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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 SOUTHERN DIVISION

12 _____) CV-
13 FEDERAL TRADE COMMISSION,)
14 Plaintiff,) COMPLAINT FOR INJUNCTION AND
15 v.) OTHER EQUITABLE RELIEF
16 WAZZU CORPORATION,)
a corporation,)
17 JAYME AMIRIE,)
an individual,)
18 KENNETH GHARIB,)
19 an individual, and)
20 KIRK WALDFOGEL,)
an individual,)
21 Defendants.)
22 _____)

1 Plaintiff, the Federal Trade Commission ("Commission"), by
2 its undersigned attorneys, alleges:

3 1. This is an action under Sections 13(b) of the Federal
4 Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure
5 injunctive and other equitable relief, including rescission of
6 contracts, restitution, and disgorgement for Defendants' deceptive
7 acts or practices in violation of Section 5(a) of the FTC Act, 15
8 U.S.C. § 45(a), in connection with the marketing and sale of
9 Internet "websites."

10 **JURISDICTION AND VENUE**

11 2. This Court has jurisdiction over this matter pursuant to
12 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a) and
13 1345.

14 3. Venue in this District is proper under 15 U.S.C.
15 § 53(b), and 28 U.S.C. §§ 1391(b) and (c).

16 **PLAINTIFF**

17 4. Plaintiff Federal Trade Commission is an independent
18 agency of the United States Government created by statute. 15
19 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the FTC
20 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts
21 or practices in or affecting commerce. The Commission may
22 initiate federal district court proceedings to enjoin violations
23 of the FTC Act and to secure such equitable relief as may be
24 appropriate in each case, including restitution for injured
25 consumers. 15 U.S.C. § 53(b).

26 **DEFENDANTS**

27 5. Defendant Wazzu Corporation ("Wazzu"), which has done
28 business under the name "JetPages," is a Nevada corporation

1 with its offices and principal place of business located
2 at 10175 Slater Avenue, Suite 290, Fountain Valley, California.
3 Wazzu was incorporated under the name "Altaire Corporation" and
4 later changed its name to Wazzu Corporation. Defendant Wazzu
5 transacts or has transacted business in the Central District of
6 California.

7 6. Defendant Jayme Amirie is an owner and officer of
8 Wazzu. He resides and transacts or has transacted business in
9 the Central District of California.

10 7. Defendant Kenneth Gharib is an owner and officer of
11 Wazzu. He resides and transacts or has transacted business in
12 the Central District of California.

13 8. Defendant Kirk Waldfogel is an owner and officer of
14 Wazzu. He resides and transacts or has transacted business in
15 the Central District of California.

16 9. Individually or in concert with others, Defendants
17 Jayme Amirie, Kenneth Gharib and Kirk Waldfogel have
18 formulated, directed, controlled or participated in the acts
19 and practices of the corporate defendant, including the various
20 acts and practices set forth herein.

21 **COMMERCE**

22 10. At all times material hereto, Defendants have been
23 engaged in the business of offering for sale and selling,
24 through telemarketers, Internet-related services, including
25 design and hosting of Internet websites and other products, in
26 or affecting commerce, as "commerce" is defined in Section 4 of
27 the FTC Act, 15 U.S.C. § 44.

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DEFENDANTS' BUSINESS ACTIVITIES

11. Since at least 1997 and continuing thereafter, Defendants have engaged in a plan, program or campaign to sell website design and hosting services to consumers. A "website" is a set of electronic documents, usually a home page and subordinate pages, readily viewable on computer by anyone with access to the Internet, standard software, and knowledge of the website's location or address.

12. Defendants, directly or through telemarketers, have contacted various consumers by telephone, primarily targeting

1 15. Wazzu typically sends consumers' billing information
2 to a third-party billing aggregator, which then submits Wazzu's
3 charges to consumers' local telephone carriers. The local
4 telephone carriers then put Wazzu's charges onto consumers'
5 telephone bills. In other instances, Wazzu bills consumers
6 directly or bills their credit card accounts. Consumers
7 frequently do not notice Wazzu's charges amid their other
8 business telephone expenses, and inadvertently pay Wazzu's
9 charges for months.

10 16. In numerous instances, Defendants use a third-party
11 authorization service to make audio tapes of consumers
12 purporting to show that the consumer has agreed to purchase
13 Defendants' services upon expiration of the free trial period.
14 The salespersons in these recordings often inadequately
15 disclose that consumers will be automatically billed. The
16 recordings also fail to establish that the consumer authorized
17 the charges for which Wazzu later bills the customer.

18 17. In numerous instances, where consumers contend that
19 they have not ordered Defendants' services, Defendants
20 represent that consumers have authorized the service and are
21 legally obliged to pay for it. In many instances, Defendants
22 continue to charge consumers for an additional month or months
23 after consumers request cancellation.

24 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

25 18. As set forth below, Defendants, individually and in
26 concert with others, have violated Section 5(a) of the FTC Act
27 in connection with the offer and sale of their Internet website
28 design and hosting services.

1 **COUNT I**

2 19. In numerous instances, Defendants have, directly or
3 through telemarketers, represented, expressly or by
4 implication, that:

5 a) Defendants will not charge consumers for web
6 services before the end of Defendants'
7 purportedly free trial period; and

8 b) Defendants will not charge consumers who cancel
9 Defendants' services within the purportedly free
10 trial period.

11 20. In fact, in numerous instances Defendants

12 a) charge consumers for web services before the end
13 of Defendants' purportedly free trial period; or

14 b) charge consumers who have canceled Defendants'
15 services within the purportedly free trial
16 period.

17 21. Therefore, Defendants' representations, as alleged in
18 Paragraph 19, are false and deceptive, and violate Section 5(a)
19 of the FTC Act, 15 U.S.C. § 45(a).

20 **COUNT II**

21 22. In numerous instances, Defendants have, directly or
22 through telemarketers, represented, expressly or by
23 implication, that Defendants will not assess a recurring
24 monthly charge for their website services until thirty days
25 after Defendants have provided consumers with information that
26 will enable consumers to access and review the website designed
27 and hosted by Defendants.

1 23. In fact, in numerous instances, Defendants assess a
2 recurring monthly charge for their website services less than
3 thirty days after Defendants have provided consumers with
4 information that will enable consumers to access and review the
5 website designed and hosted by Defendants, and, in numerous
6 other instances, Defendants assess a recurring monthly charge
7 without providing consumers any such information at all.

8 24. Therefore, Defendants' representations, as alleged in
9 Paragraph 22, are false and deceptive, and violate Section 5(a)
10 of the FTC Act, 15 U.S.C. § 45(a).

11 **COUNT III**

12 25. In numerous instances, Defendants have represented,
13 expressly or by implication, that consumers are legally
14 obligated to pay the charges for Defendants' website services
15 that Defendants have caused to be billed to consumers through a
16 phone bill or other billing statement.

17 26. In fact, in numerous instances, consumers are not
18 legally obligated to pay charges for Defendants' website
19 services that Defendants have caused to be billed to consumers
20 through a phone bill or other billing statement because neither
21 the consumers nor the consumers' agents have authorized these
22 charges.

23 27. Therefore, Defendants' representations, as alleged in
24 Paragraph 25, are false and deceptive, and violate Section 5(a)
25 of the FTC Act, 15 U.S.C. § 45(a).

26 **CONSUMER INJURY**

27 28. Consumers in many areas of the United States have
28 suffered substantial monetary loss as a result of Defendants'

1 unlawful acts or practices. In addition, Defendants have been
2 unjustly enriched as a result of their unlawful practices.
3 Absent injunctive relief by this Court, Defendants are likely
4 to continue to injure consumers and harm the public interest.

5 **THIS COURT'S POWER TO GRANT RELIEF**

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

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiff requests that this Court:

13 1. Award plaintiff such preliminary injunctive and
14 ancillary relief as may be necessary to avert the likelihood of
15 consumer injury during the pendency of this action, and to
16 preserve the possibility of effective final relief;

17 2. Permanently enjoin the Defendants from violating the
18 FTC Act, as alleged herein;

19 3. Award such relief as the Court finds necessary to
20 redress injury to consumers resulting from the Defendants'
21 violations of the FTC Act, including but not limited to,
22 rescission of contracts, the refund of monies paid, and the
23 disgorgement of ill-gotten monies; and

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

4 Dated: _____, 1999

Respectfully submitted,

DEBRA A. VALENTINE
General Counsel

JOHN D. JACOBS
TANYA NATHAN

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