

UNITED STATES DISTRICT COURT

[REDACTED]

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

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), 57 (with FTCA), and Section 5 of the FTC Act, 15 U.S.C. § 45, and

the Gramm-Leach-Bliley Act ("GLB Act"), 15 U.S.C. § 6822(e), to seek preliminary, and permanent injunctive relief, restitution, rescission or reformation of contracts,

and other relief, including but not limited to, the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, and Section 521 of the GLB Act, 15 U.S.C. § 6821.

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"Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310, and Section 521 of the GLB Act, 15 U.S.C. § 6821.

**JURISDICTION AND VENUE**

1. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 45(a), 53(b),

57(a), 57(c), and 57(d) and 16 C.F.R. Part 310, and 15 U.S.C. § 6821.

2. Venue in the United States District Court for the Southern District of Florida is

proper because the defendant is located in the Southern District of Florida.

**PLAINTIFF**

3. Plaintiff, FTC, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58, as amended. The Commission is charged, *inter alia*, with

enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits

deceptive acts or practices in or affecting commerce. The Commission also enforces the TSR, 16

C.F.R. Part 310, which prohibits deceptive or abusive telemarketing acts or practices. The FTC

is also charged under Section 522(a) of the GLB Act, 15 U.S.C. § 6822(a), which prohibits

Section 521(a) of the GLB Act, 15 U.S.C. § 6821(a), which prohibits any financial institution or

person from using false pretenses to obtain information for financial institution purposes

[REDACTED]

[REDACTED]

relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C.

§§ 53(b), 57b, 6102(c), and 6105(b).

**DEFENDANTS**

4. [REDACTED]

practices described in this complaint. NACO transacts or has transacted business in the Southern District of Florida.

7.

Care.” WWCI is a Florida corporation and its principal place of business is 233 Greenbriar Drive, P.O. Box 530842, Lake Park, Florida. At all times material to this complaint, WWCI has directed or controlled the acts and practices of Sun Spectrum, NACO, and WWCI. WWCI has transacted business in the Southern District of Florida.

8. Defendant 9106-7843 Quebec, Inc. (“Quebec, Inc.”) does business as “Intelligent

Medicine.” Quebec, Inc. is a Canadian corporation incorporated in the province of

times material to this complaint, Quebec, Inc. has directed or controlled the acts and practices described in this complaint. Quebec, Inc. transacts or has transacted business in the Southern District of Florida.

9. Defendant William H. Martell is the president of Sun Spectrum and NACO and Defendant

the vice president of WWCI. He is the owner of Sun Spectrum, NACO, and WWCI. At all times relevant to this Complaint, acting alone or in concert with others, Martell has formulated, directed, controlled, or participated in the acts and practices of Sun Spectrum, NACO, and WWCI, including the acts and practices set forth in this Complaint. At all times relevant to this Complaint, Martell has transacted or has transacted business in the Southern District of Florida.

10. Defendant Tracey A. Bascove is the president of WWCI. At all times relevant to

this Complaint, acting alone or in concert with others, Bascove has formulated, directed, controlled, or participated in the acts and practices of WWCI, including the acts and practices set forth in this Complaint.

forth in this Complaint. Bascove resides in and transacts or has transacted business in the Southern District of Florida.

11. Defendant Mitchel Kastner is a principal of Quebec, Inc. At all times relevant to this Complaint, acting alone or in concert with others, Corber has formulated, directed, controlled, or participated in the acts and practices of Quebec, Inc., including the acts and practices set forth in this Complaint. Mitchel Kastner transacts or has transacted business in the Southern District of Florida.

12. [REDACTED] this Complaint, acting alone or in concert with others, Corber has formulated, directed, controlled, or participated in the acts and practices of Quebec, Inc. including the acts and practices set forth in this Complaint. Corber transacts or has transacted business in the Southern District of Florida.

13. Defendant Jason Kastner is a principal of Quebec, Inc. At all times relevant to this Complaint, acting alone or in concert with others, Corber has formulated, directed, controlled, or participated in the acts and practices of Quebec, Inc., including the acts and practices set forth in this Complaint. Jason Kastner transacts or has transacted business in the Southern District of Florida.

COMMERCE

14. At all times relevant to this Complaint, Defendant Corber has engaged in the course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**DEFENDANTS' COURSE OF CONDUCT**

15. Since at least January 2002, Defendants have made unsolicited outbound telephone calls to consumers throughout the United States and offered to provide pre-approved,

[REDACTED]

[REDACTED]

\$300.00. [REDACTED]

credit.

16. Defendants use the use of a preexisting credit application.

[REDACTED]

between Defendants and consumers. Defendants use the use of a preexisting credit application

[REDACTED]

as an offer for credit.

17. [REDACTED]

[REDACTED] with bank account information, including bank routing information, as well as

applications for credit cards.

Defendants do not provide consumers with, or arrange for consumers to receive, credit cards or other extensions of credit. Defendants have refused to issue credit cards to issue credit cards.

21. The number of advance fee Defendants' is ranging from \$19.90 to \$100.00.

[REDACTED]

[REDACTED]

22. [REDACTED]

or practices in or affecting commerce

23. Misrepresentations or omissions of material fact constitute deceptive acts or

practices prohibited by Section 5(a) of the FTC Act.

**COUNT I**

24. In numerous instances, in connection with the marketing of advance-fee credit

cards, Defendants have induced consumers, in numerous instances, to pay a fee for an unsecured major credit card, such as a Visa or MasterCard credit card.

25. In truth and in fact, in numerous instances, after paying Defendants a fee

consumers do not receive an unsecured credit card, but rather receive a debit card.

Defendants' representations, as set forth in Paragraph 24 above, therefore, are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the

## THE TELEMARKETING SALES RULE

**27** Congress directed the FTC to prescribe rules prohibiting abusive and deceptive

August 16, 1995, the FTC adopted the TSR, 16 C.F.R. Part 310, which became effective on

Basis and Purpose and an amended TSR ("Amended TSR") with the amendments relevant to this

an-... complaint, becomes effective on March 31, 2002. 16 CFR 310.4(b)(1) and

activities... at March 31, 2002... 16 CFR 310.4(b)(1) and



31 Defendants are "sellers" or "sales associates" as those

terms are defined in the Order. 16 C.F.R. §§ 310.2(a) and (b).

16 C.F.R. § 310.2(a) (bb) and (cc).

## VIOLATIONS OF THE TELEMARKETING SALES RULE

### COUNT II

32. [REDACTED]

cards, Defendants or their employees or agents have misrepresented, expressly or by implication,

that after paying Defendants a fee, consumers will or are highly likely to receive an uncoupled,

major credit card, such as Visa or MasterCard credit card.

**GRAMM-LEACH-BLILEY ACT**

36. Section 521 of the Gramm-Leach-Bliley (“GLB”) Act, 15 U.S.C. § 6821, became

effective November 19, 1999. [REDACTED]

of the GLB Act, 15 U.S.C. § 6821(a), prohibits a financial institution from disclosing

“customer information of a financial institution relating to another person” (2) by making a

false, fictitious, or fraudulent statement or representation to a customer of a financial institution.

37. Section 527(2) of the GLB Act, 15 U.S.C. § 6827(2), defines customer

information of a financial institution as “any information maintained by or for a financial

institution which is derived from the

of the financial institution and is identified with the customer.

38. Section 527(4) of the GLB Act, 15 U.S.C. § 6827(4), generally defines the term

financial institution as “any institution that is engaged in financial business with

customers who maintain a credit, deposit, trust, or other financial account or relationship with the

institution.

39. Section 522(a) of the GLB Act, 15 U.S.C. § 6822(a), empowers the Commission

[REDACTED]

[REDACTED]

“FDICPA” of the Federal Deposit Insurance Act” Section 814 of the FDICPA, 15 U.S.C.

[REDACTED]

are available to the Commission to enforce compliance with” the FDICPA. Section 814 of the

[REDACTED]

[REDACTED]

the GLB Act constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

~~VIOLATION OF THE FEDERAL RESERVE ACT~~

COUNT IV

40. In numerous instances, in connection with the marketing of certain services, Defendants induce consumers to divulge their personal financial information representing, expressly or by implication:

- A. that Defendants are affiliated with, or call themselves, a bank, a financial institution, or credit card company; or
- B. that Defendants already possess, and are merely verifying, consumers' prior credit applications.

41. In truth and in fact, in numerous instances,

- A. [REDACTED]
- B. Defendants do not already possess, and are not merely verifying, consumers' prior credit applications.

42. By making these false, fictitious, or fraudulent representations to customers of financial institutions, Defendants obtain customer information of a financial institution, including the true name, address, contact numbers, and other information from the institution's accounts.

43. [REDACTED]

§ 6821. Therefore, Defendants' acts or practices are false and misleading and constitute

deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a)

**CONSUMER INJURY**

44. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of Defendants' unlawful acts and practices. In addition,

enrichment, and harm the public interest.

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

45. Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57(a) can be used

injunction against Defendants' violations of the FTC Act, the TSR, and the GLB Act, and in the

ctices, and other remedial measures, pra

**PRAYER FOR RELIEF**

ction 6(h) of authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57(a)

the Telemarketing Act, 15 U.S.C. § 6105(b), Section 522(a) of the GLB Act, 15 U.S.C. §

6822(a), and pursuant to the Court's own equitable powers:

1. [REDACTED]

to aver the likelihood of consumer injury during the pendency of this action and to necessari

[REDACTED]