

Client Alert

December 21, 2015

CFPB Takes Action Against Lead Aggregators

By **Obrea O. Poindexter, Sean Ruff, and Calvin Funk**

On December 17, 2015, the Consumer Financial Protection Bureau (“CFPB”) announced that it has taken action against lead aggregators that resold sensitive personal information to lenders and debt collectors. In a complaint against T3Leads (“T3”) and a consent order against a sole proprietorship (“Lead Publisher”), the CFPB alleged that the lead aggregators exposed millions of consumers to unfair and abusive acts and practices.

T3 COMPLAINT

In its complaint against T3, which was filed in the Central District of California, the CFPB alleges that T3 bought consumers’ loan applications from lead generators that marketed payday and installment loans and sold the information to lenders and other lead purchasers without properly vetting the sellers and buyers, exposing consumers to the risk of their sensitive personal information being purchased by illegal actors.

In addition, the CFPB alleges that T3 allowed its lead generators to attract consumers with misleading statements and took unreasonable advantage of consumers’ lack of understanding of the material risks, costs, or conditions of the loan products for which they apply. According to the CFPB, the lenders to which T3 sells leads are “covered persons” under the federal Consumer Financial Protection Act (“CFPA”) and, thus, T3 is a “service provider” under the CFPA. The CFPB found the company’s conduct to be unfair and abusive, in violation of the CFPA.

The CFPB alleges that the following acts and practices by T3 were unfair, in violation of the CFPA:

- T3 purchased leads from lead generators that it knew or should have known were making misleading statements to consumers regarding the lenders that would receive the consumers’ information and the loans those lenders would offer (e.g., that the lead generators would help consumers find the best rates or lowest fees, or would match consumers’ applications with appropriate lenders).
- T3 failed to monitor its lead purchasers for illegal activity. Similarly, the complaint alleges that T3 sold leads to data managers and data brokers who resold the leads without disclosing to T3 the end purchasers of the leads.
- Consumers were not notified of T3’s involvement in processing their loan applications and could not reasonably assess the reliability of the lenders to which their applications were sold.

The CFPB also alleges that T3 violated the CFPA by engaging in certain abusive acts and practices. Specifically, T3’s process of steering leads to lenders allowed consumers’ applications to be sent to lenders that offer less-favorable terms than may otherwise be available. T3 steered consumers to these less-favorable lenders even though T3 knew or should have known that some lead generators made representations that the applicants would be sent to favorable lenders.

The CFPB’s complaint against T3 seeks monetary relief, injunctive relief, and penalties.

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LEAD PUBLISHER CONSENT ORDER

The CFPB also entered into a consent order with Eric V. Sancho, who operated Lead Publisher, a sole proprietorship that allegedly violated the CFPB by recklessly providing substantial assistance to a covered person engaged in unfair, deceptive, or abusive acts or practices.

The CFPB alleged that Lead Publisher bought and then sold leads that contained sensitive consumer information—including name, date of birth, telephone numbers, home and email addresses, references, employer information, credit rating, and bank-routing and account numbers—without conducting a review of either the lead generators or the lead purchasers that it transacted with.

According to the CFPB, Lead Publisher sold roughly three millions customer leads to several debt collectors who used the leads in a scheme to defraud consumer. The CFPB further alleges that the fraudulent debt collectors used the leads to lie to, threaten, and harass consumers into paying debts that they did not owe, as well as deceiving consumers by using consumers' personal information provided by Lead Publisher.

The CFPB alleges that Lead Publisher failed to verify whether the fraudulent debt collectors had a legitimate business or inquire into their legal compliance policies or practices or licenses. Additionally, the CFPB alleges that Lead Publisher ignored red flags that should have indicated that the debt collectors did not have a legitimate business.

The CFPB ordered Mr. Sancho to disgorge \$21,151 he made illegally and banned him from providing any consumer financial product or service, including participating in any business involved in the consumer lead industry.

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