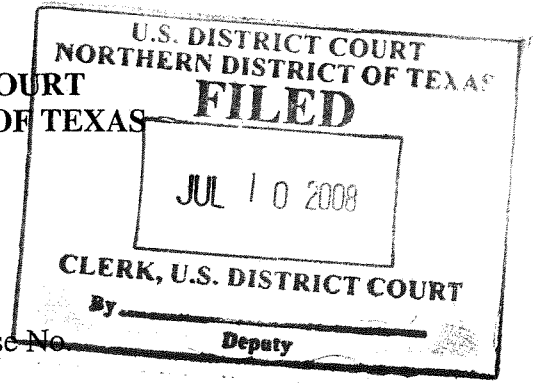


UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION



FEDERAL TRADE COMMISSION,

Plaintiff,

v.

PAYNELESS CREDIT REPAIR, LLC, and

LESLEY L. PAYNE,

Defendants.

SEALED

Case No.

Deputy

3 - 08 CIV 1160 - M  
UNDER SEAL

**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and under Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), to obtain temporary, preliminary, and permanent injunctive relief, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief against Defendants Payneless Credit Repair, LLC and Lesley L. Payne for engaging in deceptive acts or practices in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Credit Repair Organizations Act, 15 U.S.C. § 1679 *et seq.*

**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the United States District Court for the Northern District of Texas is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b).

### **PLAINTIFF**

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also is charged with enforcing the Credit Repair Organizations Act. 15 U.S.C. § 1679h(a).

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the Credit Repair Organizations Act in order to secure such equitable relief as is appropriate in each case, including restitution for injured consumers. 15 U.S.C. §§ 53(b), 57b, and 1679h(b).

### **DEFENDANTS**

6. Defendant Payneless Credit Repair, LLC (“PCR”) is a Texas limited liability company with its principal mailing address at P.O. Box 852406, Richardson, Texas, 75085. Defendant PCR transacts or has transacted business in this district and throughout the United States.

7. Defendant Lesley L. Payne (“Payne”) is the registered agent, owner, and sole manager of Defendant PCR. At all times material to this Complaint, acting alone or in concert with others, Defendant Payne has formulated, directed, controlled, or participated in the acts or practices of PCR, including the acts and practices set forth in this Complaint. Defendant Payne resides in Richardson, Texas, and transacts or has transacted business in this district and throughout the United States.

## COMMERCE

8. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### DEFENDANTS’ BUSINESS ACTIVITIES

9. Since at least March 2005, and continuing thereafter, Defendants have advertised, marketed, promoted, offered for sale, and sold credit repair services to consumers in Texas and throughout the United States. Defendants have advertised and continue to advertise their services through an Internet Web site located at [www.paynecreditrepair.com](http://www.paynecreditrepair.com), classified ads placed in the *Dallas Morning News*, and local online Yellow Pages listings.

10. Through verbal representations made by Defendant Payne and written statements on Defendants’ Web site and in their promotional materials, Defendants have offered and continue to offer credit repair services purporting to remove derogatory information from and to improve consumers’ credit records, credit histories, and credit ratings. Defendants claim they possess special knowledge that enables them to permanently remove negative information from consumers’ credit reports, including late payments, charge-offs, collections, tax liens, repossessions, bankruptcies, and judgments, even where such information is accurate and not obsolete.

11. Defendants have not registered as a “credit services organization” with the Texas Secretary of State before conducting their credit repair business, as required by Texas law. Tex. Fin. Code § 393.101 (Lexis 2007).

12. To attract consumers and induce them to purchase Defendants’ credit repair services, Defendants’ Web site contains statements such as the following:

**There is a Way Out!  
Good Credit and High Scores Can Change Your Life!**

\*\*\*

**Fast, Legal, Effective, CREDIT REPORT REPAIR**

\*\*\*

We will fight to remove negative items from your credit reports, so you can improve your credit score, and start living life without limitations.

\*\*\*

**Get your case started and begin removing:**

- \* Late Payments and Charge Offs
- \* Tax Liens and Bankruptcies
- \* Collections and other negative items

\*\*\*

No matter what type of negative and damaging information is on your credit report, whether bankruptcy, charge-offs, late payments or anything in between we will challenge it according to the law. We have developed the most effective and appropriate legal strategies to remove negative items from your credit report.

Simply put, Payneless Credit Repair is the most important weapon you can use to blast away the negative information that is stopping you from achieving your financial dreams.

\*\*\*

**Don't Take Our Word For It!  
Listen to our clients! . . .**

Dear Payneless Credit Repair, . . . When I enlisted your services five months ago my FICO mid score was 580. Thanks in large part to your efforts, my mid score is now a 749, and I was able to qualify for a \$450,000 loan. . . . Richard – McKinney, TX

\*\*\*

Statistically, [our] clients have received, on average, 10.77 deletions by their third month, 15.15 deletions by the sixth month, and 25.8 deletions by the end of nine months. A deletion is a credit item that has permanently disappeared from the credit report of the client.

\*\*\*

**Satisfaction Guaranteed** . . . If we do not get any items removed from your credit [report] we will refund you all monies paid.

13. To attract consumers and induce them to purchase Defendants' credit repair services, Defendants regularly place the following classified ad in the *Dallas Morning News*:

\*\* CREDIT REPAIR \*\*  
Guaranteed Fast Results  
\* \* 214-649-3333 \* \*

14. To attract consumers and induce them to purchase Defendants' credit repair services, Defendant Payne's business card contains the following statements:

**Payneless Credit Repair**  
*Legally Repair Your Credit - Fast Results Guaranteed*

Lesley Payne  
*Credit Repair Specialist*  
(Front of card)

\*\*\*

We Can Remove  
Unpaid collections, charge-offs, repossessions,  
bankruptcies and judgements.  
(Back of card)

15. Consumers who see Defendants' classified ad or Internet Web site, or who are referred to PCR by business or personal acquaintances, are encouraged to contact PCR via telephone or email for further information.

16. Consumers interested in finding out more about Defendants' credit repair services typically must leave their telephone numbers so they can receive a return phone call. Thereafter, Defendant Payne calls the consumers to close the deal and arrange for payment of Defendants' advance fee.

17. In discussions with consumers, Defendant Payne promises credit repair results that far exceed the claims made by Defendants on their Web site or in their other written materials. Defendant Payne typically represents that Defendants can permanently and legally remove all negative items contained on consumers' credit reports, even where the items are accurate and recent. In addition, Defendant Payne represents that Defendant PCR is licensed and bonded, and that the company offers a 100% money-back guarantee. Examples of verbal representations made by Defendant Payne to induce consumers to purchase Defendants' services, include the following:

[P]er the Fair Credit Reporting Act, there's [sic] 943 laws that entitle you to have items removed off your credit. . . . Whether it's [sic] your items or not.

\*\*\*

Anything derogatory that's on your credit can be deleted. Late payments will show paid, never late. You'll see the most results in the first 30 days. The longest it can take is 90 [days].

\*\*\*

Questioner: Now, you said that you could get any of the derogatories removed off --

Ms. Payne: That is correct.

Questioner: Okay. So, it doesn't matter how old they are?

Ms. Payne: Correct.

Questioner: [They are] like two years [old] and I know that . . . I was late on some of these credit card payments and, you know, some of my car payments and some of the rent payments.

Ms. Payne: Okay. Yeah, and like I said, you know, any of those items, it doesn't matter if it's current or it is two years old, whatever the case may be, that derogatory will be removed.

\*\*\*

It's 100 percent money-back guarantee.

18. Consumers who are persuaded to use Defendants' services usually are asked to sign a contract and pay an advance fee. Defendants typically charge \$500 to \$1,000 for their credit repair services, but sometimes collect as much as \$2,500 from consumers. This fee typically is paid by cash or check and is required before the promised credit repair services are fully performed.

19. Defendant Payne often meets personally with consumers who live nearby to secure executed contracts and collect the required fees. Defendant Payne sometimes uses temporary office suites for such in-person meetings. On other occasions, Defendant Payne meets with consumers at the consumers' places of employment, in local restaurants, and even in commercial parking lots.

20. The written contracts used by Defendants fail to contain statements regarding the consumers' right to cancel the contracts without penalty or obligation at any time before the third business day after the date on which the consumers signed the contracts.

21. Defendants also fail to provide consumers with "Notice of Cancellation" forms that can be used by consumers to cancel the contracts within three business days.

22. Defendants also fail to provide consumers with separate written statements, prior to the time consumers sign the contracts, that contain specific information on consumer credit file rights under state and federal law.

23. Following execution of the contracts and payment of the advance fees, Defendants do little, if anything, to fulfill the promises made to consumers. When consumers attempt to complain to Defendants, they find it difficult to reach them. Consumers' emails and voice-mails frequently go unanswered by Defendants. In some instances, consumers who return to Defendants' temporary offices find that Defendants have vacated the premises leaving no forwarding address.

24. Consumers who are successful in reaching Defendants are given a variety of excuses as to why the promised results have not been achieved. Consumers who persist in contacting Defendants are instructed to stop. Often consumers are threatened with harassment suits.

25. Consumers' refund requests are almost always denied by Defendants. Even consumers who file formal complaints against Defendants with the Dallas Better Business Bureau and the Texas Attorney General are typically unsuccessful in recovering any money from Defendants.

### **THE CREDIT REPAIR ORGANIZATIONS ACT**

26. The Credit Repair Organizations Act took effect on April 1, 1997, and has since that date remained in full force and effect.

27. The Credit Repair Organizations Act defines a "credit repair organization" as:

[A]ny person who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of . . . improving any consumer's credit record, credit history, or credit rating[.]

15 U.S.C. § 1679a(3).



28. The purposes of the Credit Repair Organizations Act, according to Congress, are:

- (1) to ensure that prospective buyers of the services of credit repair organizations are provided with the information necessary to make an informed decision regarding the purchase of such services; and
- (2) to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.

15 U.S.C. § 1679(b).

29. The Credit Repair Organizations Act prohibits all persons from making or using any untrue or misleading representation of the services of the credit repair organization.

15 U.S.C. § 1679b(a)(3).

30. The Credit Repair Organizations Act prohibits credit repair organizations from charging or receiving any money or other valuable consideration for the performance of any service which the credit repair organization has agreed to perform before such service is fully performed. 15 U.S.C. § 1679b(b).

31. The Credit Repair Organizations Act requires credit repair organizations to provide consumers with a written statement containing prescribed language concerning “Consumer Credit File Rights Under State and Federal Law” before any contract or agreement is executed. 15 U.S.C. § 1679c(a).

32. The Credit Repair Organizations Act requires credit repair organizations to include, in any contract or agreement for services, specific conspicuous statements regarding the consumers’ right to cancel the contract without penalty or obligation at any time before midnight of the third business day after the date on which the consumers signed the contract or agreement.

15 U.S.C. § 1679d(b)(4).

33. The Credit Repair Organizations Act requires credit repair organizations to provide consumers with a “Notice of Cancellation” form, in duplicate, containing prescribed

language concerning consumers' three-day right to cancel that consumers can use to cancel the contract. 15 U.S.C. § 1679e(b).

34. Pursuant to Section 410(b)(1) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b)(1), any violation of any requirement or prohibition of the Credit Repair Organizations Act constitutes an unfair or deceptive act or practice in commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **VIOLATIONS OF THE CREDIT REPAIR ORGANIZATIONS ACT**

### **COUNT ONE**

35. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of services to consumers by a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Defendants have made untrue or misleading representations to induce consumers to purchase their credit repair services, including, but not limited to, the representation that Defendants can improve substantially consumers' credit reports or profiles by permanently removing negative information from consumers' credit reports, even where such information is accurate and not obsolete.

36. Defendants have thereby violated Section 404(a)(3) of the Credit Repair Organizations Act. 15 U.S.C. § 1679b(a)(3).

### **COUNT TWO**

37. In numerous instances, in connection with their operation as a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Defendants have charged or received money or other valuable

consideration for the performance of credit repair services that Defendants have agreed to perform before such services were fully performed.

38. Defendants have thereby violated Section 404(b) of the Credit Repair Organizations Act. 15 U.S.C. § 1679b(b).

### **COUNT THREE**

39. In numerous instances, in connection with their operation as a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Defendants have failed to provide a written statement of “Consumer Credit File Rights Under State and Federal Law,” in the form and manner required by the Credit Repair Organizations Act, to consumers before any contract or agreement was executed.

40. Defendants have thereby violated Section 405(a) of the Credit Repair Organizations Act. 15 U.S.C. § 1679c(a).

### **COUNT FOUR**

41. In numerous instances, in connection with their operation as a credit repair organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Defendants have failed to include on their consumer contracts conspicuous statements regarding the consumers’ right to cancel the contracts without penalty or obligation at any time before the third business day after the date on which the consumers signed the contracts.

42. Defendants have thereby violated Section 406(b)(4) of the Credit Repair Organizations Act. 15 U.S.C. § 1679d(b)(4).

### **COUNT FIVE**

43. In numerous instances, in connection with their operation as a credit repair

organization, as that term is defined in Section 403(3) of the Credit Repair Organizations Act, 15 U.S.C. § 1679a(3), Defendants have failed to provide a written “Notice of Cancellation,” in the form and manner required by the Credit Repair Organizations Act, to consumers before any contract or agreement was executed.

44. Defendants have thereby violated Section 407(b) of the Credit Repair Organizations Act. 15 U.S.C. § 1679e(b).

#### **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

45. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

46. Misrepresentations or omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

#### **COUNT SIX**

47. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services, Defendants have represented, expressly or by implication, that they can improve substantially consumers’ credit reports or profiles by permanently removing negative information from consumers’ credit reports, even where such information is accurate and not obsolete.

48. In truth and in fact, in numerous instances, Defendants cannot improve substantially consumers’ credit reports or profiles by permanently removing negative information from consumers’ credit reports where such information is accurate and not obsolete.

49. Therefore, Defendants’ representations set forth in Paragraph 47 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act. 15 U.S.C. § 45(a).

## **COUNT SEVEN**

50. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of credit repair services, Defendants have represented, expressly or by implication, that Defendant PCR is licensed with the state of Texas and bonded with the state of Texas.

51. In truth and in fact, Defendant PCR is not licensed with the state of Texas and is not bonded with the state of Texas.

52. Therefore, Defendants' representations set forth in Paragraph 50 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **CONSUMER INJURY**

53. Consumers have suffered, and continue to suffer, substantial monetary loss as a result of Defendants' violations of the FTC Act and the Credit Repair Organizations Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

## **THIS COURT'S POWER TO GRANT RELIEF**

54. Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), empower this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act and the Credit Repair Organizations Act. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including, but not limited to,

rescission of contracts and restitution, and the disgorgement of ill-gotten gains, to prevent and remedy injury caused by Defendants' law violations.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 410(b) of the Credit Repair Organizations Act, 15 U.S.C. § 1679h(b), and the Court's own equitable powers, requests that this Court:

1. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, temporary and preliminary injunctions and an order freezing assets;

2. Enter a permanent injunction to prevent future violations of the FTC Act and the Credit Repair Organizations Act by Defendants;

3. Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the Credit Repair Organizations Act, including, but not limited to, rescission of contracts and restitution, and the disgorgement of ill-gotten gains by Defendants; and

4. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: July 10, 2008  
Dallas, Texas

Respectfully submitted,

WILLIAM BLUMENTHAL  
General Counsel

DEANYA T. KUECKELHAN  
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