

ORDERED.

Dated: June 30, 2016



Catherine Peek McEwen  
United States Bankruptcy Judge

UNITED STATES BANKRUPTCY COURT  
MIDDLE DISTRICT OF FLORIDA  
TAMPA DIVISION  
www.flmb.uscourts.gov

Chapter 7

In re:

Case No. 8:16-bk-1201-CPM

WILLIAM A. SLAVEN and  
EDNA VERA SLAVEN,

Debtors.

**ORDER IMPOSING SANCTIONS AGAINST PROTECT AMERICA, INC.**

This case came before the Court on June 21, 2016, for consideration of William and Edna Slavens' motion for an order enforcing the automatic stay and sanctioning Protect America, Inc. for willful violations of the automatic stay (Doc. No. 18). After considering the Slavens' motion, the argument of counsel,<sup>1</sup> and the relevant law, the Court deems it appropriate to grant the Slavens' motion.

On February 16, 2016, the Slavens filed a petition for relief under Chapter 7 of the Bankruptcy Code, 11 U.S.C. §§ 101, *et seq.* Doc. No. 1. Believing that they owed Protect America a debt for home security monitoring services, the Slavens scheduled Protect America as

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<sup>1</sup> No one appeared at the July 21, 2016, hearing on behalf Protect America.

an unsecured creditor. *Id.* at 33. Thereafter, between April 5, 2016, and April 20, 2016, Protect America contacted Mr. Slaven, the account holder, on three different occasions in an effort to collect payment. *See* Doc. Nos. 18-1 to 18-3. Then, on May 2, 2016, Protect America, through a separate email to Mr. Slaven, acknowledged that it “ha[d] received [the Slavens’] written request for cancellation.” *Id.* at 18-5. “Protect America hereby confirms that the [m]onitoring [a]greement between you and Protect America has been scheduled to be terminated as of May 02, 2016.” *Id.* “[A]fter Monday, May 02, 2016 neither party will have any further obligation to one another,” Protect America stated. *Id.* Nevertheless, over the ensuing weeks, Protect America contacted Mr. Slaven by email four more times—on May 5, May 9, May 12, and May 19—to collect payment. *Id.* at 18-6 to 18-8, 39. “We need to hear from you as soon as possible!,” the messages read. *Id.* at 18-6, 18-8, 39.

Finally, on June 15, 2016, Protect America sent a letter to the Slavens’ counsel, which details Protect America’s policy for dealing with customers who enter bankruptcy:

Upon receipt of receiving the bankruptcy paperwork, we submit a cancellation ticket and set the account to cancel in 3 months. We credit the account accordingly so there is no charge to the customer and send the customer a notification requesting them to let us know if they want to maintain their security services.

*Id.* at 38. “In this case, we did not hear back from Mr. Slaven and cancelled the account on 5/31/16,” the company stated. *Id.*<sup>2</sup> The substance of this letter directly contradicts with Protect America’s May 2 email to Mr. Slaven, which indicated that Protect America was immediately closing Mr. Slaven’s account. *Id.* at 18-5.

All told, Protect America contacted Mr. Slaven seven times postpetition to collect a debt. It is possible that Protect America was unaware that the Slavens had entered bankruptcy when it sent the first three communications, on April 1, April 7, and April 20, *id.* at 18-1 to 8-3, and as to those communications, the Court will give Protect America the benefit of the doubt. Protect America’s May 2 email, however, conclusively establishes its knowledge of the Slavens’ bankruptcy case as of that date. Therefore, its four subsequent attempts to collect money from Mr. Slaven—after acknowledging that Mr. Slaven had no further financial obligation to Protect America—were willful violations of the automatic stay. *See* 11 U.S.C. § 362(a); *see also Jove Eng’g, Inc. v. I.R.S. (In re Jove Eng’g)*, 92 F.3d 1539, 1555 (11th Cir. 1996) (To establish a willful violation of the automatic stay, a debtor must show that the violator “(1) knew the automatic stay was invoked and (2) intended the actions which violated the stay.”).

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<sup>2</sup> The Court accepted the emails from Protect America to Mr. Slaven, Doc. Nos. 18-1 to 18-3, 18-5 to 18-8, 39, and the letter from Protect America to the Slavens’ counsel, *id.* at 38, as statements made by an opposing party. Fed. R. Evid. 801(d)(2).

Thus, as a matter of law, Mr. Slaven is entitled to “recover actual damages, including costs and attorneys’ fees.” 11 U.S.C. § 362(k)(1). In addition, because Protect America “acted with actual knowledge that [it] was violating [a] federally protected right or with reckless disregard of whether [it] was doing so,” *In re White*, 410 B.R. 322, 327 (Bankr. M.D. Fla. 2009) (quoting *Wagner v. Ivory (In re Wagner)*, 74 B.R. 898, 904 (Bankr. E.D. Pa. 1987)), it is appropriate for the Court to impose a punitive sanction. 11 U.S.C. § 362(k)(1). The Court does this to penalize Protect America for its wrongful conduct and to deter Protect America from deliberately defying federal law in the future.

Accordingly, it is

**ORDERED:**

1. The Slavens’ motion for an order enforcing the automatic stay and sanctioning Protect America, Inc. for willful violations of the automatic stay, Doc. No. 18, is **GRANTED**.
2. As actual damages, Protect America shall pay the Slavens \$3,900 in attorney’s fees.
3. As further actual damages, Protect America shall pay the Slavens \$100 for each of its four willful violations of the automatic stay, for a total of \$400.
4. As a punitive sanction, Protect America shall pay \$1,000 to a non-profit legal services provider in Hillsborough County, Florida, that offers legal assistance to underprivileged

individuals and families. This \$1,000 payment shall be in the form of a tax-deductible charitable contribution.

5. Protect America shall make the above payments within 30 days from the date of the entry of this order. If Protect America fails to do so, the Court will consider holding Protect America in contempt and the imposition of further sanctions.

*Attorney Adam G. Suess is directed to serve a copy of this order on interested parties who are non-CM/ECF users and to file a proof of service within 3 days of entry of the order.*