

1 JENNIFER LARABEE, CA. Bar No. 163989  
BARBARA CHUN, CA Bar No. 186907  
2 Federal Trade Commission  
10877 Wilshire Boulevard, Suite 700  
3 Los Angeles, California 90024  
phone: (310) 824-4343  
4 fax: (310) 824-4380

5 Attorneys for Plaintiff  
Federal Trade Commission

6  
7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION

11  
12 FEDERAL TRADE COMMISSION, )

13 Plaintiff, )

14 v. )

15 MARK ALAN CONWAY a.k.a )  
16 ALAN CONWAY, individually and )  
d.b.a HOMELIFE CREDIT SERVICES, )  
17 and )  
18 WILLIAM ANDERSON, individually and )  
d.b.a HOMELIFE CREDIT SERVICES )

19 Defendant(s). )  
20 )

CV No. 00-06154 CM (Ex)

**STIPULATED FINAL  
JUDGMENT AND [PROPOSED]  
ORDER FOR PERMANENT  
INJUNCTION**

21  
22 Plaintiff, the Federal Trade Commission (“Commission”), on June 8, 2000, filed its  
23 Complaint for permanent injunction and other relief pursuant to sections 13(b) and 19 of the  
24 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing  
25 and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101 *et seq.*,  
26 charging defendant(s) One or More Unknown Persons Doing Business as HomeLife Credit  
27 Services with engaging in unfair or deceptive acts or practices in violation of Section 5 of the FTC  
28 Act, 15 U.S.C. § 45, and the FTC’s Telemarketing Sales Rule, 16 C.F.R. Part 310. On

1 September 20, 2000, the Commission filed an Amended Complaint naming Mark Alan Conway  
2 a/k/a Alan Conway ["Conway"] and William Anderson ["Anderson"] as defendants in this matter.  
3 Now the Commission and defendant Conway have agreed to a settlement of this action.  
4 Accordingly, the Commission and defendant Conway consent to entry of this Stipulated Final  
5 Judgment and Order ("Order").  
6

7           Upon the consent of the parties hereto, **IT IS HEREBY ORDERED, ADJUDGED,**  
8 **AND DECREED** as follows:  
9

10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- 1 4. This Court has jurisdiction over the subject matter of this case and has jurisdiction over  
2 defendant Conway. Venue in the Central District of California is proper.
- 3 5. The activities of defendant Conway are in or affecting commerce, as commerce is defined  
4 in 15 U.S.C. § 44.
- 5 6. Defendant Conway waives all rights to seek judicial review or otherwise challenge or  
6 contest the validity of this Order. Defendant Conway also waives any claim that he may  
7 hold under the Equal Access to Justice Act, 28 U.S.C. § 2412 (as amended), concerning  
8 the prosecution of this action to the date of this Order.
- 9 7. Entry of this Order is in the public interest.
- 10 8. This Order is remedial in nature and shall not be construed as the payment of a fine,  
11 penalty, punitive assessment, or forfeiture.

12  
13 **DEFINITIONS**  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 5. “Document”

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

1 extensions of credit, Defendant Mark Alan Conway and his successors, assigns, directors,  
2 officers, agents, servants, employees, attorneys, and all other persons or entities in active concert  
3 or participation with them who receive actual notice of this Order by personal service or  
4 otherwise, whether acting directly or through any corporation, subsidiary, division, or other  
5 device, are hereby permanently restrained and enjoined from:

6       A.     Misrepresenting, expressly or by implication, that consumers who pay a required  
7             advance fee can reasonably expect to receive a credit card, loan, or other extension  
8             of credit;

9       B.     Misrepresenting, expressly or by implication, that defendant Conway has  
10            connections with sources that are likely to result in the provision of credit cards,  
11            loans, or other extensions of credit; and

12       C.     Misrepresenting, expressly or by implication, any fact material to a consumer's  
13             decision to purchase services relating to credit cards, loans, or other extensions of  
14             credit from any defendant;

15 **IT IS FURTHER ORDERED** that, with respect to the advertising, marketing, promoting,  
16 offering for sale, or sale of any good or service, defendant Conway, and his successors, assigns,



1 other material misrepresentation or omission, the Commission may move that the Court reopen  
2 this Order for the sole purpose of allowing the Commission to modify the monetary liability of  
3 defendant Conway. If the Court finds that defendant Conway failed to disclose any material asset,  
4 materially misrepresented the value of any asset, or made any other material misrepresentation or  
5 omission in the above-referenced financial statements and information, the Court shall enter  
6 judgment against defendant Conway, in favor of the Commission, in the amount of, \$338,940.00  
7 (THREE HUNDRED THIRTY-EIGHT THOUSAND NINE HUNDRED FORTY DOLLARS)  
8 which defendant Conway and the Commission stipulate is the amount of consumer injury caused  
9 by defendant Conway and HomeLife Credit Services, less any redress amounts previously paid.  
10 Should this judgment be modified as to the monetary liability of defendant Conway, this Order, in  
11 all other respects, shall remain in full force. Any proceedings instituted under this Paragraph shall  
12 be in addition to and not in lieu of any other proceedings the Commission may initiate to enforce  
13 this Order. Solely for the purposes of reopening or enforcing this Paragraph, defendant Conway  
14 waives any right to contest any of the allegations set forth in the Complaint filed in this matter.

15  
16 **V.**

17 **CUSTOMER LISTS**

18 **IT IS FURTHER ORDERED** that defendant Conway, and his successors, assigns, directors,  
19 officers, agents, servants, employees, attorneys, and all other persons or entities in active concert  
20 or participation with them who receive actual notice of this Order by personal service or  
21 otherwise, whether acting directly or through any corporation, subsidiary, division, or other  
22 device, are permanently restrained and enjoined from selling, renting, leasing, transferring, or  
23 otherwise disclosing the name, address, telephone number, credit card number, bank account  
24 number, e-mail address, or other identifying information of any person whom defendant Conway  
25 charged a fee for arranging for the provision of a credit card, loan, or other extension of credit.  
26 *Provided* that defendant Conway may disclose such identifying information to a law enforcement  
27 agency or as required by any law, regulation, or court order.

28

1 VI.

2 CEASE COLLECTIONS, NOTICES TO CONSUMERS

3 **IT IS FURTHER ORDERED** that defendant Conway, and his successors, assigns, directors,  
4 officers, agents, servants, employees, attorneys, and all other persons or entities in active concert  
5 or participation with them who receive actual notice of this Order by personal service or  
6 otherwise, whether acting directly or through any corporation, subsidiary, division, or other  
7 device, shall:

8 A. Cease all collection efforts on accounts arising from contracts, agreements, or  
9 understandings between defendant Conway and credit card clients, including but  
10 not limited to directing all third parties engaged in collection efforts regarding  
11 such accounts to cease all such collection activities and to cease furnishing any  
12 negative information to any consumer reporting agencies;

13 B. Within twenty (20) days after the date this Order is entered, return to credit card  
14 clients all uncashed checks or other negotiable instruments, including checks  
15 totaling over \$500.00, in defendant Conway's possession that have been received  
16 by defendant Conway, directly or indirectly, on accounts arising from contracts,  
17 agreements, or understandings between defendant Conway and his clients. Include  
18 with each such returned check or other negotiable instrument a notice to the client  
19 stating that, as a result of an agreement between defendant Conway and the  
20 Federal Trade Commission settling allegations regarding defendant Conway's  
21 ability to obtain credit cards, those clients' contracts are rescinded; and

22 C. Within sixty (60) days after the date this Order is entered, provide the names and  
23 addresses of those clients to whom checks or other negotiable instruments were  
24 returned pursuant to Subparagraph B above to: Jennifer Larabee, Federal Trade  
25 Commission, 10877 Wilshire Blvd., Suite 700, Los Angeles, California 90024.

26 //

27 //

28 //



**VII.**

**RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, defendant Conway, and his successors, assigns, directors, officers, agents, servants,

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

- (1) the consumer's name, address, telephone number and the dollar amount paid by the consumer;
- (2) the written complaint or refund request, if any, and the date of the complaint or refund request;
- (3) the basis of the complaint, including the name of any salesperson complained against, and the nature and result of any investigation conducted concerning any complaint;
- (4) each response and the date of the response;
- (5) any final resolution and the date of the resolution; and
- (6) in the event of a denial of a refund request, the reason for the denial; and

E. Copies of all sales scripts, training materials, advertisements, or other marketing

1 make available to representatives of the Commission, the original signed and dated  
2 acknowledgments of the receipt of copies of this Order, as required in Section A of  
3 this Paragraph.  
4

5 **IX.**

6 **COMPLIANCE REPORTING BY DEFENDANT CONWAY**

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

9 A. For a period of five (5) years from the date of entry of this Order, defendant  
10 Conway shall notify the Commission of the following:

- 11 1. Any changes in such defendant Conway's residence, mailing addresses, and  
12 telephone numbers, within ten (10) days of the date of such change;
- 13 2. Any changes in such defendant Conway's employment status (including  
14 self-employment) within ten (10) days of such change. Such notice shall  
15 include the name and address of each business that defendant is affiliated  
16 with or employed by, a statement of the nature of the business, and a  
17 statement of defendant's duties and responsibilities in connection with the  
18 business or employment; and
- 19 3. Any proposed change in the structure of any business entity owned or  
20 controlled by defendant Conway such as creation, incorporation,  
21 dissolution, assignment, sale, merger, creation, dissolution of subsidiaries,  
22 proposed filing of a bankruptcy petition, or change in the corporate name  
23 or address, or any other change that may affect compliance obligations  
24 arising out of this Order, thirty (30) days prior to the effective date of any  
25 proposed change; *provided*, however, that, with respect to any proposed  
26 change in the corporation about which such defendant learns less than  
27 thirty (30) days prior to the date such action is to take place, such  
28 defendant shall notify the Commission as soon as is practicable after

1 learning of such proposed change;

2 B. One hundred eighty (180) days after the date of entry of this Order, defendant  
3 Conway shall provide a written report to the FTC, sworn to under penalty of  
4 perjury, setting forth in detail the manner and form in which defendant Conway has  
5 complied and is complying with this Order. This report shall include but not be  
6 limited to:

- 7 1. Defendant's then current residence addresses and telephone numbers;
- 8 2. Defendant's then current employment, business addresses and telephone  
9 numbers, a description of the business activities of each such employer, and  
10 individual defendant's title and responsibilities for each employer;
- 11 3. A copy of each acknowledgment of receipt of this Order obtained by  
12 defendant Conway pursuant to Paragraph VIII of this Order, and
- 13 4. A statement describing the manner in which defendant has complied and is  
14 complying with the injunctive provisions in Paragraphs I and II of the  
15 Order;

16 C. Upon written request by a representative of the Commission, defendant shall  
17 submit additional written reports (under oath, if requested) and produce  
18 documents on fifteen (15) days' notice with respect to any conduct subject to this  
19 Order;

20 D. For the purposes of this Order, defendant shall, unless otherwise directed by the  
21 Commission's authorized representatives, mail all written notifications to the  
22 Commission to:

23 Regional Director  
24 Federal Trade Commission  
25 10877 Wilshire Blvd., Suite 700  
26 Los Angeles, California 90024

27 Re: FTC v. Mark Alan Conway d/b/a HomeLife Credit Services, et al.  
28 Civ. Act. No. 00-06154 CM (Ex)

E. For the purposes of this Paragraph, "employment" includes the performance of  
services as an employee, consultant, or independent contractor; and "employers"

1 includes any individual or entity for whom defendant performs services as an  
2 employee, consultant, or independent contractor; and

3 F. For purposes of the compliance reporting required by this Paragraph, the  
4 Commission is authorized to communicate directly with defendant Conway.

5  
6 **X.**

7 **COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

8 **IT IS FURTHER ORDERED** that the Commission is authorized to monitor defendant  
9 Conway's compliance with this Order by all lawful means, including but not limited to, the  
10 following means:

- 11 A. The Commission is authorized, without further leave of court, to obtain discovery  
12 from any person in the manner provided by Chapter V of the Federal Rules of Civil  
13 Procedure, Fed. R. Civ. P. 26-37, including the use of compulsory process  
14 pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating  
15 defendant's compliance with any provision of this Order;
- 16 B. The Commission is authorized to use representatives posing as consumers and  
17 suppliers to defendant, defendant's employees, or any other entity managed or  
18 controlled in whole or in part by defendant, without the necessity of identification  
19 or prior notice; and
- 20 C. Nothing in this Order shall limit the Commission's lawful use of compulsory  
21 process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. § § 49 and 57b-  
22 1, to investigate whether defendant has violated any provision of this Order or  
23 Section 5 of the FTC Act, 15 U.S.C. § 45.
- 24 D. For purposes of the compliance reporting required by this Paragraph, the  
25 Commission is authorized to communicate directly with defendant Conway.

26  
27 **XI.**

28 **ACCESS TO BUSINESS PREMISES**

1           **IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry  
2 of this Order, for the purpose of further determining compliance with this Order, defendant  
3 Conway shall permit representatives of the Commission, within three (3) business days of receipt  
4 of written notice from the Commission:

5           A.       Access during normal business hours to any office, or facility storing documents,  
6                   of any business involving telemarketing, or the offer or sale of credit cards for an  
7                   advance fee, where such defendant is the majority owner of the business or directly  
8                   or indirectly manages or controls the business. In providing such access, such  
9                   defendant shall permit representatives of the Commission to inspect and copy all  
10                  documents relevant to any matter contained in this Order; and shall permit  
11                  Commission representatives to remove documents relevant to any matter  
12                  contained in this Order for a period not to exceed five (5) business days so that the  
13                  documents may be inspected, inventoried, and copied;

14          B.       To interview the officers, directors, and employees, including all personnel  
15                   involved in responding to consumer complaints or inquiries, and all sales  
16                   personnel, whether designated as employees, consultants, independent contractors  
17                   or otherwise, of any business to which Section A of this Paragraph applies,  
18                   concerning matters relating to compliance with the terms of this Order. The  
19                   person interviewed may have counsel present, and

20          C.       For purposes of the access request permitted by this Paragraph, the Commission is  
21                   authorized to communicate directly with defendant Conway.

22 *Provided* that, upon application of the Commission and for good cause shown, the Court may  
23 enter an *ex parte* order granting immediate access to defendant's business premises for the  
24 purposes of inspecting and copying all documents relevant to any matter contained in this Order.

25 //

26 //

27

28

**XII.**



1 **ENTRY BY CLERK**

2 There being no just reason for delay, the Clerk of the Court is hereby directed to enter this  
3 Order.

4 **SO STIPULATED:**

5  
6 \_\_\_\_\_  
7 JENNIFER LARABEE  
8 BARBARA CHUN  
9 Attorneys for Plaintiff Federal Trade Commission  
10 phone: (310) 824-4343

11 Dated: \_\_\_\_\_, 2001

12 \_\_\_\_\_  
13 Mark Alan Conway  
14 Defendant

15 **APPROVED AS TO FORM**

16 Dated: \_\_\_\_\_, 2001

17 \_\_\_\_\_  
18 Donald Beskin, Esq.  
19 Attorney for  
20 Defendant Mark Alan Conway

21 **IT IS SO ORDERED.**

22 Dated: \_\_\_\_\_

23 \_\_\_\_\_  
24 United States District Judge



1 JENNIFER LARABEE, CA. Bar No. 163989  
BARBARA CHUN, CA Bar No. 186907  
2 Federal Trade Commission  
10877 Wilshire Boulevard, Suite 700  
3 Los Angeles, California 90024  
phone: (310) 824-4343  
4 fax: (310) 824-4380

5 Attorneys for Plaintiff  
Federal Trade Commission  
6

7  
8 UNITED STATES DISTRICT COURT  
9 CENTRAL DISTRICT OF CALIFORNIA  
10 WESTERN DIVISION  
11

12 FEDERAL TRADE COMMISSION, )  
13 )

14 Plaintiff, )

15 v. )

16 MARK ALAN CONWAY a.k.a )  
ALAN CONWAY, individually and )  
17 d.b.a HOMELIFE CREDIT SERVICES, )  
and )  
18 WILLIAM ANDERSON, individually and )  
d.b.a HOMELIFE CREDIT SERVICES )

19 Defendant(s). )  
20 )

CV No. 00-06154 CM (Ex)

**AFFIDAVIT OF DEFENDANT  
MARK ALAN CONWAY  
ACKNOWLEDGING SERVICE  
OF FINAL JUDGMENT AND  
ORDER**

21  
22 **AFFIDAVIT OF [NAME OF DEFENDANT]**

23 Mark Alan Conway, being duly sworn, hereby states and affirms as follows:

24 1. My name is Mark Alan Conway. My social security number is \_\_\_\_\_.

25 My current residence address is \_\_\_\_\_

26 \_\_\_\_\_ I am a citizen of

27 the United States and am over the age of eighteen. I have personal knowledge of the facts set

28 forth in this Affidavit.

1           2.       I am a defendant in FTC v. Mark Alan Conway et al., Civil Action No. 00-  
2 99CV1746-G in the United States District Court for the Central District of California, Western  
3 Division.

4           3.       On \_\_\_\_\_, 2001, I received a copy of the Stipulated  
5 Final Judgment and Order for Permanent Injunction and Monetary Relief, which was signed by  
6 the Honorable Carlos Moreno and entered by the Court on \_\_\_\_\_, 2001. A true and  
7 correct copy of the Order I received is attached to this Affidavit.

8           I declare under penalty of perjury under the laws of the United States that the  
9 foregoing is true and correct. Executed on \_\_\_\_\_, 2001, at \_\_\_\_\_.

10  
11 \_\_\_\_\_  
12 Mark Alan Conway

13  
14  
15 State of \_\_\_\_\_, City of \_\_\_\_\_

16  
17 Subscribed and sworn to before me  
18 this \_\_\_\_ day of \_\_\_\_\_, 2001.

19  
20 \_\_\_\_\_  
21 Notary Public  
22 My Commission Expires:  
23 \_\_\_\_\_