**IN THE VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL**

**AT MELBOURNE**

**CIVIL CLAIMS LIST No. /2012**

**debtor’s name Applicant**

**-and-**

**DEBT COLLECTOR’S NAME**

**(ACN 000 000 000)**

**Respondent**

**OUTLINE OF DISPUTE**

|  |  |
| --- | --- |
| Date of Document: [date]  Filed on Behalf of: The Applicant  [address] | :  :  : |

1. The Respondent is and was at all material times duly incorporated as a company.

PARTICULARS

Attached and marked **"A"** is a company extract obtained from ASIC on [date] 2012.

1. The Respondent alleges that the Applicant is indebted to it pursuant to a credit card account no . . . . .

PARTICULARS

Attached and marked **"B"** is a letter from the Respondent to the Applicant dated [date]2012.

1. On [date], the Applicant sent to the Respondent, by ordinary post, a letter in which the Applicant requested that the Respondent not contact the Applicant about the alleged debt after he had advised that no further communication should be made about that alleged debt, unless the contact was by way of:
   1. an action issued through a court or the Tribunal; or
   2. the threat of an action that the person to whom the debt was owed was entitled to issue through a court or the Tribunal and which the person intended to take;

PARTICULARS

1. The alleged debt relates to credit card account no. [number] provided by the Respondent to the Applicant (**the alleged debt**).
2. Attached and marked **“C”** is a copy of the letter from the Applicant.
3. On or about on [date] 2012, a representative of the Respondent, [name], contacted the Applicant at about [time] and said words to the effect that […].
4. Following the letter described in paragraph 2 the Respondent continued to contact the Applicant in the course of collecting or attempting to collect the alleged debt referred to in paragraph 2.

PARTICULARS

The Respondent's contact with the Applicant included the following:

1. by telephone on:
   1. [date] 2012 at around [time] by [name];
   2. [date] 2012 at around [time] by [name];
   3. . . . . .
2. in writing:
   1. by letter[dated] received [date]2012;
   2. by letter dated [date] 2012;
   3. . . . .
   4. . . . .

**Prohibited debt collection practices**

1. The Respondent was at all material times engaged in trade or commerce within the meaning of the *Australian Consumer Law and Fair Trading Act 2012* (Vic) (**ACLFTA**).
2. The alleged debt referred to in paragraph 2 is a debt within the meaning of section 3 of the ACLFTA.
3. In the premises of paragraphs 2 - 4 the Respondent contacted the Applicant about an alleged debt after the Applicant had advised in writing that no further communication should be made about that alleged debt in contravention of section 45(2)(m) of the ACLFTA.
4. Further or in the alternative, the conduct described in paragraphs 2 - 4 constituted undue harassment in contravention of section 45(2)(a) of the ACLFTA.
5. Further or in the alternative, in the premises of paragraphs 2 - 4 the Respondent communicated with a the Applicant in a manner that was unreasonable in its frequency, nature and/or content in contravention of section 45(2)(p) of the ACLFTA.
6. Further or in the alternative, in the premises of paragraphs 3 - 4 the Respondent has made a false or misleading representation in connection with the consequences of not paying a debt or the method of recovering a debt in contravention of section 45(2)(k)(iii) and (iv) of the ACLFTA.

**Course of conduct**

1. The alleged debt referred to in paragraph 2 is a consumer debt to which section 46(2) of the ACLFTA applies.
2. In the premises, the conduct pleaded in paragraphs 2 - 4 constitutes, separately and or in combination, a course of conduct, or courses of conduct, in contravention of section 45 of the ACLFTA, within the meaning of section 46(2) of the ACLFTA.

**Loss and damage**

1. As a result of the conduct of the Respondent pleaded above, the Applicant has suffered loss and damage.

PARTICULARS

1. Distress;
2. Humiliation.
3. The Applicant may apply to the Tribunal for an order that the Respondent pay damages to the Applicant of up to $10,000 per course of conduct constituted by the conducted pleaded above.

PARTICULARS

The Applicant relies on section 46 of the ACLFTA.

**AND THE APPLICANT SEEKS:**

1. An order that the Respondent pay the Applicant an amount not more than $10,000 by way of damages pursuant to section 46 of the ACLFTA.
2. An order pursuant to section 216(2)(h) of the ACLFTA declaring that the Respondent has breached section 45(2)(m) of the ACLFTA.
3. An order pursuant to section 216(2)(h) of the ACLFTA declaring that the Respondent has breached section 45(2)(p) of the ACLFTA.
4. An order pursuant to section 216(2)(h) of the ACLFTA declaring that the Respondent has breached section 45(2)(a) of the ACLFTA.
5. An order pursuant to section 216(2)(h) of the ACLFTA declaring that the Respondent has breached section 45(2)(k)(iii) and or (iv) of the ACLFTA.
6. Costs.
7. Such other orders as the Tribunal deems fit.

Dated:

Signed: …………………………………………….

**APPLICANT**