

1 WILLIAM E. KOVACIC
General Counsel

2
3 JANICE L. CHARTER
JEROME M. STEINER, JR.
Federal Trade Commission
4 901 Market Street, Suite 570
San Francisco, CA 94103
5 Phone (415) 848-5100/ fax (415) 848-5184

6 BLAINE T. WELSH
Assistant United States Attorney
7 333 Las Vegas Blvd, South, Suite 5000
Las Vegas, NV 89101
8 Phone (702) 388-6336

9 Attorneys for Plaintiff
Federal Trade Commission

10
11 **UNITED STATES DISTRICT COURT**
12 **DISTRICT OF NEVADA**

13 FEDERAL TRADE COMMISSION,

14 Plaintiff,

15 v.

16 NATIONAL AUDIT DEFENSE
17 NETWORK, INC., a Nevada
Corporation; TAX COACH, INC.,
18 a Nevada Corporation doing
business as TAX READY;

19 ROBERT BENNINGTON,
20 individually and as an officer
of National Audit Defense
21 Network, Inc., and Tax Coach,
Inc.; CORT CHRISTIE,
22 individually and as an officer
of National Audit Defense
23 Network, Inc.; and AL
RODRIGUEZ, individually,

24 Defendants.

CV-S-02-0131-LRH-PAL

COMPLAINT FOR INJUNCTION
AND OTHER EQUITABLE
RELIEF

1 business at 4330 S. Valley View Blvd, Las Vegas, Nevada,
2 advertises, promotes, offers for sale, and sells programs and
3 services that purport to assist consumers in reducing their
4 income tax liabilities. NADN transacts or has transacted
5 business in the District of Nevada.

6 6. Defendant Tax Coach, Inc., which does business as Tax
7 Ready ("Tax Ready"), a Nevada corporation with its principal
8 place of business at 4310 Cameron St, Suite 11, Las Vegas,
9 Nevada, advertises, promotes, offers for sale, and sells programs
10 and services that purport to assist consumers in reducing their
11 income tax liabilities. Tax Ready transacts or has transacted
12 business in the District of Nevada.

13 7. Defendant Robert Bennington ("Bennington") is an
14 officer or director of NADN and Tax Ready. At all times material
15 to this complaint, acting alone or in concert with others, he has
16 formulated, directed, controlled, or participated in the acts and
17 practices of the corporate defendants, including the acts and
18 practices set forth in this complaint. Bennington resides and
19 transacts business in the District of Nevada.

20 8. Defendant Cort Christie ("Christie") is an officer or
21 director of NADN. At all times material to this complaint,
22 acting alone or in concert with others, he has formulated,
23 directed, controlled, or participated in the acts and practices
24 of corporate defendant NADN, including the acts and practices set
25 forth in this complaint. Christie resides and transacts business
26 in the District of Nevada.

27 9. Defendant Al Rodriguez ("Rodriguez") is the general
28 manager of NADN and Tax Ready. At all times material to this

1 complaint, acting alone or in concert with others, he has
2 formulated, directed, controlled, or participated in the acts and
3 practices of the corporate defendants, including the acts and
4 practices set forth in this complaint. Rodriguez resides and
5 transacts business in the District of Nevada.

6 **COMMERCE**

7 10. At all times relevant to this complaint, defendants
8 have maintained a substantial course of business in the
9 advertising, promoting, offering for sale, and sale of various
10 tax-related programs and services, in or affecting commerce, as
11 "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C.
12 § 44.

13 **DEFENDANTS' BUSINESS PRACTICES**

14 11. Since at least 1998, defendants have advertised,
15 promoted, offered for sale, and sold programs and services that
16 purport to assist consumers in reducing their tax liabilities,
17 and have provided tax audit services and tax preparation services
18 to consumers throughout the United States. Defendants have
19 promoted their tax-related services and programs to prospective
20 purchasers through a variety of media, including advertisements
21 on national radio talk shows.

22 12. In their advertisements, defendants offer a free tape
23 or book of information that allegedly will assist consumers in
24 filling out and saving money on their tax returns. Defendants
25 invite consumers to call defendants' toll-free telephone number
26 to obtain their book or tape.

27 13. Consumers who call defendants' toll-free telephone
28 number are ultimately connected to defendants' salespeople.

1 These salespeople represent to consumers that defendants provide
2 programs and services that will save consumers on their income
3 taxes. Defendants' programs cost from around \$400 to more than
4 \$1,400.

5 14. In connection with the advertising, promotion, offering
6 for sale, or sale of these programs and services, defendants
7 offer consumers an unconditional 30-day money-back guarantee.
8 Defendants represent that if consumers want to cancel the
9 purchase for any reason, they may do so within 30 days and
10 receive a full refund. Defendants also tell consumers that if
11 they are unable to achieve tax savings of \$3,000 after
12 implementing or using defendants' tax-saving strategies, they
13 will receive a full refund.

14 15. When describing these guarantees, Defendants fail to
15 disclose certain conditions. Before consumers are eligible for a
16 refund under the 30-day guarantee, they must obtain a "return
17 authorization" number from defendants. Before consumers are
18 eligible for a refund under the \$3,000 guarantee, they must have

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1 intercession of law enforcement agencies or consumer protection
2 organizations such as the Better Business Bureau.

3 **THE FEDERAL TRADE COMMISSION ACT**

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

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

8 **COUNT I**

9 18. In the course of the advertising, promotion, offering
10 for sale, or sale of their tax-saving programs and services,
11 defendants have represented, expressly or by implication, that
12 they will provide refunds to consumers who request refunds
13 pursuant to defendants' money-back guarantees.

14 19. In truth and in fact, in many instances, defendants
15 fail or refuse to provide refunds to consumers who request
16 refunds pursuant to defendants' money-back guarantees.

17 20. Therefore, defendants' representations as set forth in
18 Paragraph 18 are false and misleading and constitute deceptive
19 acts or practices in violation of Section 5(a) of the FTC Act, 15
20 U.S.C. § 45(a).

21 **COUNT II**

22 21. In the course of the advertising, promotion, offering
23 for sale, or sale of their tax-saving programs and services,
24 defendants have represented, expressly or by implication, that
25 they will provide refunds in a timely manner to consumers who
26 request refunds pursuant to defendants' money-back guarantees.

27 22. In truth and in fact, in many instances, defendants
28 fail or refuse to provide refunds in a timely manner to consumers

1 who request refunds pursuant to defendants' money-back
2 guarantees.

3 23. Therefore, defendants' representations as set forth in
4 Paragraph 21 are false and misleading and constitute deceptive
5 acts or practices in violation of Section 5(a) of the FTC Act, 15
6 U.S.C. § 45(a).

7 **THE TRUTH IN LENDING ACT**

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

16 **VIOLATION OF THE TRUTH IN LENDING ACT**

17 **COUNT III**

18 25. National Audit Defense Network, Inc., and Tax Coach,
19 Inc. d/b/a Tax Ready, are creditors as that term is defined in
20 Section 103(f) of the TILA, 15 U.S.C. § 1602(f), and Section
21 226.2(a)(17)(ii) of Regulation Z, 12 C.F.R. § 226.2(a)(17)(ii).

22 26. In numerous instances, defendants NADN and Tax Ready
23 fail to credit promptly consumers' credit card accounts within
24 seven business days from accepting the return of property or
25 forgiving a debt for services, and, therefore, violate Section
26 166 of the TILA, 15 U.S.C. § 1666(e), and Section 226.12(e) of
27 Regulation Z, 12 C.F.R. § 226.12(e).

28

1 CONSUMER INJURY

2 27. Consumers in many areas of the United States have
3 suffered substantial monetary loss as a result of defendants'
4 unlawful acts or practices. Absent injunctive relief by this
5 Court, defendants are likely to continue to injure consumers and
6 harm the public interest.

7 THIS COURT'S POWER TO GRANT RELIEF

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

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

16 PRAYER FOR RELIEF

17 WHEREFORE, plaintiff the Federal Trade Commission, pursuant
18 to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the
19 Court's own equitable powers, requests that the Court:

20 1. Award plaintiff such preliminary injunctive and
21 ancillary relief as may be necessary to avert the likelihood of
22 consumer injury during the pendency of this action and to
23 preserve the possibility of effective final relief;

24 2. Permanently enjoin defendants from violating the FTC
25 Act, the TILA, and Regulation Z as alleged herein;

26 3. Award such relief as the Court finds necessary to
27 redress injury to consumers resulting from defendants' violations
28 of the FTC Act, the TILA, and Regulation Z, including, but not

1 limited to, rescission or reformation of contracts, restitution,
2 the refund of monies paid, and the disgorgement of ill-gotten
3 monies; and

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

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8 Dated: January 30, 2002

Respectfully Submitted,
WILLIAM E. KOVACIC
General Counsel

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JANICE L. CHARTER
JEROME M. STEINER, JR.
901 Market St, Suite 570
San Francisco, CA 94103
Phone (415) 848-5100
Fax (415) 848-5184

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14
15 BLAINE T. WELSH
Assistant United States Attorney
333 Las Vegas Blvd, South
Suite 5000
Las Vegas, NV 89101
Phone (702) 388-6336

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18 Attorneys For Plaintiff
Federal Trade Commission
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