

CHAPTER VII

Who Ya Gonna Call? Consumer Assistance Agencies

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BAR ASSOCIATION
seeking liberty + justice

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Complaint Resolution / Assistance

Who Ya Gonna Call?
November 2018

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Why Complain?

- Consumer Redress
- Sanction Offender
- Inform other potential victims
- Rulemaking
- Government enforcement
- Private enforcement

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Free Stuff: Pro Bono Assistance & Representation

- ABA Operation Standby
 - Advice to judge advocates (not representation)
- ABA Military Pro Bono
- Georgia State Bar Military Assistance
 - http://www.gabar.org/programs/pro_bono_project/
- Legal Aid of NC
 - Family income below 125% Fed poverty guideline
 - Income criteria not applicable to DV victims or sr. citizens

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Federal Agencies

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Federal Trade Commission

- On Line Complaint:
<https://www.ftccomplaintassistant.gov/#crnt&panel1-1>
- Enforcement, esp egregious conduct or widespread harm
- Referral to other agencies
- Inform Congress
- Rulemaking

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Federal Trade Commission

- Identity Theft
- Info and step by step response / checklist

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FTC Enforcement Action

AMG Services (Payday Loans)

- **Judgement 30 Sep 2016**
 - US Dist Ct (Nevada) 2:12-cv-00536-GMN-VC
 - D to pay \$1.3 Billion to FTC
 - \$505 million restitution fund
 - Permanent injunction from consumer lending
- **Allegations**
 - Tell consumers of 1X fee & thereafter extract multiple payments (and new finance charges) from consumer accounts
 - Undisclosed & inflated fees
 - Pretended affiliation w/ Native American tribes to evade usury laws
- **Sentenced to 16 yrs**
 - In separate criminal action by U.S. Attorney, S. Dist NY, CEO Scott Tucker sentenced to 16 yrs imprisonment

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FTC Enforcement Action

SunKey Publishing/ FanMail.com

- Settlement September 6, 2018
 - Sunkey / Fanmail to pay \$11.1 / \$1 million respectively
- Military recruiter imposter sites: Army.com navyenlist.com
- False claims of military affiliation
- Sold info as marketing leads to schools
- Return calls from marketers pushing certain schools, pretending military affiliation, pretending DoD endorsement of school

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Consumer Finance Protection Bureau:

- Debt collection
- Mortgage
- Vehicle loan / lease
- Car title loan
- Money transfer
- Credit repair
- Credit cards
- Student loan
- Personal loan
- Virtual currency
- Credit reporting
- Checking / savings account
- Check cashing

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Consumer Finance Protection Bureau: Office of Servicemember Affairs

- Section 1013(e)
 - Educate SM to make better \$ decisions
 - Monitor SM complaints and gov't responses
 - Coordinate consumer protection measures at all levels of gov't
- OSA Director: Patrick Campbell

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CFPB:
Military Liaison

- Angela Martin
- Angela.Martin@cfpb.gov

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CFPB Consumer Services

- Complaint response
- Enforcement
- Rulemaking
- Education
- Mortgages
 - Info
 - Find HUD counsellor
 - HOPE Hotline 888-995-HOPE

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CFPB Enforcement Actions

- **“CFPB Shuts Down USA Discounters fee scam”** 14 Aug 2014
CFPB Press Release. \$50k Fine, \$350K refunds to service members
- **\$92M debt relief from Smart Buy July 29, 2014**
“Rome finance business model built on fleecing service members”
- **Military Installment Loans & Education Services** Consent Order 26 June 2013
Lending partners to refund \$6.5M to service members for failing to disclose fees associated w/ mandatory allotment, failing to include such fees when calculating APR and total payment, failing to disclose schedule of payments, understating cost of motor vehicle after market products such as service contract and GAP, overstating service contract coverage.

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CFPB Enforcement Actions

- **CitiBank** Consent Order 29 June 2018
 - \$335 million restitution for failure to reevaluate penalty interest rates, overcharging 1.75 million customers.
- **Triton Management Group** Consent Order 19 June 2018
 - \$1,5 M judgement for failure to disclose, grossly understating, finance charges on its short term loans.

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CFPB Enforcement Actions

- **CFPB v Security Nat'l Acceptance** 28 Oct 2015
 - \$2.275 M restitution, \$1M penalty for illegal debt collection
- **SNAAC 2** Consent Order 26 April 2017
 - \$1.25 M penalty
 - Based on tip from SM's father, CFPB learns that SNAAC is fraudulently evading over half of the required restitution of prior order
- **Security Group** Consent order 13 June 2018
 - Installment lender engaging in shock the conscience type personal debt collection ordered to pay \$5 M. Originated on tip from legal assistance attorney.

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CFPB Enforcement Actions

- **Hydra Lending** 10 August 2018 Settlement
 - Usurious, undisclosed interest (700%), misapplication of payments (nothing towards principal), unauthorized automatic payments, steal ID and makes loans to people who didn't apply
 - \$14 M asset forfeiture, \$69 M restitution
 - In separate criminal action by DoJ, owner convicted, sentenced to 10 yrs prison. June 12, 2018.
- **Bank of America** Consent Order 29 May 2015
 - \$30 M penalty, for violations of SCRA rate caps, stay, and mortgage provisions in cases of 73,000 SMs.

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CFPB Enforcement Actions

- **Wells Fargo** Consent order Consent Order 20 April 2018
 - OCC / CFPB joint action. \$1 Billion penalty for improper force placing insurance in auto finance cases, and improperly foisting excess interest onto consumer when Wells own delay prevented mortgage closing prior to lock in date.

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U.S. Department of Justice: SCRA Enforcement

- **Veteran's Benefits Act 2010**
 - DoJ Enforcement of SCRA
 - Pattern or practice of SCRA violation
 - Violation raises issue of significant public importance
 - Fine (\$55K 1st viol, \$110K subsequent viols)
 - Equitable / declaratory relief
 - Compensation for victims
- Warning/ advice calls

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Servicemember & Veteran's Initiative

- Build relationships
- US DoJ Advice / Presentations
- Emphasis on USERRA, SCRA, UOCAVA
- On line attorney resources
- Enforcement referrals from military and...

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Direct on line complaints from service members

- <https://www.justice.gov/servicemembers>

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US DoJ Enforcement Actions

- **Sallie Mae / Navient** Consent Order May 13, 2014
 - \$60 M for violations of SCRA including failure to reduce preservice interest, and improper default judgements in connection with student loans.
- **Natl Mortgage Settlement** DOJ Press Release 30 September 2015
\$311M for SCRA violations.
- **US v Empirian Property Management, Inc**
Defendant to pay restitution, train employees, for violating SM lease termination rights
May 8,2012

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U.S. DoJ Enforcement Actions

- **Aristocrat Towing** Consent Order April 30, 2012
 - \$75K restitution for enforcement of storage lien in violation of SCRA
- **Santander** Consent Order 25 Feb 2015
 - \$9.36 M for 1,112 vehicle repos in violation of the SCRA
- **City / County of Honolulu** Consent order 15 February 2018
 - Defendant ordered to establish victim compensation fund for auctions off 1,440 SM vehicles to enforce lien w/o first obtaining court order, thereby violating SCRA.

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U.S. DoJ Enforcement Actions

- **BMW** Settlement 22 Feb 2018
 - \$2.165 victim compensation fund \$68K civil fine for SCRA vehicle lease termination violation. BMW charges up front fees to reduce monthly payments. However, when SM terminates lease, refuses to refund pro rata portion of the pre paid amount. Three cases referred to DoJ by LAAs, DoJ discovered 492 more.
- **Twin Creek Apts** Settlement agreement 11 September 2018
 - \$72K damages, \$20K civil penalty for violating SCRA by requiring forfeiture of up-front rent concessions when SMs terminate lease due to PCS or deployment orders.
- **Westlake Services** Settlement agreement 27 September 2018
 - \$700K compensation and civil penalty of \$60,788K for repo of 70 SM vehicles w/o court order in violation of the SCRA

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US DoJ Enforcement Actions

- **Wells Fargo** Settlement 29 September 2016
 - \$4.1 M damages, \$60K penalty (OCC fine \$20 M) for violating SCRA by illegally repossessing 413 SM vehicles w/o court order
- **Citi Financial** Consent order 18 September 2017
 - \$907K for repo of 164 SM vehicles w/o court order, in violation of SCRA
- **Lincoln Military Housing** Consent Order 10 August 2016
 - Military housing partner pays \$200K for filing affidavits in eviction cases falsely stating that defendants were not in the armed forces. \$35K to each aggrieved SM, civil penalty \$60K, vacation of defaults.

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State Agencies

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NC Department of Justice Consumer Division

- Military Liaison
 - David Fox
 - dfox@ncdoj.gov
 - (919) 716-6000
- Response
 - Consumer alerts
 - Mediation
 - Enforcement actions
- On line complaints

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NC DoJ Enforcement

- **GI Bill.com** June 2012
 - \$2.5M for misleading vets June 2012
- **Western Sky/ Cash Call** June 2016
 - \$9M refunds for making illegal loans (evasion of NC law thru association w/ native tribe)
- **CFPB/NC/VA v Freedom Stores** Consent order 18 Dec 2014
 - \$2.6M restitution, \$100K fine for illegal debt collection & extracting extra payments from bank w/o consumer consent

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NC Licensing Board for General Contractors

- Coverage
 - Licensed contractors, or
 - Unlicensed contractor, contract in excess of \$30K
- Typical cases
 - Home remodeling
 - In ground pool
- On line complaints
<https://nclbgc.org/complaints>

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NC Board of General Contractors

- (919) 571-4183
- On line complaints
<https://nclbgc.org/complaints>
- Homeowner Recovery Fund
 - Compensation for damage by dishonest / incompetent GC
 - Must exhaust all other options (unpaid judgement, claims in bankruptcy, etc
 - Claims package under “forms” tab

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Specialty Contractor Boards

- Plumbing and Heating
 - <http://www.nclicensing.org/complaint.asp>
 - 919-875-3612
- Electrical
 - <http://www.ncbeec.org/complaints/>
 - (919) 733-9042

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Medical Licensing Boards

- Veterinary Medical Board
 - 919-854-5601
 - <http://www.ncvmb.org/public.php?section=complaints#content>
- NC Medical Board (physicians)
 - (800) 253.9653 / (919) 326.1100 / (919) 326.1109
 - <https://www.ncmedboard.org/resources-information/consumer-resources/complaint-process/file-a-complaint>

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NC Department of Motor Vehicles

- Theft and licensing division
 - Approx 150 inspectors
 - Vehicle theft, title fraud, DL fraud
 - Rules governing vehicle dealers, towing and storage, vehicle repair business
- On line (or mail) complaints
- Office locator service
- Cumberland County (910) 486-1331
- Onslow County: (910) 455-8835
- Wayne County (919) 581-1019

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License and Theft Bureau

- Law enforcement officers
 - NC Gen Stat 20-49
- Criminal Prosecutions
- Civil Actions
 - Fines
 - Dealer license revocation

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NC Department of Insurance

- Question, complaints, assistance
 - (855) 408-1212 (toll free)
 - Request assistance / file complaint
[http://www.ncdoi.com/Consumer/Request Assistance or File a Complaint.aspx](http://www.ncdoi.com/Consumer/Request_Assistance_or_File_a_Complaint.aspx)
- Unlawful solicitation:
 - NC Gen Stat 58-58-320 et seq
 - DoDI 1344.07 dtd 30 Mar 2006
 - SECNAVINST 1740.2E dtd 12 Jul 2008

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NC Department of Insurance

Life Insurance references

- Unlawful solicitation:
 - NC Gen Stat 58-58-320 et seq
 - DoDI 1344.07 dtd 30 Mar 2006
 - SECNAVINST 1740.2E dtd 12 Jul 2008
- 10 day Look Back
 - 11 NCAC 12 .0447

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NC Housing Inspector

- NC Gen Stat 160A-411 et seq
- Enforce state /local laws re bldg construction, facilities (e.g., a/c, plumbing), maintenance in safe and sanitary condition. NC Gen Stat 160A-412.
- Onslow County:
 - (910) 989-3071 // (910) 989-3086
 - Procedures and minimum housing standards
<http://onslowcountync.gov/planning/content.aspx?id=2648>

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Cumberland County

- (910) 678-7600
- (910) 6657 Inspections Coordinator
- Cumberland County minimum housing code:
<https://www.co.cumberland.nc.us/search-results?indexCatalogue=all%2Ditems&searchQuery=minimum+housing&wordsMode=0>

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Housing Inspector Authority

- Deny / approve / revoke bldg permits
- Inspect work in progress
- Order work immediately stopped
- Order defects corrected
- After hearing, enforcement actions for noncompliance
- Criminal penalties

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Landlord Duties

- Comply with building / housing codes
 - www.Municode.com
 - Local code may adopt state codes
- Make repairs, keep fit & habitable
- Keep common areas in safe condition
- Provide smoke detectors, replace after notice
- Notify tenant of contaminated water (if landlord has actual notice)
- Duties concerning CO2 detector repair / replacement

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North Carolina Real Estate Commission

- www.ncrec.gov
- Coverage
 - Real estate brokers
 - Property managers
- On line complaint
- Sanctions if found to violate Real Estate License Law or Commission Rules
 - Suspend / revoke / reprimand

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NC Secretary of State

- Investment / Securities Fraud
- Education, Enforcement, Regulation
- Investigation of allegations
- Corporate Filings

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NC SecState

- Investor Hotline
 - 800-688-4507
 - Ensure offeror is properly registered
- Securities/ Investment complaint
 - https://www.sosnc.gov/divisions/securities/file_a_complaint

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NC Adult Protective Services

- Abuse, neglect, exploitation of disabled adults
- Evaluation
- Agency referral to stop the abuse
- Support to caregivers
- Contact local DSS

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DSS Contact Info

- DSS Locator
<https://www.ncdhhs.gov/divisions/dss/local-county-social-services-offices>
- Cumberland (910) 677-2801
- Onslow (910) 455-4145
- Wayne (919) 580-4034

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Installation Housing Referral Office

- Liaison with property managers
- 3d party observer move in/ out inspections
- Sanctions
 - Removal from housing referral
 - Removal from any special base housing programs

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Armed Forces Disciplinary Control Board

- Joint Forces Order
 - AR 190-24 / OPNAVINST 1620.2A
 - AFI 31-213 /MCO 1620.2D
 - COMDTINST 1620.1E
- Inspector / Board President
- Procedures
 - Warnings, hearing, notice and opportunity to be heard
 - Emergency cases: Hearing *after* off-limits designation

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The Press

- Hungry for military rip off stories
- Especially want drama, interviews w/ victims
- Effective in gaining high level attention and correcting errors
- Make sure you have the right client
- Make sure you have the right case

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Referral Aids

- ABA National Referral Service Directory
<https://www.americanbar.org/directories/lawyer-referral-directory.html>
- NC Lawyer Referral
 - 1-800-662-7660 or 919-677-8574
 - <https://www.ncbar.org/public-resources/lawyer-referral-service/>

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Specialty Referrals

- Specialists Certified by NC State Bar
 - <http://www.nclawspecialists.gov/for-the-public/find-a-board-certified-specialist/>
- American Academy of Matrimonial Lawyers
 - <http://aaml.org/>
- Disability / Special Needs
 - <https://www.specialneedsalliance.org/>

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