Big Win for Lohman: Court Grants Judgment for TCPA Lawyer in Suit by Aggrieved Consumer—But RICO Problems Still Remain

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As we've been reporting, the Law Offices of Jeffrey Lohman has faced some significant setbacks in litigation with Navient purporting that Lohman's office set up TCPA lawsuits in violation of RICO. While no substantive ruling has been entered in that suit yet, the Court has at least preliminarily found that emails between Lohman and his clients are discoverable pursuant to the crime-fraud exception to the A/C privilege— a pretty bad sign if you ask me.


The Johnson case is quite different from the Navient matter in that it is not a RICO case and does not directly challenge Lohman's (alleged) conduct of encouraging folks to stop payment to create possible TCPA lawsuits. Rather the suit involves the relationship between Lohman and something called Burlington Financial Group, which allegedly took $2,500.00 from the Plaintiff for debt services it (allegedly) never provided.
Lohman’s role in the overall transaction appears to be pretty limited. Specifically, Burlington referred Plaintiff over to something called Veritas, which in turn referred Plaintiff to Lohman’s office. Here’s what happened next according to the opinion:

Two non-attorney customer service representatives employed by Lohman thereafter communicated with Plaintiff on several occasions and advised Plaintiff that Plaintiff should tell her creditors to stop calling and should also keep a log of any calls that continued so that Lohman could potentially bring a federal Telephone Consumer Protection Act (“TCPA”) lawsuit on Plaintiff’s behalf.

Sound familiar?

On these facts the Plaintiff sued Lohman under the state (Missouri) unlawful competition law and an enactment aimed at credit repair organizations. The Court found that Lohman’s conduct—whatever it was—did not cause the monetary harm challenged under the UCL claim and was not actionable under the credit repair statute, since his office was not a CRO.

Plaintiff also sued Lohman’s office for the unauthorized practice of law. After all, the folks that spoke to Plaintiff seemed to be giving legal advice although they were not licensed to do so and, apparently, were not overseen by anyone licensed in MO to do so. But the Court sidestepped that potentially thorny issue by noting that the cause of action for unauthorized practice of law requires payment to the putative lawyer as an element of the claim. Lohman’s office wasn’t paid for its “advice.” So the court entered judgment for the Defense.

So there you have it TCPAWorld, Lohman has successfully unwound himself from one federal suit. But we continue to monitor developments in the big RICO action. More to come.

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