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### Federal Crackdown on Debt Buyer Emphasizes Need for Consumer Disclosures

A recent Federal Trade Commission (“FTC”) settlement with debt buyer Asset Acceptance Capital Corp. is the latest of several actions against companies that profit from consumers in financial distress. The settlement illustrates the type of pro-consumer disclosures we expect the FTC to demand in connection with investigations and enforcement actions going forward. We also expect the new federal Consumer Financial Protection Bureau (“CFPB”) to follow this course through industry specific regulations for debt collectors and debt buyers that are on the horizon.

Asset Acceptance purchases old debts from companies at a fraction of the face amount and then attempts to profit by collecting on those debts. Under the settlement, the company has agreed to pay a \$2.5 million civil penalty to settle FTC charges that it made misrepresentations when trying to collect old debts, including failure to inform consumers when a legal action to enforce the debt would be time-barred. The settlement requires that, after a consumer disputes the accuracy of a debt and before the debt buyer places the debt on a consumer’s credit report, the debt buyer must investigate the dispute and ensure it has a reasonable basis to claim the consumer owes the debt. The proposed order also bars the company from placing debt on consumer credit reports without notifying the consumer about the negative report.

The FTC and the CFPB share law enforcement authority under the Fair Debt Collection Practices Act (“FDCPA”). In addition, the Dodd-Frank Wall Street Reform and Consumer Protection Act (the “Dodd-Frank Act”) grants the CFPB rulemaking authority under the FDCPA and authority to supervise and enforce compliance with the FDCPA. On top of all of this, the CFPB has broad authority to prohibit acts or practices the CFPB determines are unfair, deceptive, or abusive.

According to a Memorandum of Understanding between the FTC and CFPB, the agencies will consult with one another before either issues formal guidance documents addressing unfair, deceptive, or abusive acts or practices under Dodd-Frank Act Section 1031, FTC Act Sections 5 and 18, and among several federal laws, the FDCPA and the Fair Credit Reporting Act (“FCRA”).

The FTC’s enforcement actions and investigations into the activities of debt collectors and debt buyers highlight the ongoing focus by the FTC and now the CFPB into the practices of anyone that collects or buys debt.

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*Jonathan Pompan is Of Counsel and Damon W.D. Wright is Partner at Venable LLP in the Washington, DC office. Mr. Pompan represents nonprofit and for-profit companies in regulated industries in a wide variety of areas such as before the Consumer Financial Protection Bureau, compliance with applicable federal and state regulations, and in connection with Federal Trade Commission and state investigations and law enforcement actions. Mr. Wright advises and represents companies in commercial litigation, government investigations, and consumer protection matters, including actions under the FCPA and FCRA.*

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