

1 MARY ANN SMITH  
Deputy Commissioner  
2 SEAN M. ROONEY  
Assistant Chief Counsel  
3 SOPHIA C. KIM (State Bar No. 265649)  
Senior Counsel  
4 Department of Financial Protection and Innovation  
320 West 4<sup>th</sup> Street, Suite 750  
5 Los Angeles, California 90013  
Telephone: (213) 503-0457  
6 Facsimile: (213) 576-7181

7 Attorneys for Complainant

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

11 In the Matter of: ) AGENCY FILE NO.: 29005  
12 )  
13 THE COMMISSIONER OF FINANCIAL ) DESIST AND REFRAIN ORDER and  
PROTECTION AND INNOVATION, ) ORDER ASSESSING PENALTIES  
14 )  
Complainant, )  
15 v. )  
16 F & F MANAGEMENT INC. ) (Fin. Code § 90015, subs. (c), (d)(1))  
17 Respondent. )  
18 )  
19 )  
20 )

21  
22 The Commissioner of Financial Protection and Innovation (Commissioner) of the  
23 Department of Financial Protection and Innovation (Department), is informed and believes, and  
24 based on such information and belief, finds the following:

25 **I.**  
26 **Introduction**

27 1. The Commissioner has jurisdiction over the regulation of persons who engage, have  
28 engaged, and propose to engage in offering or providing a consumer financial product or service in

1 California and affiliated service providers under the California Consumer Financial Protection Law  
2 (CCFPL) (Fin. Code, § 90000 et seq.).

3 2. At all relevant times, F & F Management Inc. (F & F) is a California corporation  
4 formed on or around February 3, 2017, with a last known business address at 40960 California Oaks  
5 Road #188, Murrieta, California 92562.

6 **II.**  
7 **Factual Background**

8 3. F & F is a debt collector as defined in Civil Code section 1788.2, subdivision (c) of  
9 the Rosenthal Fair Debt Collection Practices Act (Rosenthal Act) (Civ. Code, § 1788 et seq.), and a  
10 debt buyer as defined in Civil Code section 1788.50, subdivision (a). F & F uses multiple phone  
11 numbers to conduct business, including but not limited to (844) 642-2672 and (888) 881-4241.

12 4. F & F furnishes information regarding consumer debts to consumer reporting  
13 agencies, including but not limited to TransUnion, LLC (TransUnion).

14 5. Beginning in or around February 2021, F & F furnished negative credit information to  
15 TransUnion regarding debts allegedly owed by consumers residing in multiple states, including but  
16 not limited to Alabama, Arizona, California, Colorado, Florida, Illinois, Indiana, Kentucky,  
17 Louisiana, Nebraska, New Jersey, New Mexico, New York, North Carolina, Minnesota, Ohio,  
18 Pennsylvania, South Carolina, Tennessee, Texas, Utah, and Washington, causing consumers' credit  
19 profiles to drop substantially. Consumers' credit reports disclose F & F's contact information as  
20 40960 Cal Oaks Rd. Ste #188, Murietta, California 92562, (844) 647-2672.

21 **False, Threatening Communications in Debt Collection**

22 6. Beginning in or around May 2021 through at least August 2021, F & F placed an  
23 automated voice mail message on multiple consumers' phone numbers (Automated Message). The  
24 Automated Message failed to disclose F & F's name or contact information or basic information  
25 about the debt, in violation of Civil Code section 1788.11, subdivision (b), as follows:

26 This is the last and final notice for you. This legal proceedings (sic)  
27 issued on your docket number with our company to notify you that after  
28 making calls to you onto your phone number we were not able to get a  
hold of you. So the legal department has decided to mark this case as a  
flat refusal to pay and take legal action against you. We have sent you this  
warning notification about legal proceedings but you failed to respond on

1 time. If you fail to respond in the next 24 hours we will register this case  
2 in court. Consider this as a final warning. And we will be emailing and  
3 faxing this issue to your current employers to make sure they take strict  
4 action against you. Your salary wages will be garnished. Contact us today  
5 to make a payment arrangement or we will be proceeding legally against  
6 you. The opportunity to take care of this voluntarily is coming to an end.  
7 We would hate for you to lose the option of resolving this before it goes to  
8 the next step, which is a lawsuit against you, but to do so you must take  
9 immediate action. Please let us know what your intention is by today so  
10 we can hold the case or else we will submit the paperwork to your local  
11 county sheriff department and you will be served a court summons at your  
12 doorstep. **Our number is 888-881-4241** or press 1 to speak with an agent  
13 now. (Emphasis applied.)

14 7. F & F used randomized phone numbers to place the Automated Message, including  
15 but not limited to (774) 315-7132, (804) 415-7297, (209) 322-1517, and (681) 238-7760, making it  
16 difficult for consumers to identify the caller's I.D. when they answered the call.

17 8. Only when a consumer dialed 888-881-4241 (Call-Back Number) as directed in the  
18 Automated Message did the caller reveal its identity as "F & F Management." The responder at the  
19 Call-Back Number also confirmed F & F's address and website at [www.fandfmanagement.com](http://www.fandfmanagement.com).

20 9. The Automated Message contained false representations, including but not limited to:

21 a. That it was the last and final notice; in fact, multiple consumers received the  
22 Automated Message more than once;

23 b. That it was a legal proceeding; in fact, F & F did not commence or serve  
24 consumers with notice of any legal proceeding;

25 c. That if the consumer did not call back or respond within 24 hours, then F & F  
26 would email and fax the issue to the consumer's current employer, file a lawsuit, and submit  
27 paperwork to the consumer's local county sheriff's department; in fact, F & F placed the Automated  
28 Message on multiple consumers' phones on multiple dates and did not carry out any of the  
threatened actions even when a consumer did not call back or respond within 24 hours.

10. F & F's Automated Message violated provisions of the Rosenthal Act, including but  
not limited to the following:

///

1 a. Civil Code section 1788.13, subdivision (j), which prohibits the false  
2 representation that a legal proceeding has been or is about to be instituted unless payment is made;

3 b. Civil Code section 1788.10, subdivision (e), which prohibits threats that  
4 nonpayment of the consumer debt may result in the arrest or attachment of wages of the debtor,  
5 unless such action is in fact contemplated by the debt collector and permitted by the law;

6 c. Civil Code section 1788.10, subdivision (f), which prohibits threats to take  
7 any action that is prohibited under the Rosenthal Act. Section 1788.12, subdivision (a) of the  
8 Rosenthal Act prohibits collecting or attempting to collect a consumer debt by means of  
9 communicating with an employer regarding the alleged debt unless such communication is necessary  
10 to the collection of the alleged debt or unless the debtor or his/her attorney has consented in writing  
11 to such communication.

12 Unfair Debt Parking and Violations of the Consumer Credit Reporting Agencies Act

13 11. F & F engaged in debt collection by furnishing negative credit information regarding  
14 a consumer to TransUnion before first attempting to communicate with the consumer about the  
15 alleged debt, a practice commonly referred to as “debt parking.” Furthermore, F & F failed to  
16 notify consumers in writing prior to, or within 30 days after, furnishing negative credit information  
17 about them to TransUnion.

18 12. Civil Code section 1785.26, subdivisions (b) and (c) of the Consumer Credit  
19 Reporting Agencies Act (Civ. Code, § 1785 et seq.) (CCRAA) allow a creditor to submit negative  
20 credit information concerning a consumer to a credit reporting agency *only if* the creditor notifies the  
21 consumer affected in writing prior to or within 30 days after the transmission of the negative credit  
22 information.

23 13. For multiple consumers, the first time they became aware of F & F’s collections  
24 activity against them was when they received a notification via a credit monitoring service that their  
25 credit score had dropped 20 to 60 points. Prior to getting this sudden notice, they had never heard of  
26 F & F and were unaware of the alleged debt or any collections activity by F & F.

27 ///

28 ///

1           14.     Between April 2021 to at least August 2021, when consumers called F & F to request  
2 the name of the creditor, contact information, and basic information they needed to validate the debt,  
3 F & F refused or claimed it could not provide the requested information at that time.

4           15.     Multiple consumers contacted the bank that appeared on their TransUnion credit  
5 reports as the “original creditor” of the alleged debt reported by F & F and inquired whether the debt  
6 existed or could be verified by the bank. The bank stated it was not affiliated with F & F, held no  
7 accounts with the consumers’ name, and did not place anything on the consumers’ credit reports to  
8 be recovered.

9           16.     Despite placing the Automated Message on consumers’ phones and/or receiving  
10 phone calls from consumers demanding validation of the alleged debt, F & F failed to provide any  
11 written notification that included the following information required pursuant to 15 U.S.C. section  
12 1692g(a) of the Fair Debt Collection Practices Act (FDCPA) (15 U.S.C. §§ 1692 to 1692p) within  
13 five days of its initial communication regarding the alleged debt, in violation of Civil Code section  
14 1788.17: (1) the amount of the debt; (2) the name of the creditor to whom the debt is owed; (3) a  
15 statement that unless the consumer, within thirty days after receipt of the notice, disputes the validity  
16 of the debt, or any portion thereof, the debt will be assumed to be valid by the debt collector; (4) a  
17 statement that if the consumer notifies the debt collector in writing within the thirty-day period that  
18 the debt, or any portion thereof, is disputed, the debt collector will obtain verification of the debt or a  
19 copy of a judgment against the consumer and a copy of such verification or judgment will be mailed  
20 to the consumer by the debt collector; and (5) a statement that, upon the consumer's written request  
21 within the thirty-day period, the debt collector will provide the consumer with the name and address  
22 of the original creditor, if different from the current creditor (1692g Notice).

23           17.     F & F’s acts and practices were unfair because consumers suffered harm to their  
24 credit profiles that could not have reasonably been avoided given F & F’s failure to notify them in  
25 writing prior to or within 30 days after transmitting the negative credit information to TransUnion  
26 and F & F’s failure to provide basic information to enable the consumer to verify the existence of the  
27 alleged debt. To illustrate:

28 ///

1           a.       In or around May 2021, a California resident (Consumer A) received a notice  
2 from his credit union that his credit score dropped 24 points as a result of a new account being  
3 placed for collection on his TransUnion credit report. Consumer A had never heard of F & F, did  
4 not recognize the bank that was disclosed as the original creditor, or the balance of \$771 alleged to  
5 be past due as of May 13, 2021. The TransUnion credit report further stated that the estimated  
6 month and year that the item will be removed is August 2022.

7           b.       On or around May 18, 2021, Consumer A sent via certified mail to F & F's  
8 address listed on his credit report a written request for validation of the debt including all the  
9 information in a 1692g Notice. The return receipt from F & F is signed and dated May 21, 2021. As  
10 of August 18, 2021, Consumer A received no response from F & F. However, on July 29, and again  
11 on August 11, 2021, F & F left the Automated Message on Consumer A's phone in its attempt to  
12 collect the alleged debt.

13           c.       In or around July 2021, after failing to provide Consumer A with a response to  
14 the request for validation or a 1692g Notice, F & F claimed that the alleged debt of \$771 would "get  
15 hit with another round of charges and things like that," and "the balance is going up from the \$771 to  
16 \$1,489, and if you don't want to pay the \$1,489 you probably want to take care of it today."

17           d.       F & F's attempt to collect the unsubstantiated debt of \$771 as well as  
18 additional unsubstantiated charges violated Civil Code sections 1788.13, subdivision (e) (prohibiting  
19 the false representation that the consumer debt may be increased by the addition of attorney's fees,  
20 investigation fees, service fees, finance charges, or other charges if, in fact, such fees or charges may  
21 not legally be added to the existing obligation) and 1788.17, which incorporates 15 U.S.C. section  
22 1692f(1) (prohibiting a debt collector from using unfair or unconscionable means to collect or  
23 attempt to collect any debt, including the collection of any amount such as any interest, fee, charge,  
24 or expense incidental to the principal obligation, unless such amount is expressly authorized by the  
25 agreement creating the debt or permitted by law).

26           e.       F & F failed to provide written notification to Consumer A prior to, or within  
27 30 days after, F & F furnished negative credit information regarding an alleged debt to TransUnion.

28 ///

1 f. Furthermore, Consumer A’s TransUnion report disclosed the name of a bank  
 2 as the original creditor, and that the “[e]stimated month and year that this item will be removed:  
 3 08/2022,” indicating that F & F was attempting to collect a debt that is time-barred under Code of  
 4 Civil Procedure section 337. Yet, F & F placed the Automated Message containing threats of a  
 5 lawsuit and wage garnishment on Consumer A’s phone at least three times, even though F & F  
 6 reported to TransUnion an alleged debt for which it could not lawfully sue or garnish wages.

7 g. From at least May 2021 through August 2021, Consumer A’s credit score  
 8 was, and continues to be harmed due to F & F’s unlawful and unfair acts described above.

9 **III.**  
 10 **Applicable Law**

11 18. The Department regulates covered persons providing consumer financial products or  
 12 services under the CCFPL.

13 19. Financial Code section 90005 provides in relevant part:

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

17 (e) “Consumer financial product or service” means either of the following:  
 18 (1) A financial product or service that is delivered, offered, or provided for  
 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  
 a consumer financial product or service to a resident of this state . . .

21 (k) “Financial product or service” means . . . (10) **Collecting debt** related  
 22 to any consumer financial product or service . . . (Emphasis applied.)

23  
 24 20. Financial Code section 90003, subdivision (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.

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

(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 . . . .

21. The following laws are consumer financial laws within the meaning of Financial Code section 90003, subdivision (a)(2): the Rosenthal Act, the CCRAA, and the FDCPA.

22. Civil Code section 1785.26, subdivisions (a), (b), and (c) of the CCRAA provides, in relevant part:

(a) As used in this section:

(1) "Creditor" includes an agent or assignee of a creditor, including an agent engaged in administering or collecting the creditor's accounts.

(2) "Negative credit information" means information concerning the credit history of a consumer that, because of the consumer's past delinquencies, late or irregular payment history, insolvency, or any form of default, would reasonably be expected to affect adversely the consumer's ability to obtain or maintain credit. "Negative credit information" does not include information or credit histories arising from a nonconsumer transaction or any other credit transaction outside the scope of this title, nor does it include inquiries about a consumer's credit record.

(b) A creditor may submit negative credit information concerning a consumer to a consumer credit reporting agency, **only if** the creditor **notifies the consumer affected**. After providing this notice, a creditor may submit additional information to a credit reporting agency respecting the same transaction or extension of credit that gave rise to the original negative credit information without providing additional notice.

(c) ***The notice shall be in writing and shall be delivered in person or mailed first class, postage prepaid, to the party's last known address, prior to or within 30 days after the transmission of the negative credit information . . . . (Emphasis applied.)***

23. Civil Code section 1788.2, subdivision (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.

24. Civil Code section 1788.50, subdivision (a)(1) provides:



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

“Debt buyer” means a person or entity that is regularly engaged in the business of purchasing charged-off consumer debt for collection purposes, whether it collects the debt itself, hires a third party for collection, or hires an attorney-at-law for collection litigation. “Debt buyer” does not mean a person or entity that acquires a charged-off consumer debt incidental to the purchase of a portfolio predominantly consisting of consumer debt that has not been charged off.

25. Civil Code section 1788.10 of the Rosenthal Act provides in relevant part:

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; or (f) The threat to take any action against the debtor which is prohibited by this title . . . .

26. Civil Code section 1788.11 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: . . . (b) Placing a telephone call without disclosing the caller’s identity, provided that an employee of a licensed collection agency may identify oneself by using their registered alias name if they correctly identify the agency that they represent . . . .

27. Civil Code section 1788.12 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: (a) Communicating with the debtor’s employer regarding the debtor’s consumer debt unless such a communication is necessary to the collection of the debt, or unless the debtor or his attorney has consented in writing to such communication. A communication is necessary to the collection of the debt only if it is made for the purposes of verifying the debtor’s employment, locating the debtor, or effecting garnishment, after judgment, of the debtor’s wages, or in the case of a medical debt for the purpose of discovering the existence of medical insurance . . . .

28. Civil Code section 1788.13 of the Rosenthal Act provides in relevant part:

No debt collector shall collect or attempt to collect a consumer debt by means of the following practices: . . . (e) The false representation that the consumer debt may be increased by the addition of attorney’s fees, investigation fees, service fees, finance charges, or other charges if, in fact, such fees or charges may not legally be added to the existing

1 obligation; . . . (j) The false representation that a legal proceeding has  
2 been, is about to be, or will be instituted unless payment of a consumer  
3 debt is made . . . .

4 29. Civil Code section 1788.17 of the Rosenthal Act provides in relevant part:

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

9 30. 15 U.S.C. section 1692f of the FDCPA provides in relevant part:

10 A debt collector may not use unfair or unconscionable means to collect or  
11 attempt to collect any debt. Without limiting the general application of the  
12 foregoing, the following conduct is a violation of this section:

13 (1) The collection of any amount (including any interest, fee, charge, or  
14 expense incidental to the principal obligation) unless such amount is  
15 expressly authorized by the agreement creating the debt or permitted by  
16 law . . . .

17 31. 15 U.S.C. section 1692g of the FDCPA provides in relevant part:

18 (a) Notice of debt; contents

19 Within five days after the initial communication with a consumer in  
20 connection with the collection of any debt, a debt collector shall, unless  
21 the following information is contained in the initial communication or the  
22 consumer has paid the debt, send the consumer a written notice  
23 containing--

24 (1) the amount of the debt;

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

26 (3) a statement that unless the consumer, within thirty days after receipt of  
27 the notice, disputes the validity of the debt, or any portion thereof, the debt  
28 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...

32. Financial Code section 90015, subdivision (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

1 90004, or an activity, act, practice, or course of business that violates a  
2 law, rule, order, or any condition imposed in writing on the person by the  
3 department, the department may issue an order directing the person to  
4 desist and refrain from engaging in the activity, act, practice, or course of  
5 business.

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

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

12 34. Financial Code section 90012, subdivision (c) provides in relevant part:

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

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

17 (A) The penalty amounts are as follows:

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

23 **IV.**  
24 **Desist and Refrain Order**

25 35. Based on the foregoing findings, the Commissioner is of the opinion that F & F is a  
26 covered person or service provider that engaged in unfair acts or practices with respect to consumer  
27 financial products or services in violation of Financial Code section 90003, subdivision (a)(1) and  
28 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 Financial Code section 90003, subdivision (a)(2), including but not  
limited to the following:

a. Civil Code section 1785.26, subdivisions (b) and (c) of the CCRAA;

- 1           b.       Civil Code section 1788.10, subdivisions (e) and (f) of the Rosenthal Act;
- 2           c.       Civil Code section 1788.11, subdivision (b) of the Rosenthal Act;
- 3           d.       Civil Code section 1788.13, subdivisions (e) and (j) of the Rosenthal Act;
- 4           e.       Civil Code section 1788.17 of the Rosenthal Act;
- 5           f.       15 U.S.C. section 1692f(1) and 1692g(a) of the FDCPA.

6           36.       Pursuant to Financial Code section 90015, subdivision (d)(1), F & F Management  
7 a.k.a. F&F Management Inc. a.k.a. F and F Management Inc. and its managers, officers, directors,  
8 agents, or employees, are hereby ordered to desist and refrain from engaging in, or proposing to  
9 engage in, unlawful acts or practices in collecting or attempting to collect any consumer debt in  
10 violation of Financial Code section 90003, subdivision (a)(2), including but not limited to violating  
11 the following:

- 12           a.       Civil Code section 1785.26, subdivisions (b) and (c) of the CCRAA;
- 13           b.       Civil Code section 1788.10, subdivisions (e) and (f) of the Rosenthal Act;
- 14           c.       Civil Code section 1788.11, subdivision (b) of the Rosenthal Act;
- 15           d.       Civil Code section 1788.13, subdivisions (e) and (j) of the Rosenthal Act;
- 16           e.       Civil Code section 1788.17 of the Rosenthal Act;
- 17           f.       15 U.S.C. section 1692f(1) and 1692g(a) of the FDCPA.

18           37.       Furthermore, based on the foregoing findings, the Commissioner is of the opinion that  
19 F & F is a covered person or service provider that engaged, or proposed to engage in any unfair act  
20 or practice with respect to consumer financial products or services, in violation of Financial Code  
21 section 90003, subdivision (a)(1).

22           38.       Pursuant to Financial Code section 90015, subdivision (d)(1), F & F Management  
23 Inc. and its managers, officers, directors, agents, or employees, are hereby ordered to desist and  
24 refrain from engaging in, or proposing to engage in, unfair acts or practices in collecting or  
25 attempting to collect any consumer debt in violation of Financial Code section 90003, subdivision  
26 (a)(1).

27 ///

28 ///

