

Recent Settlements By DOJ Fraud Division Highlight Protection of Delaware Consumers

Some Delaware consumers eligible for restitution from Chase for debt collection, Classmates.com for unauthorized membership

Two recent settlements pursued by the deputy attorneys general of the Consumer Protection Unit in the Department of Justice Fraud Division will benefit consumers in Delaware and protect investors.

“DOJ’s Fraud Division works every day to investigate and resolve complaints by consumers and investors, often working in concert with other states and with federal agencies to change the practices of, and obtain restitution from, companies,” Attorney General Matt Denn said. “This results in restitution amounts large and small for Delaware consumers, and these settlements are examples of that.”

Classmates/FTD: Some Delaware Members of Classmates.com Eligible for Restitution, Should Contact Consumer Protection Unit

Classmates, Inc. (“Classmates”), along with Florists’ Transworld Delivery, Inc. and FTD.com Inc. (collectively “FTD”), have agreed to make payments to consumers and to states to settle allegations that the companies engaged in misleading advertising and billing practices.

Delaware consumers who were enrolled into Classmates’ subscription service without authorization or who experienced difficulty when trying to cancel their Classmates subscription

and who have not previously filed a complaint with their attorney general, may file a complaint with their Attorney General at www.attorneygeneral.delaware.gov or by calling (302) 577-8600 before August 24, 2015.

The multi-state investigation specifically focused on the companies' relationships with third-parties who used negative option marketing practices to sell membership programs to consumers doing business online with Classmates and FTD. Negative option marketing is a sales practice in which a seller treats a consumer's failure to take an affirmative action, either to reject an offer or cancel an agreement, as assent to be charged for goods or services.

These third-party marketers offered programs such as discount buying clubs and travel rewards programs, often immediately after the consumer's online transaction with Classmates or FTD. Unbeknownst to the consumer, Classmates and FTD would share consumers' personal information, including credit card account numbers (a practice known as "data pass") so that the consumer could be billed for these offers if they did not cancel. Congress banned data pass in Internet transactions in 2010

The agreement includes a number of terms to ensure that consumers knowingly consent to the purchase of any membership program offered by a marketing partner of Classmates or FTD, including the following injunctive terms, including: a prohibition against misrepresenting the reason for requesting a consumer's account information; Classmates/FTD's marketing partners cannot use FTD and Classmates' names or logos in the title of a membership program, and any offer must be made after the consumers have concluded their transactions with Classmates or FTD, in order to ensure that consumers understand they are receiving a separate and distinct offer from a company other than FTD and Classmates; clear and conspicuous disclosures in "trial offers" informing consumers that they will be transferred to another site to receive a

membership offer and the consumers must consent to the transfer; Classmates/FTD and its marketing partners cannot state an offer is “free” or “risk free” if the offered program will convert to a paid subscription

The states also investigated Classmates’ renewal and cancellation practices in connection with its own social network subscription services offered to consumers through its website, Classmates.com, alleging that consumers were not adequately informed that their subscriptions would automatically renew and that it was difficult for consumers to cancel their subscriptions. The companies agreed to change their practices regarding renewals and cancellations, and consumers who filed complaints regarding Classmates’ renewal and cancellation practices may also receive restitution under the settlement.

Classmates and FTD denied any wrongdoing, but agreed to the \$3 million restitution fund for consumers and agreed to make an \$8 million payment to the 22 attorneys general who took part in the settlement. Delaware’s \$180,000 share will go to the Consumer Protection Fund, which funds the operation of the Consumer Protection Unit that pursues fraud cases against businesses large and small.

Chase: Credit Card Debt Collection Practices To Change; Collection Efforts On 329 Delawareans To Cease; Some Delawareans Eligible For Restitution

Chase Bank USA N.A. and Chase Bankcard Services Inc. will reform credit card debt collection practices and provide restitution to consumers in Delaware and nationwide as a result of a settlement with the Delaware Attorney General, attorneys general in 46 other states plus the District of Columbia and the federal Consumer Financial Protection Bureau.

As part of the agreement, Chase has agreed to cease collection efforts on over 329 Delaware-based accounts. Delawareans who

were forced to pay charges to Chase or third-party collection agencies above the actual balance they owed are eligible for a refund of that amount plus an additional 25%. Chase customers who are eligible for the restitution will be contacted, but Delawareans who think they may be eligible can contact the Consumer Protection Unit of the Delaware Department of Justice at (302) 577-8600.

According to the joint state-federal probe, Chase subjected consumers to collections activity for accounts that were not theirs, in amounts that were incorrect or uncollectable; subjected consumers to inaccurate credit reporting and unlawful judgments that may affect consumers' ability to obtain credit, employment, housing and insurance in the future; sold certain accounts to debt buyers that were inaccurate, settled, discharged in bankruptcy, not owed by the consumer, or otherwise uncollectable; filed lawsuits and obtained judgments against consumers using false and deceptive affidavits and other documents that were prepared without following required procedures, a practice commonly referred to as "robo-signing"; and made calculation errors when filing debt collection lawsuits that sometimes resulted in judgments against consumers for incorrect amounts.

The agreement requires Chase to take a number of steps to address the unlawful conduct uncovered during the investigation, including:

- Implementing new safeguards to help ensure debt information is accurate and inaccurate data is corrected;
- Providing additional, more detailed, information to consumers who owe debts;
- Barring Chase's debt buyers from reselling consumer debts to other purchasers;
- Ceasing collection efforts on more than 528,000 consumer accounts, including an estimated 329 in Delaware, for which Chase previously sued and obtained a judgment;
- Notifying the borrowers affected by the above change and

requesting that all three major credit reporting agencies stop reporting those judgments;

- Ensuring payment of \$50 million in consumer restitution nationally by July 1, 2016, refunding amounts paid by those consumers to Chase or third party collection agencies above the actual balance owed, plus an additional 25% of that overage. 11 Delawareans have already received approximately \$7,000 so far.

In addition to the consumer relief provisions, Delaware will receive \$593,793.28 out of a \$95-million monetary payment Chase has agreed to with the 47 participating states and the District of Columbia. Delaware's share will go into the Consumer Protection Fund.