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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

FEDERAL TRADE COMMISSION,)	No. 2:99-cv-01637 - JAT
)	
Plaintiff,)	
)	(Proposed)
vs.)	FINAL JUDGMENT AND
)	ORDER FOR PERMANENT
LIBERTY DIRECT, INC.,)	INJUNCTION AGAINST DEFENDANTS
)	LIBERTY DIRECT, INC.,
PAUL L. WIGGS, individually)	PAUL L. WIGGS, AND DAVID C.
and as an officer of Liberty)	FURNIA
Direct Inc., and)	
)	
DAVID C. FURNIA, individually)	
and as an officer of Liberty)	
Direct, Inc.,)	
)	
Defendants.)	

For good cause shown, including that found in the Stipulation for Entry of Final Judgment and Order for Permanent Injunction Against Defendants Liberty Direct, Inc., Paul L. Wiggs, and David C. Furnia, this Court hereby orders the Clerk of this Court to enter the following Order against the defendants:

1 **FINDINGS**

2 1. This Court has jurisdiction of the subject matter of
3 this case and of the parties consenting hereto;

4 2. Venue is proper as to all parties in the District of
5 Arizona;

6 3. The activities of the defendants are in or affecting
7 commerce, as defined in the FTC Act, 15 U.S.C. § 44;

8 4. The Complaint states a claim upon which relief may be
9 granted against defendants under Sections 5, 13(b), and 19 of the
10 FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b, and the TSR, 16
11 C.F.R. Part 310;

12 5. The Commission and defendants stipulate and agree to
13 entry of this Order freely, without coercion, and without trial
14 or final adjudication of any issue of fact or law, to settle and
15 resolve all matters in dispute arising from the Complaint through
16 the date of entry of this Order. By entering this stipulation
17 defendants acknowledge that each understands the provisions of
18 the Order are prepared to abide by them, but do not admit any of
19 the allegations set forth in the Complaint other than
20 jurisdictional facts;

21 6. The defendants have waived all rights that may arise
22 under the Equal Access to Justice Act, 28 U.S.C. § 2412, *amended*
23 *by* Pub. L. 104-121, 110 Stat. 847, 863-64 (1996);

24 7. The defendants have also waived all rights to seek
25 appellate review or otherwise challenge or contest the validity
26 of this Order, and have further waived and released any claim
27 they may have against the Commission, its employees, and agents;
28 and

1 8. Entry of this Order is in the public interest.

2 **IT IS HEREBY ORDERED, ADJUDGED AND DECREED** as follows:

3 **DEFINITIONS**

4 1. "Defendants" mean Liberty Direct, Inc. dba Liberty
5 Credit Card Protection, Potomac Service Company, Ascendix
6 Seminars, Source One, Inc., and Liberty Credit Card Protection
7 Company; Paul L. Wiggs; and David C. Furnia; their successors and
8 assigns, and their agents, employees, officers, and servants, and
9 those persons in active concert or participation with each of
10 them who receive actual notice of this order by personal service
11 or otherwise.

12 2. "Corporate Defendant" means Liberty Direct, Inc., dba
13 Liberty Credit Card Protection, Potomac Service Company, Ascendix
14
15 Seminars, Source One, Inc., and Liberty Credit Card Protection
16 Company.

17 5. "Telemarketing" means a plan, program, or campaign that
18 is conducted to induce the purchase of goods or services by use
19 of one or more telephones and involves more than one interstate
20 telephone call made to or from any customer, provided however,
21 that "telemarketing" does not include telephone calls in which
22 the sale of goods or services is not completed, and payment or
23 authorization of payment is not required, until after a face-to-
24 face sales presentation by the seller or the seller's agent.

25 6. "Credit Card Protection" means the advertisement,
26 promotion, offering for sale, or sale of any product or service
27 represented to register credit or debit accounts, including
28 credit card accounts, or protect, indemnify, or reimburse the

1 holder of a credit or debit account against unauthorized use or
2 charges.

3 **I. BAN ON SELLING OR MARKETING CREDIT CARD PROTECTION**

4 **IT IS THEREFORE ORDERED** that defendants are permanently
5 restrained and enjoined from engaging in, receiving any
6 remuneration of any kind whatsoever from, holding any ownership
7 interest, share, or stock in, or serving as an officer, director,
8 trustee of, or consultant or advisor to, any business entity
9 engaged in, in whole or in part, credit card protection.

10 **II. BOND TO ENGAGE IN TELEMARKETING**

11 **IT IF FURTHER ORDERED** that each defendant, in connection
12 with any business where (1) any of the defendants, individually,
13 or in combination with any of the other defendants, is the
14 majority owner of the business or directly or indirectly controls
15 the business, and where (2) the business is engaged in
16 telemarketing or assisting others engaged in telemarketing, is
17 permanently restrained and enjoined from failing to obtain a
18 performance bond in the principal sum of ONE MILLION DOLLARS for
19 each corporation, subsidiary, division, partnership, sole
20 proprietorship, or other device, prior to the start of any
21 telemarketing activity by any such entity:

22 A. This bond shall be conditioned upon compliance with
23 Section 5 of the FTC Act, 15 U.S.C. § 45, the provisions of this
24 Order, the TSR, or any other statute enforced by the Commission.
25 The bond shall be deemed continuous and remain in full force and
26 effect as long as the defendant continues to engage in the
27 business of advertising, promoting, offering for sale, sale, or
28 distribution of any product or service while utilizing

1 telemarketing as a means of achieving the sale, and for at least
2 three years after the defendant has ceased to engage in such
3 business activity. The bond shall cite this Order as the subject
4 matter of the bond, and shall provide surety thereunder against
5 financial loss resulting from any violation of Section 5 of the
6 FTC Act, 15 U.S.C. § 45, the provisions of this Order, the TSR,
7 or any other statute enforced by the Commission;

8 B. The performance bond requirement pursuant to this
9 section shall be an insurance agreement providing surety for
10 financial loss issued by a surety company that is admitted to do
11 business in each of the states in which the defendant is doing
12 business and that holds a $\frac{1}{2}$ Certificate of Authority As
13 Acceptable Surety on $\frac{1}{2}$ Bond and Reinsuring. Each such
14 performance bond shall be in favor of both (i) the $\frac{1}{2}$ Trade
15 Commission for the benefit of any consumer injured as a result of
16 any violation of Section 5 of the FTC Act, 15 U.S.C. § 45, any
17 provision of this Order, the TSR, or any other statute enforced
18 by the Commission made while engaged in the business of selling
19 products or services through telemarketing, and (ii) any consumer
20 so injured;

21 C. The bond requirement pursuant to this section is in
22 addition to, and not in lieu of, any other bond required by
23 federal, state, or local law;

24 D. The defendant shall provide a copy of the bond required
25 by this section to the Assistant Regional Director of the FTC's
26 Western Region - Los Angeles at the address specified in Section
27 IX(E) at least ten days before commencing any business that
28 advertises, promotes, offers for sale, sells, or distributes any

1 product or service while utilizing telemarketing as a means of
2 achieving the sale;

3 E. The defendant shall not disclose the existence of the
4 performance bond to any consumer, or other purchaser or
5 prospective purchaser of any product or service that is
6 advertised, promoted, offered for sale, sold, or distributed via
7 telemarketing, without also disclosing clearly and prominently,
8 at the same time, "AS REQUIRED BY ORDER OF THE UNITED STATES
9 DISTRICT COURT IN SETTLEMENT OF CHARGES THAT DEFENDANTS ENGAGED
10 IN FALSE AND MISLEADING REPRESENTATIONS IN THE PROMOTION AND SALE
11 OF CREDIT CARD PROTECTION";

12 F. The Commission may execute against the performance bond
13 if it demonstrates to this Court by a preponderance of the
14 evidence that, after the effective date of this Order, the
15 defendant has, individually, or in connection with any
16 corporation, subsidiary, division, partnership, or sole
17 proprietorship, in which defendant holds an ownership interest,
18 shares, or stock, or in which they serve as an officer, director,
19 or trustee:

20 1. Misrepresented any fact directly or by implication,
21 in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, or the
22 TSR, 26 C.F.R. Part 310;

23 2. Violated the terms of this Order, the TSR, or any
24 statute enforced by the Commission; or

25 3. Failed to render any required performance that
26 results in financial loss to any consumer, in connection with the
27 advertising, promoting, offering for sale, sale, or distribution
28 of any product or service while utilizing telemarketing as a

1 means of achieving the sale; and

2 G. Proceedings instituted under this section are in
3 addition to, and not in lieu of, any other civil or criminal
4 remedies as may be provided by law, including any other
5 proceedings the Commission may initiate to enforce this Order.

6 **III. PROHIBITED BUSINESS PRACTICES**

7 **IT IS FURTHER ORDERED** that defendants in connection with the
8 sale of any product or service are hereby restrained and enjoined
9 from:

10 A. Misrepresenting an affiliation with a consumer's credit
11 card issuer or any other third party;

12 B. Representing that consumers are liable for unauthorized
13 charges on their credit card accounts in excess of the \$50 limit
14 set forth in 15 U.S.C. § 1643 and 12 C.F.R. § 226.12(b);

15 C. Misrepresenting that a consumer has purchased or has
16 agreed to purchase a good or service, and therefore owes money to
17 the seller;

18 D. Consummating a sale for credit card protection or any
19 other credit related product or service over the telephone;

20 E. Failing to comply with the TSR, 16 C.F.R. Part 310, as
21 set forth in Attachment A, or as amended;

22 F. Debiting a consumer's credit card or checking account
23 prior to possessing a signed, original, written authorization for
24 the particular debit from the consumer on the form attached
25 hereto as Attachment B;

26 G. Misrepresenting facts pertaining to consumers' credit-
27 related rights or obligations under the law;

28 H. Misrepresenting that consumers have been pre-approved

1 for, or are likely to obtain, an extension of credit; and

2 I. Misrepresenting any other fact material to a consumer's
3 decision to purchase a good or service.

4 **IV. DISTRIBUTION OF CUSTOMER RECORDS**

5 **IT IS FURTHER ORDERED** that defendants are hereby permanently
6 restrained and enjoined from providing to any person, except
7 agents of the Commission or other law enforcement authorities,
8 the name, address, telephone number, or credit card or bank
9 account number of any consumer who provided such information to
10 defendants in connection with the sale of any credit related
11 product or service; provided, however, that defendants may
12 provide such information if required to do so by court order.

13 **V. RECORDING OF SALES CALLS**

14 **IT IS FURTHER ORDERED** that, in the event that defendants or
15 their agents record any conversation with a consumer to verify or
16 confirm that a consumer is agreeing to purchase any service or
17 product, defendants are permanently restrained and enjoined from
18 accepting or processing such purchases unless the recording meets
19 the following criteria:

20 A. After obtaining permission from the consumer to record
21 the conversation, the recording shall reflect the entirety of the
22 conversation;

23 B. The recording must include clear, complete, and
24 understandable disclosures of all material terms of the purchase,
25 and the consumer's express agreement to such terms. The material
26 terms disclosed in the recorded conversation shall be consistent
27 with any information previously disclosed to the consumer.

28 Material terms include, but are not limited to:

- 1 1. A description of the service or product;
- 2 2. The cost of the service or product;
- 3 3. The amount of any recurring charges;
- 4 4. Limitations on any right to obtain a refund; and
- 5 5. The business name, address, and telephone number to
- 6 which the consumer may address any questions or complaints.

7 This section shall not affect any obligation to comply with
8 any federal, state, or local law regarding the recording of
9 telephone conversations.

10 **VI. COMMISSION'S RELIANCE ON DEFENDANT'S REPRESENTATIONS**

11 The Commission's agreement to this Order is expressly
12 premised upon the truthfulness, accuracy, and completeness of the
13 financial condition of each defendant, as represented in (1) the
14 financial statements of each that were executed on
15 April 19, 2000 (Liberty), February 17, 2000 (Wiggs), and February
16 17, 2000 (Furnia), and (2) the documents that were submitted by
17 defendants that are listed in Attachment C, upon which the
18 Commission relied in negotiating and agreeing to the terms of
19 this Order. If, upon motion by the Commission, this Court finds
20 that any defendant failed to disclose any material asset, or
21 materially misrepresented the value of any asset, or made any
22 other material misrepresentation in or omission from the
23 defendant's financial statement or the submitted documents, the
24 Court shall enter judgment against that defendant, in favor of
25 the Commission in the amount of \$3,633,333, which is intended to
26 represent the total amount of defendants' unjust enrichment, and
27 which will become immediately due and payable. For purposes of
28 this section and any subsequent proceedings, including but not

1 limited to a non-dischargeability complaint filed in a bankruptcy
2 proceeding, each defendant waives any right to contest any of the
3 allegations in the Commission's Complaint.

4 **VII. MONITORING COMPLIANCE OF SALES PERSONNEL**

5 **IT IS FURTHER ORDERED** that defendants, in connection with
6 any business where (1) any of the defendants, individually, or in
7 combination with any of the other defendants is the majority
8 owner of the business or directly or indirectly controls the
9 business and where (2) the business is engaged in telemarketing,
10 or assisting others engaged in telemarketing, are hereby
11 permanently restrained and enjoined from:

12 A. Failing to take reasonable steps sufficient to monitor
13 and ensure that all employees and independent contractors engaged
14 in sales or other customer service functions comply with the
15 restrictions placed on defendants by Sections I - III of this
16 Order, the FTC Act, and the TSR. Such steps shall include
17 adequate monitoring of sales presentations or other calls with
18 customers, and shall also include, at a minimum, the following:

19 1. Listening to oral representations made by persons
20 engaged in sales or other customer service functions;

21 2. Establishing a procedure for receiving and
22 responding to consumer complaints;

23 3. Ascertaining the number and nature of consumer
24 complaints regarding transactions in which each employee or
25 independent contractor is involved; provided that this section
26 does not authorize or require defendants to take any steps that
27 violate any federal, state, or local laws;

28 B. Failing to promptly and fully investigate any consumer

1 complaint received by any business to which this section applies;
2 and

3 C. Failing to take corrective action with respect to any
4 sales person whom the defendant determines is not complying with
5 the conditions stated in this Order. Such corrective action may
6 include training, disciplining, and/or terminating such sales
7 person.

8 **VIII. RECORD KEEPING PROVISIONS**

9 **IT IS FURTHER ORDERED** that, for a period of five years from
10 the date of entry of this Order, defendants, in connection with
11 any business where (1) any of the defendants, individually, or in
12 combination with any of the other defendants is the majority
13 owner of the business or directly or indirectly controls the
14 business and where (2) the business is engaged in telemarketing,
15 or assisting others engaged in telemarketing, are hereby
16 restrained and enjoined from failing to create, and from failing
17 to retain for a period of three years following the date of such
18 creation, unless otherwise specified:

19 A. Books, records and accounts that, in reasonable detail,
20 reflect the cost of goods or services sold, revenues generated,
21 and the disbursement of such revenues;

22 B. Records that reflect: the name, address, and telephone
23 number of each person employed in any capacity by such business,
24 including as an independent contractor; that person's job or
25 position; the date upon which the person commenced work; and the
26 date and reason for the person's termination, if applicable. The
27 businesses subject to this section shall retain such records for
28 any terminated employee for a period of two years following the

1 date of termination;

2 C. Records that reflect the names, addresses, phone
3 numbers, dollar amounts paid, quantity of items or services
4 purchased or provided, and description of items or services
5 purchased or provided for all consumers to whom such business has
6 sold or provided any goods or services;

7 D. Records that reflect, for every consumer complaint or
8 refund request, whether received directly or indirectly or
9 through any third party:

10 1. The consumer's name, address, telephone number and
11 the dollar amount paid by the consumer;

12 2. The written complaint or refund request, if any,
13 and the date of the complaint or refund request;

14 3. The basis of the complaint, including the name of
15 any salesperson complained against, and the nature and result of
16 any investigation conducted concerning any complaint;

17 4. Each response and the date of the response;

18 5. Any final resolution and the date of the
19 resolution; and

20 6. In the event of a denial of a refund request, the
21 reason for the denial; and

22 E. Copies of all sales scripts, training materials,
23 advertisements, or other marketing materials utilized; provided
24 that copies of all sales scripts, training materials,
25 advertisements, or other marketing materials utilized shall be
26 retained for three years after the last date of dissemination of
27 any such materials.

28

1 **IX. COMPLIANCE REPORTING BY DEFENDANTS**

2 **IT IS FURTHER ORDERED** that, in order that compliance with
3 the provisions of this Order may be monitored:

4 A. For a period of five years from the date of entry of
5 this Order, each individual defendant shall notify the Commission
6 of the following:

7 1. Any changes in his residence, mailing addresses,
8 and telephone numbers, within ten days of the date of such
9 change;

10 2. Any changes in his employment status (including
11 self-employment) within ten days of such change. Such notice
12 shall include the name and address of each business that he is
13 affiliated with or employed by, a statement of the nature of the
14 business, and a statement of his duties and responsibilities in
15 connection with the business or employment; and

16 3. Any proposed change in the corporate structure of
17 any corporate defendant, or any proposed change in the structure
18 of any business entity owned or controlled by either individual
19 defendant, such as creation, incorporation, dissolution,
20 assignment, sale, merger, creation, dissolution of subsidiaries,
21 proposed filing of a bankruptcy petition, or change in the
22 corporate name or address, or any other change that may affect
23 compliance obligations arising out of this Order, thirty days
24 prior to the effective date of any proposed change; provided,
25 however, that, with respect to any proposed change in a business
26 entity about which either individual defendant learns of less
27 than thirty days prior to the date such action is to take place,
28 he shall notify the Commission as soon as is practicable after

1 learning of such proposed change;

2 B. For a period of five years following the date of entry
3 of this Order, each defendant shall notify the Commission, within
4 ten days of obtaining or divesting an ownership interest in such
5 business entity, the name, address, telephone number, and the
6 defendant's percentage of stock owned or ownership interest in,
7 any publically traded business entity that has engaged or does
8 engage, in whole or in part, in credit card protection;

9 C. One hundred eighty days after the date of entry of this
10 Order, each defendant shall provide a written report to the
11 Commission, sworn to under penalty of perjury, setting forth in
12 detail the manner and form in which the defendant has complied
13 and is complying with this Order. This report shall include but
14 not be limited to:

15 1. The defendant's current residence address and
16 telephone number;

17 2. The defendant's current employment, business
18 addresses and telephone numbers, a description of the business
19 activities of each such employer, and responsibilities for each
20 employer;

21 3. A copy of each acknowledgment of receipt of this
22 Order obtained by the defendant pursuant to Section XII;

23 4. A statement describing the manner in which the
24 defendant has complied and is complying with the injunctive
25 provisions of this Order (Sections I-V);

26 D. Upon written request by a representative of the
27 Commission, each defendant shall submit additional written
28 reports (under oath, if requested) and produce documents on

1 fifteen days' notice with respect to any conduct subject to this
2 Order;

3 E. For the purposes of this Order, each defendant shall,
4 unless otherwise directed by the Commission's authorized
5 representatives, mail all written notifications to the Commission
6 to: Assistant Regional Director, 1100 Trade Commission, 10877
7 Wilshire Blvd., Suite 700, Los Angeles, California 90024;

8 F. For the purposes of this section, "employment" includes
9 the performance of services as an employee, consultant, or
10 independent contractor; and "employers" include any individual or
11 entity for whom any defendant performs services as an employee,
12 consultant, or independent contractor; and

13 G. For purposes of the compliance reporting required by
14 this section, the Commission is authorized to communicate
15 directly with defendants.

16 **X. AUTHORITY TO MONITOR COMPLIANCE**

17 **IT IS FURTHER ORDERED** that the Commission is authorized to
18 monitor defendants' compliance with this Order by all lawful
19 means, including but not limited to the following:

20 A. The Commission is authorized, without further leave of
21 the Court, to obtain discovery from any person in the manner
22 provided by Chapter V of the 11th Rules of Civil Procedure,
23 Fed. R. Civ. P. 26 - 37, including the use of compulsory process
24 pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and
25 investigating defendants' compliance with any provision of this
26 Order;

27 B. The Commission is authorized to use representatives
28 posing as consumers or suppliers to any defendant, their

1 employees, or any other entity owned or controlled in whole or in
2 part by any defendant, without the necessity of identification or
3 prior notice; and

4 C. Nothing in this Order shall limit the Commission's
5 lawful use of compulsory process, pursuant to Sections 9 and 20
6 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether
7 any defendant has violated any provision of this Order, the FTC
8 Act, or the TSR.

9 **XI. ACCESS TO BUSINESS PREMISES**

10 **IT IS FURTHER ORDERED** that, for a period of five years from
11 the date of entry of this Order, for the purpose of further
12 determining compliance with this Order, defendants shall permit
13 representatives of the Commission, within three business days of
14 receipt of written notice from the Commission:

15 A. Access during normal business hours to any office, or
16 facility storing documents, of any business where (1) any of the
17 defendants, individually, or in combination with any of the other
18 defendants is the majority owner of the business or directly or
19 indirectly controls the business, and where (2) the business is
20 engaged in telemarketing, or in assisting others engaged in such
21 business. In providing such access, the defendant shall permit
22 representatives of the Commission to inspect and copy all
23 documents relevant to any matter contained in this Order; and
24 shall permit Commission representatives to remove documents
25 relevant to any matter contained in this Order for a period not
26 to exceed five business days so that the documents may be
27 inspected, inventoried, and copied;

28 B. To interview the officers, directors, and employees,

1 including all personnel involved in responding to consumer
2 complaints or inquiries, and all sales personnel, whether
3 designated as employees, consultants, independent contractors or
4 otherwise, of any business to which sub-section (A) applies,
5 concerning matters relating to compliance with the terms of this
6 Order. The person interviewed may have counsel present; and

7 C. Upon application of the Commission and for good cause
8 shown, the Court may enter an *ex parte* order granting immediate
9 access to the business premises of any defendant for the purposes
10 of inspecting and copying all documents relevant to any matter
11 contained in this Order.

12 XII. DISTRIBUTION OF ORDER BY DEFENDANTS

13 IT IS FURTHER ORDERED that, for a period of five years from
14 the date of entry of this Order, defendants shall:

15 A. Provide a copy of this Order (excluding Attachments C,
16 D, and E) to, and obtain a signed and dated acknowledgment of
17 receipt of same from, each officer or director, each individual
18 serving in a management capacity, all personnel involved in
19 responding to consumer complaints or inquiries, and all sales
20 personnel, whether designated as employees, consultants,
21 independent contractors or otherwise, immediately upon employing
22 or retaining any such persons, for any business where (1) any of
23 the defendants, individually, or in combination with any of the
24 other defendants is the majority owner of the business or
25 directly or indirectly controls the business, and where (2) the
26 business is engaged in telemarketing, or in assisting others
27 engaged in such business; and

28 B. Maintain for a period of three years after creation,

1 and upon reasonable notice, make available to representatives of
2 the Commission, the original signed and dated acknowledgments of
3 the receipt of copies of this Order, as required in
4 sub-section (A).

5 **XIII. ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

6 **IT IS FURTHER ORDERED** that within five business days after
7 receipt of this Order as entered by the Court each defendant
8 shall submit to the Commission a truthful sworn and notarized
9 statement, in the form shown on Attachment E, that shall
10 acknowledge receipt of this Order as entered and shall reaffirm
11 and attest to the truthfulness, accuracy, and completeness of
12 that defendant's financial statement.

13 **XIV. RETENTION OF JURISDICTION**

14 **IT IS FURTHER ORDERED** that this Court will retain
15 jurisdiction of this matter for the purpose of enabling any of
16 the parties to this Order to apply to the Court at any time for
17 such further orders or directives as may be necessary or
18 appropriate for the interpretation or modification of this Order,
19 for the enforcement of compliance therewith or the punishment of
20 violations thereof.

21 **It is so Ordered.**

22
23 DATED this ___ day of _____, 2000.
24

25 _____
26 Hon. James A. Teilborg
United States District Judge
27
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ATTACHMENT A
TELEMARKETING SALES RULE

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ATTACHMENT B

WARNING
DON'T SIGN UP OR PAY MONEY UNTIL YOU READ THIS NOTICE

Please initial where applicable:

1. I understand that the company that is offering to sell me this product or service, (*company name, to be completed by seller), is not related in any way to Visa, MasterCard, or any bank that issues credit cards.

Consumer initial here_____

[if product/service relates to low interest credit cards]

2. I understand that (*company name, to be completed by seller) cannot help me get any credit card. I understand that they are selling a list of banks that offer credit cards, that the banks will decide whether or not they will issue me a credit card and at what interest rate, that (*company name) has not determined whether I will qualify for credit with any of those banks, and that I could get bank information myself from other sources.

Consumer initial here_____

3. I understand that, once this authorization is received by the company selling me this product or service, my credit card account will be charged \$, by (company name, to be completed by seller).

Consumer initial here_____

[if proposed transaction is an account debit]

4. I understand that, once this authorization is received by the company selling me this service, my bank account number will be debited the amount of \$.

Consumer initial here_____

5. I understand that the company's refund policy is (*to be completed by seller).

I read and signed this notice on (Date).

CONSUMER'S SIGNATURE:

CONSUMER'S NAME (please print):

STREET ADDRESS:

CITY, STATE, ZIP CODE:

TELEPHONE NUMBER:

1 **ATTACHMENT C**

2 1. Documents enclosed with December 1, 1999, letter from
3 Peter F. Fisher to Tanya F. Mayorkas and Raymond E. McKown,
4 including:

- 5 a. Lexis document on the Ascendix Group, Inc. as
6 filed with the Arizona Secretary of State;
- 7 b. Information on the Ascendix Group, Inc. obtained
8 from the Office of the Arizona Secretary of State,
9 Corporation Commission;
- 10 c. 1st Capital Bank Statements of Account for the
11 Ascendix Group, Inc.;
- 12 d. Federal and State Tax Returns filed by the
13 Ascendix Group, Inc. for tax years 1996 and 1997;
- 14 e. Lexis document on the Ascendix Marketing and
15 Communications, L.L.C., as filed with the Arizona
16 Secretary of State;
- 17 f. Information on Ascendix Marketing and
18 Communications, L.L.C., obtained from the Office
19 of the Arizona Secretary of State, Corporation
20 Commission;
- 21 g. 1st Capital Bank Statements of Account for
22 Ascendix Marketing and Communications, L.L.C.;
- 23 h. Federal and State Tax Returns filed by Ascendix
24 Marketing and Communications, L.L.C. for tax year
25 1998;
- 26 i. Lexis document showing information On Liberty
27 Direct, Inc., as filed with the Arizona Secretary
28 of State;

- 1 j. Blank form letter from Liberty Direct, Inc. to be
- 2 sent to any customer who has requested a refund;
- 3 k. 1st Capital Bank Statements of Account for Liberty
- 4 Direct, Inc.;
- 5 l. Federal and State Tax Returns filed by Liberty
- 6 Direct, Inc. for tax years 1998 and 1999;
- 7 m. Statement of Refunds by Liberty Direct;
- 8 2. Profit and Loss Statements for:
 - 9 a. Liberty Direct, Inc. for Jan. 1, 2000 through
 - 10 February 28, 2000;
 - 11 b. Oasis Security for January 1, 2000 through
 - 12 February 28, 2000 and April 26, 1999, through
 - 13 December 31, 1999;
 - 14 c. The Ascendix Group, Inc. for January 1, 2000
 - 15 through February 28, 2000 and January 1999 through
 - 16 December 1999;
- 17 3. Balance Sheet for The Ascendix Group, Inc., dated
- 18 February 28, 2000;
- 19 4. Federal Tax Returns for:
 - 20 a. David and Anita Furnia for 1996 and 1997;
 - 21 b. Paul and Marcella Wiggs for 1995, 1996 and 1997
 - 22 (note that Paul Wiggs states that he did not file
 - 23 1998 return);
 - 24 c. The Ascendix Group, Inc. for July 1997 through
 - 25 June 1998;
- 26 5. The February 28, 2000 letter from Peter Fisher to Tanya
- 27 F. Mayorkas and Raymond E. McKown;
- 28 6. The February 29, 2000 letter from Peter Fisher to Tanya

1 F. Mayorkas and Raymond E. McKown;

2 7. Binder of Liberty Direct, Inc. Bank records for 1998 and
3 1999 listing six accounts (4 checking and 2 money market), which
4 includes an account held in the name of Ascendix Group Inc.;

5 8. Binder of Ascendix Group, Inc. Bank records, beginning
6 with July 1998 and into 1999;

7 9. Records of chargebacks to defendants' customers,
8 entitled "Total Marked as Chargebacks - Sorted by Record Number",
9 and beginning with Nera Sawfer and ending with Jason M. Delong;

10 10. The May 24, 2000 letter from Peter Fisher to Tanya
11 Mayorkas and Raymond E. McKown; the attached financial statement
12 form for Ascendix Security, Inc., d.b.a Oasis Security Company;
13 and the follow up explanatory letter from Peter Fisher to Tanya
14 Mayorkas and Raymond E. McKown, dated June 5, 2000;

15 11. The May 23, 2000, Financial Statement of Ascendix
16 Security, Inc.;

17 12. The May 1, 2000, Financial Statement of The Ascendix
18 Group, Inc.;

19 13. The financial documents attached to the November 9,
20 2000, letter from Peter F. Fisher to Raymond E. McKown;

21 14. Supplemental "Summary Financial Schedules" and
22 "Combined Average Monthly Income and Expenses for You, Your
23 Spouse, and Your Dependents for the Last 6 Months" from Wiggs and
24 Furnia submitted on November __, 2000.

1 **ATTACHMENT E**

2 UNITED STATES DISTRICT COURT
3 DISTRICT OF ARIZONA

4 _____) CV 99 - 1637 PHX RCB
5 FEDERAL TRADE COMMISSION,)
6 Plaintiff,)
7 vs.) AFFIDAVIT OF [DEFENDANT]
8 LIBERTY DIRECT, INC.,)
9)
10 PAUL L. WIGGS, individually)
and as an officer of Liberty)
Direct, Inc., and)
11)
12 DAVID C. FURNIA, individually)
and as an officer of Liberty)
Direct, Inc.,)
13)
14 Defendants.)
_____)

15 [Defendant], being duly sworn, hereby states and affirms as
16 follows:

17 1. My name is _____. My current residence address
18 is _____ (list street, city state, zip code, country) _____. I am a
19 citizen of the United States and am over the age of eighteen. I
20 have personal knowledge of the facts set forth in this Affidavit.

21 2. I am a defendant in FTC v. Liberty Direct, Inc., et al.
22 CV. 99 - 1637 PHX RCB (United States District Court for the
23 District of Arizona).

24 3. On _____, 2000, I received a copy of the Final Judgment
25 and Order for Permanent Injunction Against Defendants Liberty
26 Direct, Inc., Paul L. Wiggs, and David C. Furnia, which was
27 signed by the Honorable [name of U.S. District Judge] and entered
28 by the Court on _____, 2000. A true and correct copy of the

1 Order I received is appended to this Affidavit.

2 4. I hereby state that the information contained my
3 financial statement, as identified in paragraph XIII of the
4 Order, which was executed signed on _____, and provided
5 to the $\hat{A} \acute{e} \text{¶} 1' \ll \tilde{A} \frac{1}{2}$ Trade Commission shortly thereafter was true,
6 accurate, and complete at such time.

7 I declare under penalty of perjury under the laws of the
8 United States that the foregoing is true and correct. Executed on
9 _____, 2000, at [place].

10
11 _____
12 [Name of Defendant & signature]

13 State of _____, City of _____

14
15 Subscribed and sworn to before me
16 this ____ day of _____, 2000.

17
18 _____
19 Notary Public

20 My Commission Expires:
21 _____
22
23
24
25
26
27
28

CERTIFICATE OF SERVICE

My name is Raymond E. McKown. I am an attorney employed by the U.S. Trade Commission, 10877 Wilshire Boulevard, Suite 700, Los Angeles, California 90024. On _____ I deposited the document captioned "(Proposed) FINAL JUDGMENT AND ORDER FOR PERMANENT INJUNCTION AGAINST DEFENDANTS LIBERTY DIRECT, INC., PAUL L. WIGGS, AND DAVID C. FURNIA," in the first class United States mail, addressed to the following:

Peter Fisher
Schmitt, Schneck, Fisher, Smyth & Herrod, PC
1221 East Osborn Road, Suite 105
Phoenix, AZ 85014-5540

Richard Hinz & Sheri Stevens
Arizona Attorney General's Office
1275 West Washington
Phoenix, AZ 85007

Sue A. Klein
Asst. United States Attorney
U.S. Courthouse
230 North 1st Avenue, Room 4000
Phoenix, AZ 85025

I declare under penalty of perjury that the foregoing is true and correct. Executed this ____ day of _____ at Los Angeles, California.

Raymond E. McKown