



CFPB Investigation Leads to First Criminal Referral to DOJ

Following the Consumer Financial Protection Bureau's investigation into the alleged fraudulent practices of a debt relief company, the CFPB and the U.S. Attorney's Office for the Southern District of New York announced the criminal indictment against the company, Mission Settlement Agency, and six individuals, including Mission's owner, three employees, and two former employees. The criminal prosecution, based on information collected by the CFPB, marks the first time that the Bureau has referred an investigation to the Department of Justice. The CFPB exercises the statutory authority to investigate and bring civil enforcement actions for violations of the Consumer Financial Protection Act and has issued its own complaint seeking civil penalties and injunctive relief while the DOJ's criminal prosecution proceeds against the defendants on a parallel track.

The [CFPB complaint](#), filed in the U.S. District Court for the Southern District of New York, alleges violations of the Consumer Financial Protection Act of 2010 and the Telemarketing and Consumer Fraud and Abuse Prevention Act, asserting that Mission; its principal, Michael Levitis; and several associated law firms and consulting entities marketed and sold debt relief services to consumers through phone and mail solicitations, promising substantial reductions in their debts. According to the complaint, these solicitations included impersonating an official body, giving the false impression that Mission's program was affiliated with the government, and misleading consumers concerning the collection of fees associated with Mission's promised services. While Mission collected funds from the consumers, purportedly to disburse as payments after Mission negotiated settlements with the consumers'

creditors, the complaint alleges that Mission and its affiliated entities collected funds without disclosing at what point it would make settlement offers concerning the consumers' outstanding debts and used the monies to pay advance fees to Mission and its affiliated entities before making payments, to the extent they actually made any, to any creditors. As a result, the consumers allegedly not only suffered financial injury - in the form of paying Mission without receiving the expected services - but also suffered further impairments of their credit, in some cases resulting in bankruptcy, because Mission directed consumers to stop paying their creditors and to make payments to Mission instead. The complaint seeks injunctive relief, restitution, disgorgement, civil penalties, and attorney's fees.

While the CFPB action seeks civil relief under consumer protection laws and regulations, the U.S. attorney's [indictment](#) charged Mission and its agents with mail and wire fraud as well as conspiracy to commit those federal crimes. The indictment describes a concerted scheme to market debt relief services, collecting fees in advance of providing those services, while fraudulently promising that Mission could help consumers slash their debts - typically by 45 percent - when for the majority of customers Mission actually did little or no work and failed to achieve any reduction in the consumers' debt. In enticing customers, Mission allegedly not only represented that it was affiliated with the government but also claimed to enjoy a special relationship with a major credit bureau.

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On May 6, the district court issued an injunction against Mission and the individually named defendants, barring defendants from selling or transferring assets or taking any other actions that would diminish the value of specified assets owned or controlled by the defendants pending the criminal prosecution. Two of the individual defendants, former employees of Mission, reportedly have already pled guilty to mail and wire fraud as well as conspiracy to commit both. In addition to the indictment charging wire and mail fraud and conspiracy, the DOJ has filed a separate forfeiture action, seeking forfeiture of property and accounts held by the defendants, including a Brooklyn nightclub owned by Levitis.

In a [statement](#) announcing the Bureau's criminal referral and collaboration with the DOJ, Director Richard Cordray signaled the Bureau's intention to investigate fraud in the debt relief industry aggressively and to look for more occasions to coordinate and collaborate with the DOJ.

Loeb & Loeb LLP's Consumer Financial Protection Bureau Task Force

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