Bellgate) was a business entity of unknown form, with a purported email address at verification@belgateassociates.com and phone numbers at (424) 280-3663 and (877) 840-1480.

II.

Factual Background

4. Beginning in or around June 2022 and through August 2022, Bellgate contacted at least two California consumers and made unlawful and deceptive statements in an attempt to collect a consumer debt related to alleged credit card debts.

5. On or around June 2022, a California consumer (Consumer A) received a voicemail from an alleged “document processing” company about the service of documents. This voicemail ended with the instruction to call a certain phone number. Concerned that there might be a legal issue, Consumer A called the number left on the voicemail and reached a representative from Bellgate. The Bellgate representative informed Consumer A that he had an HSBC credit card debt that he owed and needed to pay.

6. Consumer A never had an HSBC credit card.

7. When Consumer A asked for documents to verify the debt, the Bellgate representative stated that a legal action would be filed against him. When Consumer A persisted in asking for documents verifying the debt, the Bellgate representative hung up the phone.

1 Subsequently, Consumer A continued to get phone calls from Bellgate, but when he asked for
2 verification of his alleged HSBC credit card debt, the Bellgate representatives hung up on him.

3 8. On or around August 2022, Bellgate contacted another California consumer
4 (Consumer B), attempting to collect on an alleged Walmart credit card debt.

5 9. Consumer B spoke with Bellgate representatives on at least three separate occasions,
6 during which the Bellgate representatives asked Consumer B to pay his alleged Walmart credit card
7 debt over the phone. However, when Consumer B continuously asked for written verification of his
8 alleged debt, one of the Bellgate representatives threatened to file a lawsuit against the Consumer.

9 10. One of the Bellgate representatives also stated that if a lawsuit were to be filed
10 against Consumer B, Consumer B would have to go to jail.

11 11. Neither Consumer A nor Consumer B received written verification for their debt or
12 any other written documents, notices, summons, or complaints from Bellgate.

13 12. The Commissioner finds that the debt collection activities by Bellgate violated
14 provisions of the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Cal. Civ. Code §§
15 1788-1788.33), which prohibits the following:

16 a. Threatening that nonpayment of consumer debt may result in the arrest of the
17 debtor, in violation of California Civil Code section 1788.10(e);

18 b. Falsely representing that a legal proceeding has been or is about to be
19 instituted unless payment is made, in violation of California Civil Code section 1788.13(j);

20 c. In collecting or attempting to collect a consumer debt, failing to comply with
21 provisions of sections 1692 to 1692p of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C.
22 §§ 1692 – 1692p), in violation of California Civil Code section 1788.17.

23 13. The debt collection practices by Bellgate violated provisions of the FDCPA,
24 including but not limited to the following:

25 a. Using false, deceptive or misleading representation or means in connection
26 with the collection of any debt, in violation of title 15 of the United States Code section 1692e(2),
27 (4), and (5); and
28

1 b. Failing to provide certain notices within five days after the initial
2 communication with a consumer in an attempt to collect debt, in violation of title 15 of the United
3 States Code section 1692g(a).

4 Failure to Submit License Application in Violation of the DCLA

5 14. The DCLA, which became effective on January 1, 2021, requires persons engaged in
6 the business of debt collection in California to be licensed beginning on January 1, 2022, pursuant to
7 California Financial Code section 100001(a).

8 15. The Commissioner has not issued a license to Bellgate, authorizing it to engage in
9 the business of debt collection under the DCLA. Furthermore, Bellgate has not applied for a license
10 under the DCLA. Bellgate is not exempt from the licensing requirements of California Financial
11 Code section 100001.

12 16. Beginning in or around June 2022 and through August 2022, despite lacking licensure
13 or a pending application, Bellgate engaged in the unlicensed business of debt collection in this state
14 by attempting to collect a debt from California consumers, in violation of California Financial Code
15 section 100001(a), by contacting at least two California consumers to collect on alleged credit card
16 debts.

17 **III.**

18 **Applicable Law**

19 17. California Financial Code section 100001(a) provides, in relevant part, that “[n]o
20 person shall engage in the business of debt collection in this state without first obtaining a license.”

21 18. California Financial Code section 100002(h) defines “debt” as “money, property, or
22 their equivalent that is due or owing or alleged to be due or owing from a natural person to another
23 person.”

24 19. California Financial Code section 100002(f) provides:

25 “Consumer debt” or “consumer credit” means money, property, or their
26 equivalent, due or owing, or alleged to be due or owing, from a natural
27 person by reason of a consumer credit transaction. The term “consumer
28 debt” includes a mortgage debt. The term “consumer debt” includes
“charged-off consumer debt” as defined in Section 1788.50 of the Civil
Code.

1 20. California Financial Code section 100002(i) defines “debt collection” as “any act or
2 practice in connection with the collection of consumer debt.”

3 21. California Financial Code section 100002(j) provides:

4 “Debt collector” means any person who, in the ordinary course of
5 business, regularly, on the person’s own behalf or on behalf of others,
6 engages in debt collection. The term includes any person who composes
7 and sells, or offers to compose and sell, forms, letters and other collection
8 media used or intended to be used for debt collection. The term “debt
9 collector” includes “debt buyer” as defined in Section 1788.50 of the Civil
10 Code.

11 22. California Financial Code section 90005 provides in relevant part:

12 (d) “Consumer financial law” means a federal or California law that
13 directly and specifically regulates the manner, content, or terms and
14 conditions of any financial transaction, or any account, product, or service
15 related thereto, with respect to a consumer.

16 (e) “Consumer financial product or service” means . . . :

17 (1) A financial product or service that is delivered, offered, or provided for
18 use by consumers primarily for personal, family, or household purposes . . .

19 (f) “Covered person” means, to the extent not preempted by federal law,
20 any of the following: (1) Any person that engages in offering or providing
21 a consumer financial product or service to a resident of this state.

22 (k) “Financial product or service” means . . . (10) *Collecting debt* related
23 to any consumer financial product or service (emphasis added.)

24 23. California Financial Code section 90003(a) provides in relevant part:

25 (a) It is unlawful for a covered person or service provider, as defined in
26 subdivision (f) of Section 90005, to do any of the following:

27 (1) Engage, have engaged, or propose to engage in any unlawful, unfair,
28 deceptive, or abusive act or practice with respect to consumer financial
products or services.

(2) Offer or provide to a consumer any financial product or service not in
conformity with any consumer financial law or otherwise commit any act
or omission in violation of a consumer financial law

 24. The DCLA, the Rosenthal Act, and the FDCPA are consumer financial laws within
the meaning of California Financial Code section 90003(a)(2).

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

- 25. Section 1788.2(c) of the Rosenthal Act provides:

The term “debt collector” means any person who, in the ordinary course of business, regularly, on behalf of that person or others, engages in debt collection. The term includes any person who composes and sells, or offers to compose and sell, forms, letters, and other collection media used or intended to be used for debt collection.
- 26. Section 1788.10(e) of the Rosenthal Act provides:

No debt collector shall collect or attempt to collect a consumer debt by means of the following conduct: . . . (e) The threat to any person that nonpayment of the consumer debt may result in the arrest of the debtor or the seizure, garnishment, attachment or sale of any property or the garnishment or attachment of wages of the debtor, unless such action is in fact contemplated by the debt collector and permitted by the law.
- 27. Section 1788.13(j) of the Rosenthal Act provides:

No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: . . . (j) The false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made.
- 28. Section 1788.17 of the Rosenthal Act provides in relevant part:

Notwithstanding any other provision of this title, every debt collector collecting or attempting to collect a consumer debt shall comply with the provisions of Sections 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k of, Title 15 of the United States Code
- 29. Section 1692e of the FDCPA provides in relevant part:

A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section: . . . (2) The false representation of— (A) the character, amount, or legal status of any debt . . . (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action. (5) The threat to take any action that cannot legally be taken or that is not intended to be taken.
- 30. Section 1692g of the FDCPA provides in relevant part:

(a) Notice of debt; contents

1 Within five days after the initial communication with a consumer in
2 connection with the collection of any debt, a debt collector shall, unless
3 the following information is contained in the initial communication or the
4 consumer has paid the debt, send the consumer a written notice
5 containing--

- 6 (1) the amount of the debt;
- 7 (2) the name of the creditor to whom the debt is owed;
- 8 (3) a statement that unless the consumer, within thirty days after receipt of
9 the notice, disputes the validity of the debt, or any portion thereof, the debt
10 will be assumed to be valid by the debt collector;
- 11 (4) a statement that if the consumer notifies the debt collector in writing
12 within the thirty-day period that the debt, or any portion thereof, is
13 disputed, the debt collector will obtain verification of the debt or a copy of
14 a judgment against the consumer and a copy of such verification or
15 judgment will be mailed to the consumer by the debt collector; and
16 (5) a statement that, upon the consumer's written request within the thirty-
17 day period, the debt collector will provide the consumer with the name
18 and address of the original creditor, if different from the current creditor.

19 31. California Financial Code section 90015(d) provides:

20 (1) If, in the opinion of the department, any person engages, has engaged,
21 or proposes to engage in any activity prohibited by Section 90003 or
22 90004, or an activity, act, practice, or course of business that violates a
23 law, rule, order, or any condition imposed in writing on the person by the
24 department, the department may issue an order directing the person to
25 desist and refrain from engaging in the activity, act, practice, or course of
26 business.

27 (2) If that person fails to file a written request for a hearing within 30 days
28 from the date of service of the order, the order shall be deemed a final
order of the commissioner.

32. California Financial Code section 90015(c) provides, “[a]fter notice and an
opportunity to be heard, the commissioner may, by order, assess penalties under subdivision (c) of
Section 90012.”

33. California Financial Code section 90012(c) provides in relevant part:

In any civil or administrative action brought pursuant to this division, the
following penalties shall apply:

(1) Any person that violates, through any act or omission, any provision of
this division shall forfeit and pay a penalty pursuant to this subdivision.

(A) The penalty amounts are as follows:

(i) For any violation of this division, rule or final order, or condition imposed in writing by the department, a penalty may not exceed the greater of either five thousand dollars (\$5,000) for each day during which the violation or failure to pay continues, or two thousand five hundred dollars (\$2,500) for each act or omission in violation

IV.

Desist and Refrain Order

34. Based on the foregoing findings, the Commissioner is of the opinion that Bellgate is a covered person or service provider that engaged in unlawful acts or practices with respect to consumer financial products or services in violation of California Financial Code section 90003 (a)(1) and offered or provided to a consumer any financial product or service not in conformity with any consumer financial law or otherwise committed any act or omission in violation of a consumer financial law, in violation of California Financial Code section 90003(a)(2), including but not limited to the following:

- a. Section 100001(a) of the DCLA;
- b. Section 1788.10(e) of the Rosenthal Act;
- c. Section 1788.13(j) of the Rosenthal Act;
- d. Section 1788.17 of the Rosenthal Act;
 - i. Section 1692e(2), (4), and (5) of the FDCPA;
 - ii. Section 1692g of the FDCPA.

35. Pursuant to California Financial Code section 90015(d)(1), Bellgate and its managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain from engaging in, or proposing to engage in, unlawful acts or practices in collecting or attempting to collect any consumer debt in violation of California Financial Code section 90003(a)(2), including but not limited to violating the following:

- a. Section 100001(a) of the DCLA;
- b. Section 1788.10(e) of the Rosenthal Act;
- c. Section 1788.13(j) of the Rosenthal Act;
- d. Section 1788.17 of the Rosenthal Act;
 - i. Section 1692e(2), (4), and (5) of the FDCPA;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

V.

Order Assessing Penalties

39. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due consideration of possible mitigating factors and other appropriateness considerations per California Financial Code section 90012(c)(1)(B), Bellgate is hereby ordered to pay an administrative penalty of \$30,000.00 to the Commissioner within 30 days of the date of this order. The penalty shall be made payable in the form of an Automated Clearing House deposit or cashier’s check payable to the Department of Financial Protection and Innovation and transmitted to the attention of “Accounting – Litigation,” at the Department of Financial Protection and Innovation, 2101 Arena Boulevard, Sacramento, California 95814-2306. Notice of the payment must be concurrently sent to the Commissioner’s Enforcement Counsel Sally Hong via e-mail at Sally.Hong@dfpi.ca.gov.

Dated: October 23, 2023
San Francisco, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



By: _____
MARY ANN SMITH
Deputy Commissioner
Enforcement Division