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CONSUMER FINANCIAL PROTECTION BUREAU SUES PAYMENT PROCESSOR FOR ENABLING UNAUTHORIZED WITHDRAWALS AND OTHER ILLEGAL ACTS BY CLIENTS

Intercept Corp. Ignored Red Flags for Potential Fraud and Illegal Activity by Clients

WASHINGTON, D.C. —The Consumer Financial Protection Bureau today filed suit against payment processer Intercept Corporation and two of its executives, Bryan Smith and Craig Dresser, for allegedly enabling unauthorized and other illegal withdrawals from consumer accounts by their clients. In the suit filed in federal district court, the CFPB alleges that Intercept turned a blind eye to blatant warning signs of potential fraud or lawbreaking by its clients. These include actions by federal and state authorities, and sky-high rates of returned payments because of unauthorized withdrawals, insufficient funds, or invalid or closed accounts. In its suit, the CFPB seeks to put an end to unlawful practices by Intercept, Smith, and Dresser, obtain relief for consumers, and impose penalties.

"Intercept and its executives Bryan Smith and Craig Dresser ignored clear signs of brazen fraud, including illegal withdrawals from consumer accounts, and need to clean up their act," said CFPB director Richard Cordray. "Companies cannot turn a blind eye to wrongdoing when they process payments from consumer banking accounts on behalf of clients that are breaking the law.

Intercept Corporation is a third-party payment processor located in Fargo, N.D. Smith is Intercept's president and Dresser is its chief executive officer. Each owns 50 percent of the company. Intercept transmits electronic funds transfers through the Automated Clearing House on behalf of its clients. This electronic network is used to process financial transactions, such as payroll deposits, and loan and bill payments. Payment processors link businesses and individuals to banks to provide access to this network. Intercept's clients include payday lenders, auto-title lenders, debt collectors and sales financing companies, among others.

The CFPB alleges that Intercept, Smith, and Dresser violated the Dodd-Frank Wall Street Reform and Consumer Protection Act's prohibition against unfair acts and practices by processing payments for clients without adequately investigating, monitoring, or responding to red flags that indicated some clients were breaking the law or deceiving customers. Intercept, Smith, and Dresser played a key role in this unlawful conduct by giving these clients access to the banking system and the means to extract money from consumers' bank accounts. Allegedly, the defendants:

- **Ignored blatant warning signs of potential fraud:** High rates of returned payments for insufficient funds or unauthorized debits may indicate that consumers did not consent to the withdrawal or were misled about the terms. The CFPB estimates that Intercept helped clients withdraw millions of dollars in unauthorized and other illegal charges from consumer accounts. Many of Intercept's clients have run up annual return rates of 20 to 40 percent for network transactions, far above the 1.5 percent industry average. Intercept made little effort to find the cause of these astronomical rates, and, despite the red flags, kept processing transactions for these clients. Intercept ignored other warning signs such as state and federal enforcement actions against clients, including a Federal Trade Commission action against Scott Tucker and his payday lending operation.

- **Ignored complaints from banks and consumers:** Intercept ignored complaints and warnings from banks and consumers about high return rates and initiating unauthorized debits, including for payday lenders in states where the practice is illegal. On at least one occasion, Intercept entered into a trial period with a financial institution to process a limited number of payments, but then ran millions of dollars of network transactions through the bank, generating high volumes of returns. If banks raised concerns about consumer complaints against an Intercept client, Intercept would simply seek out a new bank to help it process payments for the same clients. Intercept skipped among eight different banks between 2008 and 2014.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the CFPB can take action against institutions or individuals engaged in unfair, deceptive, or abusive acts or practices or that otherwise violate federal consumer financial laws. The complaint against Intercept Corporation, Bryan Smith, and Craig Dresser seeks monetary relief, injunctive relief, and penalties. The Bureau's complaint is not a finding or ruling that the defendants have actually violated the law.

The CFPB's complaint is available here:http://files.consumerfinance.gov/f/documents/3_16_cv_00144_ars_CFPB_v_Intercept.pdf

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The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit consumerfinance.gov.