

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

FINEMAN KREKSTEIN & HARRIS, P.C.

A Pennsylvania Professional Corporation

BY RICHARD J. PERR, ESQUIRE

JENNIFER TATUM ROOT, ESQUIRE

BNY Mellon Center

1735 Market Street, Suite 600

Philadelphia, PA 19103-7513

(v) 215-893-8724; (f) 215-893-8719

e-mail: rperr@finemanlawfirm.com

jroot@finemanlawfirm.com

Attorneys for Defendant The CBE Group, Inc.

THOMAS C. WILLIAMS,
Plaintiff

v.

THE CBE GROUP, INC.,
Defendant

CIVIL ACTION

NO. 2:11-cv-03680-FSH-PS

JURY TRIAL DEMANDED

**DEFENDANT THE CBE GROUP, INC.’S ANSWER,
AFFIRMATIVE DEFENSES AND DEMAND FOR JURY**

Defendant The CBE Group, Inc. (“CBE”), by its undersigned counsel, answers Plaintiff’s Complaint and states as follows:

1. Denied. All of the allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

2. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

3. Admitted in part; denied in part. CBE is a business with its principal place of business in Iowa. All of the other allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

4. Denied. All of the allegations in this paragraph, if any, are denied as they call for

a legal conclusion to which no response is required.

5. Denied. All of the allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

6. Denied. All of the allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

7. Denied. All of the allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

8. Denied. All of the allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

9. Admitted in part; denied in part. CBE admits that a letter dated June 25, 2010 was sent to Plaintiff. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

10. Admitted.

11. Denied. Exhibit 1 is a document, the content of which speaks for itself. Any characterization by Plaintiff thereof is denied.

12. Denied.

13. Admitted in part; denied in part. Admitted to the extent 15 U.S.C. § 1692c(c) speaks for itself. All of the other allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

14. Admitted in part; denied in part. Admitted to the extent 15 U.S.C. § 1692g(b) speaks for itself. All of the other allegations in this paragraph, if any, are denied as they call for a legal conclusion to which no response is required.

15. Denied.

16. Denied.

17. Denied.

18. Denied.

19. Admitted in part; denied in part. Admitted to the extent CBE's website speaks for itself. Admitted that under certain circumstances, CBE may fall under the definition of "debt collector" as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

20. Denied. Admitted that under certain circumstances, CBE may fall under the definition of "debt collector" as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

21. Denied. Admitted that under certain circumstances, CBE may fall under the definition of "debt collector" as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

22. Denied. Admitted that under certain circumstances, CBE may fall under the definition of "debt collector" as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

23. Denied. Admitted that under certain circumstances, CBE may fall under the definition of "debt collector" as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

24. Denied. Admitted that under certain circumstances, CBE may fall under the definition of “debt collector” as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

25. Denied. Admitted that under certain circumstances, CBE may fall under the definition of “debt collector” as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

26. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

27. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

28. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

29. Denied.

30. Denied.

31. Denied.

32. Denied.

33. Denied.

34. Denied.

35. Denied.

36. Denied.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

41. Denied.

COUNT I

42. CBE incorporates herein its responses to the allegations of the Complaint as if set forth in their entirety.

43. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

44. Denied. Admitted that under certain circumstances, CBE may fall under the definition of “debt collector” as that term is defined in the FDCPA. All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

45. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

46. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

47. Admitted in part; denied in part. CBE admits that the letter dated June 25, 2010 contains the written notice required by 15 U.S.C. § 1692g(a). All of the other allegations in this paragraph, if any, are denied because CBE is without sufficient information to properly respond.

48. Denied. CBE is without sufficient information to properly respond to this paragraph, and, therefore, it is denied.

49. Denied.

50. Denied.

WHEREFORE, defendant CBE respectfully demands that the Complaint be dismissed; awarding it reasonable costs and attorneys' fees and such other relief as justice requires.

AFFIRMATIVE DEFENSES

1. None of the communication alleged by the plaintiff contains deception.
2. None of the communication alleged by the plaintiff contains false or misleading statements.
3. Defendant did not engage in fraudulent conduct that creates a likelihood of confusion or misunderstanding.
4. Defendant did not have the intent necessary to rise to the level of a reckless or willful act.
5. The plaintiff suffered no ascertainable loss of money or property.
6. The plaintiff did not justifiably rely on any representation by Defendant.
7. The plaintiff fails to state a cause of action to which relief can be granted.
8. The Complaint is barred by the applicable statute of limitations.
9. To the extent that any violation occurred, it resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid such error.
10. To the extent that any violation occurred, it resulted from good faith reliance upon incorrect information offered by any person other than an agent, servant or employee of Defendant.
11. To the extent that any employee of Defendant was acting outside of the scope of his or her employment, Defendant cannot be held liable.
12. None of the statements made by Defendant were inaccurate.

13. All of the statements made by Defendant were true.

14. The Fair Debt Collection Practices Act does not apply to this case.

15. At all pertinent times, Defendant acted in compliance with the Federal Trade Commission regulations, Federal Trade Commission staff commentary and letter commentaries, and/or Federal Trade Commission advisory opinions.

16. The purported class is not so numerous as to make joinder of all members impracticable.

17. The questions of law or fact are not common to the purported class.

18. The claims and defenses of the plaintiff are not typical of the claims and defenses of the purported class.

19. The plaintiff cannot fairly and adequately protect the interests of the purported class.

20. Prosecution of separate actions by individual members of the purported class would not create a risk of inconsistent or varying adjudications with respect to individual members of the purported class that would establish incompatible standards of conduct for defendant.

21. Prosecution of separate actions by individual members of the purported class would not create a risk of adjudications with respect to individual members of the purported class which would as a practical matter be dispositive of the interests of the other members not parties to the adjudications or substantially impair or impede their ability to protect their interests.

22. Defendant's alleged conduct is not generally applicable to the purported class.

23. Defendant reserves the right to assert additional affirmative defenses as discovery warrants.

DEMAND FOR JURY

Defendant demands a jury pursuant to Fed. R. Civ. P. 38 for all issues so triable.

FINEMAN KREKSTEIN & HARRIS, P.C.

By /S/ Richard J. Perr
RICHARD J. PERR, ESQUIRE
JENNIFER TATUM ROOT, ESQUIRE
BNY Mellon Center
1735 Market Street, Suite 600
Philadelphia, PA 19103-7513
(v) 215-893-9300; (f) 215-893-8719
e-mail: rperr@finemanlawfirm.com
 jroot@finemanlawfirm.com
Attorneys for Defendant

Dated: August 8, 2011

CERTIFICATE OF SERVICE

I, RICHARD J. PERR, ESQUIRE, hereby certify that on or about this date, I served a true and correct copy of the foregoing electronically, or by first class mail, postage prepaid, or telecopy on the following:

Philip D. Stern, Esquire
Philip D. Stern & Associates, LLC
697 Valley Street, Suite 2D
Maplewood, NJ 07040
(v) 973-379-7500; (f) 973-532-0866
pstern@philipstern.com
Attorneys for Plaintiff

/S/ Richard J. Perr
RICHARD J. PERR, ESQUIRE

Dated: August 8, 2011