

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civ. No.
)	
v.)	Judge:
)	
TRAVEL BAHAMAS TOURS, INC.)	COMPLAINT FOR
and)	PERMANENT INJUNCTION
RICHARD A. RASKIN,)	AND CONSUMER REDRESS
individually and as an officer)	
and director of said corporation,)	
)	
Defendants.)	

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*, and the Truth in Lending Act ("TILA"), 15 U.S.C. § 1601 *et seq.*, to secure preliminary and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement, and other equitable relief for defendants' unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC's Telemarketing Sales Rule ("the Rule"), 16 C.F.R. §§ 310.3(a)(2)(iv) and 310.3(a)(4), and Section

226.12(e) of Regulation Z, 12 C.F.R. § 226.12(e), which implements the TILA.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 53(b), 57b, 6102(c), 6105(b), and 1607(c).

3. Venue in the United States District Court for the Southern District of Florida is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b), as amended by the FTC Act Amendments of 1994, Pub. L. No. 103-312, 108 Stat. 1691.

PLAINTIFF

4. Plaintiff, FTC, is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 *et seq.* The Commission is charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the Rule, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices. The Commission also enforces the TILA and its implementing Regulation Z. A violation of the Rule or the TILA is a violation of the FTC Act. 15 U.S.C. §§ 6102(c) and 1607(c). The Commission is authorized to initiate federal district court

proceedings by its own attorneys to enjoin violations of the FTC Act, the Rule, the TILA and its implementing Regulation Z, to secure such equitable relief as may be appropriate in each case, and to obtain consumer redress. 15 U.S.C. §§ 53(b), 57b, 6102(c), 6105(b), and 1607(c).

DEFENDANTS

5. Defendant Travel Bahamas Tours, Inc. ("TBT") is a Texas corporation, incorporated October 26, 1995. TBT's corporate headquarters is located at 1333 S. Military Trail, Deerfield Beach, Florida, 33442. TBT has also conducted business at 2401 PGA Boulevard, Suite 110, Palm Beach Gardens, Florida 33410. TBT transacts or has transacted business in the Southern District of Florida.

6. Defendant Richard A. Raskin ("Raskin") is the

East, Boynton Beach, Florida, 33437, and maintains another residence at 3737 West Beverly, Dallas, Texas, 95209. Raskin transacts or has transacted business in the Southern District of Florida.

COMMERCE

7. At all times relevant to this complaint, defendants have maintained a substantial course of trade, advertising, offering for sale, and selling of goods or services in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT'S BUSINESS PRACTICES

8. Since at least September 1996, defendants have marketed, by telephone and direct mail, vacation packages throughout the United States.

9. In the course of defendants' marketing program, defendants have mailed or have caused to be mailed a "Certificate of Authorization" that purport to certify that recipients will receive a "World Class Florida/Caribbean Vacation Package . . . including all accommodations and two Round-trip Airfares!" The certificate also states, "This special package is sponsored by and designed to promote select hotels, resorts and airlines." The certificate displays hotel logos including those of the "Best

Western British Colonial Beach Resort" and the "Nassau Marriott." (Attachment A). To receive their vacation package, consumers must call 800-897-8602, which is printed on the certificate.

10. Consumers who call defendants' 800 number reach a TBT telemarketer who reiterates that the consumers will receive a "promotionally discounted vacation package." The telemarketer states that TBT has special arrangements with select hotels to provide discount accommodations, and that TBT can offer such a "fabulous vacation" at an extremely discounted rate because it purchases large volumes of rooms from the specified hotels. TBT's telemarketers tell consumers that they are guaranteed to stay at the British Colonial Beach Resort in Nassau, Bahamas. Some consumers are told that TBT can offer its vacation package because it is sponsored by national hotels to promote tourism in Florida and the Bahamas.

11. TBT's telemarketers also tell consumers that TBT is a full-service travel agency and that consumers must call TBT to book their reservations. TBT's telemarketers tell consumers that the TBT vacation package is valid for 18 months, but that their reservations must be made at least 60 days in advance of the requested travel date.

12. Since at least September 1996, TBT has required consumers to pay between \$276 and \$498 to purchase its vacation

package. TBT charges the cost of the vacation package to consumers' credit cards.

13. After consumers agree to purchase TBT's vacation package, TBT's telemarketers transfer the consumers to TBT's "verifiers" who confirm the transaction. The TBT verifiers also inform consumers that they can cancel their purchase without penalty or obligation no later than 30 days from the date of purchase or receipt of their vacation materials. The TBT verifiers tell consumers that they will receive their vacation materials in about one to three weeks.

THE FTC ACT

14. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

VIOLATIONS OF THE FTC ACT COUNT ONE

15. Paragraphs 1 through 14 are incorporated herein by reference.

16. Since at least September 1996, in numerous instances, in connection with the telemarketing of vacation packages, defendants have represented, directly or by implication, that:

- a. TBT's vacation package is sponsored, endorsed, or promoted by nationally-recognized hotels,

including the Nassau Marriott and the Best Western Colonial Beach Resort; and

- b. Defendants provide refunds to consumers who cancel within 30 days of their purchase or receipt of TBT's vacation materials.

17. In truth and in fact, in numerous instances:

- a. TBT's travel package is not sponsored, endorsed, or promoted by the Nassau Marriott, the Best Western Colonial Beach Resort, or other nationally-recognized hotels; and
- b. Defendants do not provide refunds to consumers who cancel within 30 days of their purchase or receipt of TBT's vacation materials.

18. Therefore, defendants' representations, as alleged in paragraph 16, are false and misleading, and violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THE FTC'S TELEMARKETING SALES RULE

19. Defendants are "sellers" or "telemarketers" engaged in "telemarketing," as those terms are defined in the Rule, 16 C.F.R. §§ 310.2(r), (t), and (u).

20. In the Telemarketing Act, 15 U.S.C. § 6101, *et seq.*, Congress directed the Commission to prescribe rules prohibiting deceptive and abusive telemarketing acts or practices. On August 16, 1995, the Commission promulgated the Rule, 16 C.F.R. Part 310. The Rule became effective on December 31, 1995.

21. Under the Rule, "[i]t is a deceptive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to . . . [misrepresent] directly or by implication . . . any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies." 16 C.F.R. § 310.3(a)(2)(iv). It is also a deceptive telemarketing act or practice to make "a false or misleading statement to induce any person to pay for goods or services." 16 C.F.R. § 310.3(a)(4).

22. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), violations of the Rule constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE
COUNT TWO

23. Paragraphs 1 through 13, and Paragraphs 19 through 22 are incorporated herein by reference.

24. Since at least September 1996, in connection with the telemarketing of vacation packages, defendants have represented, directly or by implication, that TBT's vacation package is sponsored, endorsed, or promoted by nationally-recognized hotels, including the Nassau Marriott and the Best Western Colonial Beach Resort.

25. In truth and in fact, TBT's travel package is not sponsored, endorsed, or promoted by the Nassau Marriott, the Best Western Colonial Beach Resort, or other nationally-recognized hotels.

26. Therefore, defendants' representation, as alleged in paragraph 24, violates Section 310.3(a)(4) of the Rule, 16 C.F.R. § 310.3(a)(4).

COUNT THREE

27. Paragraphs 1 through 13, and Paragraphs 19 through 22 are incorporated herein by reference.

28. Since at least September 1996, in connection with the telemarketing of vacation packages, in numerous instances, defendants have represented, directly or by implication, that TBT

provides refunds to consumers who cancel within 30 days of their purchase or receipt of TBT's vacation materials.

29. In truth and in fact, in numerous instances, defendants do not provide refunds to consumers who have canceled within 30 days of their purchase or receipt of the TBT vacation materials.

30. Therefore, defendants' representation, as alleged in paragraph 28, violates Section 310.3(a)(2)(iv) of the Rule, 16 C.F.R. § 310.3(a)(2)(iv).

THE TRUTH IN LENDING ACT

31. Section 166 of the TILA, 15 U.S.C. § 1666e, requires creditors to promptly credit a consumer's credit card account upon acceptance of the return of goods or forgiveness of the debt for services. Section 226.12(e) of Regulation Z, which implements Section 166 of the TILA, requires creditors to credit a consumer's credit card account within seven business days from accepting the return of property or forgiving a debt for services. 12 C.F.R. § 226.12(e).

VIOLATIONS OF THE TRUTH IN LENDING ACT COUNT FOUR

32. Paragraphs 1 through 13, and Paragraph 31 are incorporated herein by reference.

33. TBT is a creditor as that term is defined in Section 103(f) of the TILA, 15 U.S.C. § 1602(f), and Section 226.2(a)(17)(ii) of Regulation Z, 12 C.F.R. § 226.2(a)(17)(ii).

34. Since at least September 1996, in numerous instances, defendant TBT has failed to credit promptly consumers' credit card accounts within seven business days from accepting the return of property or forgiving a debt for services and, therefore, has violated Section 166 of the TILA, 15 U.S.C. § 1666e, and Section 226.12(e) of Regulation Z, 12 C.F.R. § 226.12(e).

CONSUMER INJURY

35. Consumers throughout the United States have suffered substantial monetary loss as a result of defendants' unlawful acts or practices described in Counts One through Four above. Absent injunctive relief, defendants are likely to continue to injure consumers.

THIS COURT'S POWER TO GRANT RELIEF

36. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement, and restitution to prevent and remedy any violations of any provision of law enforced by the Commission.

37. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from defendants' violations of the Rule, including the rescission and reformation of contracts, and the refund of monies.

38. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by the defendants' law violations.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court, as authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), Section 108(c) of the TILA, 15 U.S.C. § 1607(c), and pursuant to its own equitable powers:

1. Permanently enjoin defendants from violating the FTC Act, the Telemarketing Sales Rule, the TILA, and Regulation Z as alleged herein;

2. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act, the Telemarketing Sales Rule, the TILA, and Regulation Z, including but not limited to, rescission of

contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and

3. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

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