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8 BEFORE THE DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION
9 OF THE STATE OF CALIFORNIA
10

11 In the Matter of:)
12 THE COMMISSIONER OF FINANCIAL) DESIST AND REFRAIN ORDER AND
PROTECTION AND INNOVATION,) ORDER ASSESSING PENALTIES
13)
14 v. Complainant,) (Cal. Fin. Code § 90015(b), (c), (d)(1))
15 BLACKROCK LEGAL GROUP,)
16 Respondent.)
17)
18)
19)

20 The Complainant, the Commissioner of Financial Protection and Innovation (Commissioner)
21 of the Department of Financial Protection and Innovation (Department), is informed and believes,
22 and based on such information and belief, finds as follows:

23 I.

24 **Introduction**

25 1. The Commissioner has jurisdiction over the licensing and regulation of persons
26 engaged in the business of debt collection in California under the Debt Collection Licensing Act
27 (DCLA) (Cal. Fin. Code §§ 100000-100025).
28

- 1 g. The letter was allegedly “CC’d” to several entities, including the “U.S.
2 District Court,” and “Transunion credit bureau;”
- 3 h. The letter claims to identify Consumer A’s credit score and then states, “our
4 intent is to run your credit report which will result in a hard inquiry being
5 reported to the credit bureaus. A hard inquiry will significantly impact your
6 credit score;”
- 7 i. The letter falsely claims that if Consumer A fails to pay the debt or otherwise
8 respond by the due date referenced in the letter, BlackRock’s “intent is to
9 immediately have you served a court summons.” After the deadline expired,
10 Consumer A did not receive service of process or any further indication that a
11 lawsuit had actually been filed; and
- 12 j. The letter falsely claims that it was the “second notice,” when in fact it was
13 BlackRock’s first contact with Consumer A. Consumer A received no further
14 notices from BlackRock after this initial correspondence.

15 6. Additionally, in or around July 2022, BlackRock sent another California consumer
16 (Consumer B) text messages instructing Consumer B to “pay an out of court settlement amount of
17 \$395.00” to resolve Consumer B’s case and avoid “a civil court judgment and a potential wage
18 garnishment.” BlackRock sent these text messages after Consumer B received a letter entitled,
19 “Notification of Lawsuit & Civil Complaint.” The letter sought to collect a consumer debt relating to
20 a payday loan. The letter BlackRock sent Consumer B did not include a case number, identify a
21 specific court, federal district court, or otherwise provide any indication that a lawsuit had actually
22 been filed. Consumer B received no further notices from BlackRock.

23 7. The Commissioner finds that the letters and texts that BlackRock sent violated
24 provisions of the Rosenthal Fair Debt Collection Act (Rosenthal Act) (Cal. Civ. Code §§ 1788 –
25 1788.33), which prohibits the following:

- 26 a. Falsely representing that a legal proceeding has been, is about to be, or will be
27 instituted unless payment is made, in violation of California Civil Code
28 section 1788.13(j);

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b. In collecting or attempting to collect a consumer debt, failing to comply with provisions of sections 1692b and 1692j of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692 to 1692p), in violation of California Civil Code section 1788.17. BlackRock’s attempts to collect a debt from Consumers A and B violated provisions of the FDCPA, including but not limited to the following:

- i. Using false, deceptive or misleading representation or means in connection with the collection of any debt, in violation of title 15 of the United States Code section 1692e; and
- ii. Failing to provide at least one California consumer, within five days of the initial communication about the debt, with written notification as required by title 15 of the United States Code section 1692g(a) of the FDCPA. Section 1692g(a) requires the following information to be provided to the consumer: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a statement that if the consumer notifies the debt collector in writing within the thirty-day period that the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a copy of a judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer by the debt collector; and (5) a statement that, upon the consumer’s written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

Failure to Submit License Application in Violation of the DCLA

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

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

10. In or around March 2022, despite lacking licensure or a pending application, BlackRock engaged in the business of debt collection in this state by attempting to collect a debt from at least one California consumer, in violation of California Financial Code section 100001(a), by sending a collection letter to the California consumer for an alleged consumer debt, stating, among other things, that “This is an attempt to collect a debt. Any information obtained will be used for that purpose.”

III.

Applicable Laws

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

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

13. California Financial Code section 100002(f) provides:

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

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

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15. California Financial Code section 100002(j) provides:
“Debt collector” means any person who, in the ordinary course of business, regularly, on the person’s own behalf or on behalf of 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. The term “debt collector” includes “debt buyer” as defined in Section 1788.50 of the Civil Code.

16. California Financial Code section 90005 provides in relevant part:
(d) “Consumer financial law” means a federal or California law that directly and specifically regulates the manner, content, or terms and conditions of any financial transaction, or any account, product, or service related thereto, with respect to a consumer . . .
(e) “Consumer financial product or service” means either of the following:
(1) A financial product or service that is delivered, offered, or provided for use by consumers primarily for personal, family, or household purposes . . .
(f) “Covered person” means, to the extent not preempted by federal law, any of the following: (1) Any person that engages in offering or providing a consumer financial product or service to a resident of this state . . .
(k) “Financial product or service” means . . . (10) *Collecting debt* related to any consumer financial product or service (emphasis added.)

17. California Financial Code section 90003(a) provides in relevant part:
(a) It is unlawful for a covered person or service provider, as defined in subdivision (f) of Section 90005, to do any of the following:
(1) Engage, have engaged, or propose to engage in any unlawful, unfair, 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

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

19. 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

1 collection. The term includes any person who composes and sells, or
2 offers to compose and sell, forms, letters, and other collection media used
3 or intended to be used for debt collection.

4 20. Section 1788.13 of the Rosenthal Act provides in relevant part:

5 “No debt collector shall collect or attempt to collect a consumer debt by means of the
6 following practices: . . . (j) The false representation that a legal proceeding has been,
7 is about to be, or will be instituted unless payment of a consumer debt is made . . . ”

8 21. Section 1788.17 of the Rosenthal Act provides in relevant part:

9 Notwithstanding any other provision of this title, every debt collector collecting or
10 attempting to collect a consumer debt shall comply with the provisions of Sections
11 1692b to 1692j, inclusive, of, and shall be subject to the remedies in Section 1692k
12 of, Title 15 of the United States Code . . .

13 22. Section 1692e of the FDCPA provides in relevant part:

14 A debt collector may not use any false, deceptive, or misleading
15 representation or means in connection with the collection of any debt.
16 Without limiting the general application of the foregoing, the following
17 conduct is a violation of this section: (2) The false representation of (a) the
18 character, amount, or legal status of any debt . . . (3) The false
19 representation or implication that any individual is an attorney or that any
20 communication is from an attorney . . . (10) The use of any false
21 representation or deceptive means to collect or attempt to collect any debt
22 or to obtain information concerning a consumer. . . .

23 23. Section 1692g of the FDCPA provides in relevant part:

24 (a) Notice of debt; contents

25 Within five days after the initial communication with a consumer in
26 connection with the collection of any debt, a debt collector shall, unless
27 the following information is contained in the initial communication or the
28 consumer has paid the debt, send the consumer a written notice
containing--

(1) the amount of the debt;

(2) the name of the creditor to whom the debt is owed;

(3) a statement that unless the consumer, within thirty days after receipt of
the notice, disputes the validity of the debt, or any portion thereof, the debt
will be assumed to be valid by the debt collector;

(4) a statement that if the consumer notifies the debt collector in writing
within the thirty-day period that the debt, or any portion thereof, is
disputed, the debt collector will obtain verification of the debt or a copy of
a judgment against the consumer and a copy of such verification or
judgment will be mailed to the consumer by the debt collector; and

(5) a statement that, upon the consumer's written request within the thirty-day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor...

24. California Financial Code section 90015(d) provides:

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

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

25. 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.

26. 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

27. Based on the foregoing findings, the Commissioner is of the opinion that BlackRock Legal Group 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). Further, the Commissioner finds that BlackRock Legal Group offered or provided to a

1 consumer a financial product or service not in conformity with any consumer financial law or
2 otherwise committed an act or omission in violation of a consumer financial law, in violation of
3 California Financial Code section 90003(a)(2), including but not limited to the following:

- 4 a. Section 100001(a) of the DCLA;
- 5 b. Section 1788.13(j) of the Rosenthal Act;
- 6 c. Section 1788.17 of the Rosenthal Act;
 - 7 i. Sections 1692e(2), (3), and (10) of the FDCPA; and
 - 8 ii. Section 1692g(a) of the FDCPA.

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

- 14 d. Section 100001(a) of the DCLA;
- 15 e. Section 1788.13(j) of the Rosenthal Act;
- 16 f. Section 1788.17 of the Rosenthal Act;
 - 17 i. Sections 1692e(2), (3), and (10) of the FDCPA; and
 - 18 ii. Section 1692g(a) of the FDCPA.

19 29. Furthermore, based on the foregoing findings, the Commissioner is of the opinion that
20 BlackRock Legal Group is a “covered person” or service provider that engaged in deceptive acts or
21 practices with respect to “consumer financial products or services” in violation of California
22 Financial Code section 90003(a)(1).

23 30. Pursuant to California Financial Code section 90015(d)(1), BlackRock Legal Group
24 and its managers, officers, directors, agents, or employees, are hereby ordered to desist and refrain
25 from engaging in, or proposing to engage in, deceptive acts or practices in collecting or attempting to
26 collect any consumer debt in violation of California Financial Code section 90003(a)(1).

27 31. This Order is necessary, in the public interest, for the protection of consumers and
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1 consistent with the purposes, policies, and provisions of the California Consumer Financial
2 Protection Law. This Order shall remain in full force and effect until further order of the
3 Commissioner.

4 **V.**

5 **Order Assessing Penalties**

6 32. Pursuant to California Financial Code sections 90015(c) and 90012(c), and after due
7 consideration of possible mitigating factors and other appropriateness considerations per California
8 Financial Code section 90012(c)(1)(B), BlackRock Legal Group is hereby ordered to pay an
9 administrative penalty of \$25,000.00 to the Commissioner within 30 days of the date of this order.
10 The penalty shall be made payable in the form of an Automated Clearing House deposit or cashier’s
11 check payable to the Department of Financial Protection and Innovation and transmitted to the
12 attention of “Accounting – Litigation,” at the Department of Financial Protection and Innovation,
13 2101 Arena Boulevard, Sacramento, California 95814-2306. Notice of the payment must be
14 concurrently sent to the Commissioner’s Enforcement Counsel Denise Smith via e-mail at
15 Denise.Smith@dfpi.ca.gov.

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17 Dated: June 5, 2023
18 San Francisco, California

CLOTHILDE V. HEWLETT
Commissioner of Financial Protection and Innovation



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20 By: _____
21 MARY ANN SMITH
22 Deputy Commissioner
23 Enforcement Division
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