

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

In the Matter of	)	
	)	CG Docket No. 05-338
	)	
Rules and Regulations Implementing the	)	CG Docket No. 02-278
	)	
Telephone Consumer Protection Act of 1991	)	
	)	
Professional Services Council	)	

**Craig Cunningham’s Supplemental Comments Opposing Professional  
Service’s Council’s Petition for Reconsideration**

Commenter Craig Cunningham (“Cunningham”) submits this supplemental comment in response to a meritless argument and grossly misleading statement regarding Cunningham made by the Professional Service Council (“PSC”) in its September 29, 2016 reply (“PSC Reply”) in further support of its Petition for Reconsideration of the Commission’s Broadnet ruling.

PSC maintains that among other things that the Commission should give no weight to Cunningham’s comment because that comment is somehow “*not* based on the public interest.” PSC Reply at 4 n.7 (emphasis in the original). As support for its position, PSC first asserts that “Cunningham has filed at least 72 federal consumer protection lawsuits, many of which assert TCPA violations.” *Id.* Of course, the fact that Cunningham has acted on numerous occasions to enforce his rights under consumer protection statutes enacted by Congress in the public interest makes his comment even more informed and consequential. *See, e.g., Murray v. GMAC Mortgage Corp.*, 434 F.3d 948, 954 (7th Cir. 2006) (“Nothing about the frequency of Murray’s litigation implies that she is less suited to represent others than is a person who received and sued

on but a single offer. Repeat litigants may be better able to monitor the conduct of counsel, who as a practical matter are the class's real champions.”).

PSC next misleadingly argues that Mr. Cunningham's comment should be discounted because a Magistrate-Judge in one of Cunningham's cases recommended to the District Judge that Cunningham pay attorney fees to the defendant under 15 U.S.C. § 1692k(a)(3) because Cunningham allegedly filed his suit in bad faith and for the purposes of harassment.

*Cunningham v. Credit Management, L.P.*, No. 3:09 cv 1497-G, 2010 WL 3791104, \*5-\*6 (N.D. Tex. Aug. 23, 2010). However, PSC completely omits the fact that the District Judge who reviewed that recommendation totally rejected it, holding that there was

no basis for awarding attorney's fees to the defendants. . . . the defendants have not shown that the plaintiff's actions were motivated by a dishonest purpose or moral obliquity. The defendants are debt collectors, and the plaintiff reasonably—if incorrectly—believed that they did not strictly abide by the law in their attempts to collect a debt that he may have owed. The court finds that the plaintiff's case was not so lacking in arguable merit as to be groundless. Accordingly, the plaintiff's motion for summary judgment on the issue of bad faith should be granted.

*Cunningham v. Credit Management, L.P.*, 3:09 cv 1497-G, 2010 WL 3791049, \*2 (Sep. 27, 2010) (internal quotation marks and citations omitted). PSC's argument based on the Magistrate-Judge's recommendation is therefore not only without merit, but PSC's failure to bring to the attention of the Commission the rejection of that finding by the District Judge is highly problematic. Indeed, it is ironic that in making an argument that Cunningham is somehow morally unfit to make a comment on PSC's petition that PSC, either deliberately or through gross negligence, failed to inform the Commission that the very Magistrate-Judge recommendation upon which PSC relies was completely rejected by the District Judge.

Accordingly, PSC's arguments regarding Cunningham's comment are without merit and should be rejected.

Dated: September 30, 2016

Respectfully submitted,

BELLIN & ASSOCIATES LLC

/s/ Aytan Y. Bellin

By: Aytan Y. Bellin, Esq.

85 Miles Avenue

White Plains, New York 10606

Tel: (914) 358-5345

Fax: (212) 571-0284

Email: [aytan.bellin@bellinlaw.com](mailto:aytan.bellin@bellinlaw.com)

*Attorneys for Craig Cunningham*