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FILED
CLERK, U.S. DISTRICT COURT
FEB 21 2007
CENTRAL DISTRICT OF CALIFORNIA
BY DEPUTY

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SECRET

1 | service providers, allegedly owned by front men but controlled by MacGregor, using mail drops
2 | and fake addresses in at least three states. (P&A at 1.) These telemarketing operations would
3 | allegedly cold-call consumers and offer gift certificates and other free items. *Id.* The consumers
4 | would tell the telemarketers their bank account information, which was allegedly then used to

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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1 The burden is on the *non-moving party* to designate specific facts showing a genuine issue
2 for trial. *Celotex*, 477 U.S. at 322. It is not the job of the district court to "scour the record in
3 search of a genuine issue of triable fact." *Keenan v. Allan*, 91 F.3d 1275, 1279 (9th Cir. 1996).
4 Neither is it the job of the moving party to prove the absence of a genuine issue of fact, even with
5 respect to an issue on which the non-moving party bears the burden of proof. *Celotex*, 477 U.S.
6 at 325. The moving party can win summary judgment simply by pointing out to the district court
7 that there is an absence of evidence to support the non-moving party's case. *Id.* One of the
8 principal purposes of the summary judgment rule is "to isolate and dispose of factually
9 unsupported claims or defenses." *Id.* at 323-24.

10 B. Telemarketing Fraud

11 Congress in 1994 gave the FTC expanded power to pursue telemarketing fraud. 15 U.S.C.
12 § 6101 et seq. Pursuant to this power, the FTC enacted regulations of telemarketing, the

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1 Counts one, two, and three of the FTC's First Amended Complaint ("FAC") are based on
2 15 U.S.C. § 45 or regulations thereunder, which prohibit unfair and deceptive acts and practices

3 ~~is an effective commercial advertisement. An advertisement is deceptive if it contains a material misstatement of fact, or omits a material fact, that is likely to cause a consumer to be misled.~~

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 | Counts four and five of the FAC are based on the TSR. Section 310.4(a) of the TSR

1 | submitted by the FTC and the supporting evidence. The evidence supports the FTC's factual
2 | conclusions

11 notes from customers' banks do not take into account late returns and do not take into account

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

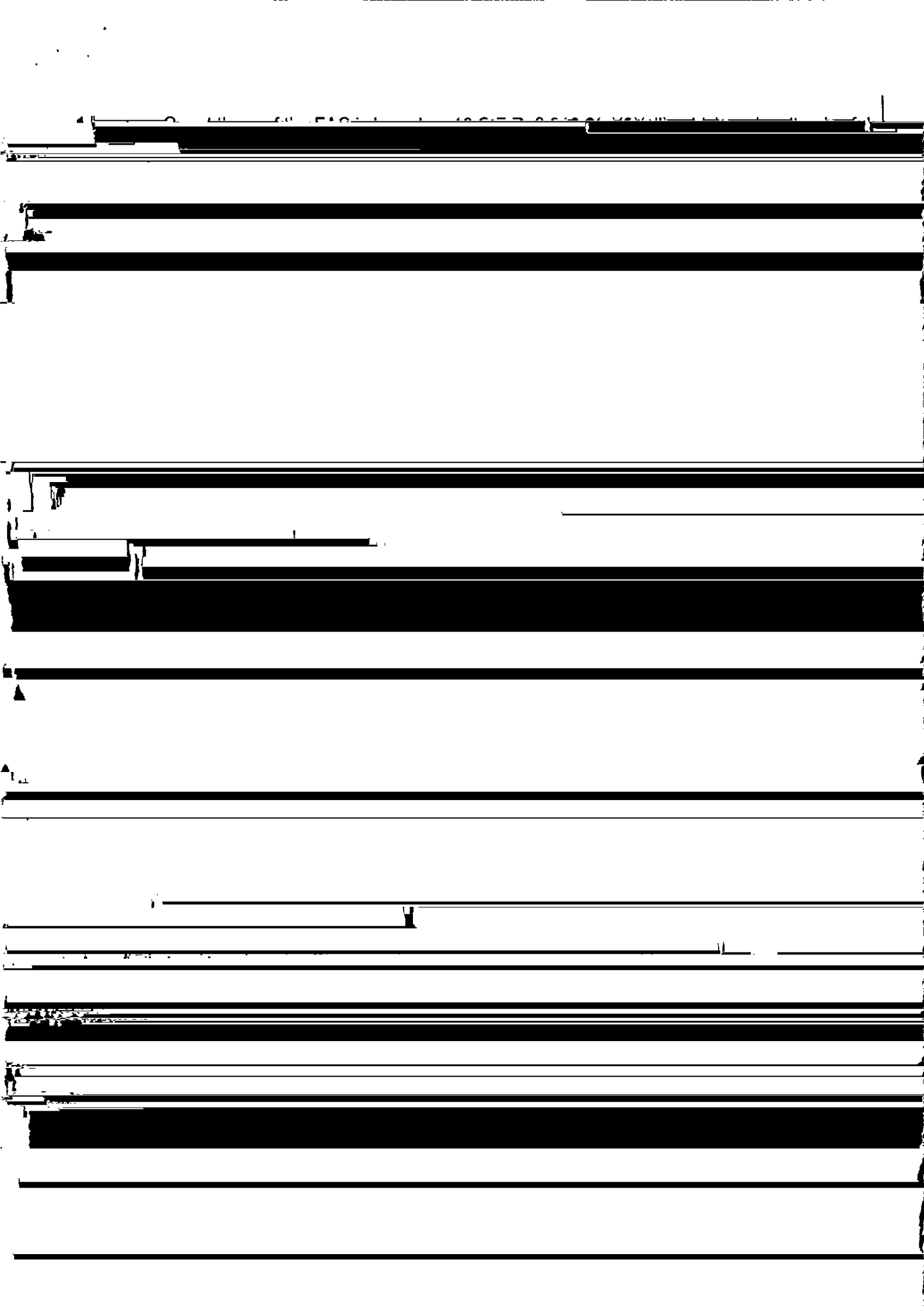
[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]



1. to initiate an out-of-state telemarketing call to a woman when that woman previously stated that he

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

REDACTED

1 It is appropriate that Brian MacGregor be enjoined from violating the FTC Act and the TSR.
2 As detailed in the Stahl declaration, Brian MacGregor ignored voluminous customer
3 complaints and created numerous business entities to disguise his operations. Brian MacGregor

