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clERK I) S DISTRICT COURT . LiI:::TFlICT OF ARIZOW,

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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

Federal Trade Commission,
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Plaintiff,

v.

13 National Card Monitor LLC, also d/b/a Nationwide Card Monitor; and
14 James Eric Cox,

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1 Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges: 2 I. The FTC brings this action under Sections 13(b)

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10. During telemarketing calls, Defendants claim to have the ability to reduce substantially consumers' credit card interest rates by obtaining for the consumers one or more low interest rate credit cards onto which the consumers can transfer their credit card balances. In many instances, Defendants claim that they can obtain very low interest
rates, such as 7 percent or even zero percent, for consumers. Thus, consumers think they will save money as a result of using Defendants' service.
11. In n

of

1 17. While telemarketing their

I COUNT TWO

2 Refund Misrepresentations
3 24. In numerous instances, in connection with the advertising, marketing,
4 promotion, offering for sale, or sale of credit card interest rate reduction services,
5 Defendants have represented, directly or indirectly, expressly or by implication, that
6 Defendants will provide full refunds if consumers do not receive the low interest rate
7 credit cards that Defendants represented that they would obtain for the consumers.
8 25. In truth and in fact, in numerous instances in which Defendants have made
9 the representation set forth in Paragraph 24 ofthis Complaint, Defendants do not provide 10 full refunds when consumers do not receive the low interest rate credit cards that
II Defendants represented that they would obtain for the consumers.
12 26. Therefore, Defendants' representation as set forth in Paragraph 24 of this
13 Complaint is false and misleading and constitutes a deceptive act or practice in violation 14 of Section 5(a) of the FTC Act, IS U.S.C.§ 45(a).
15
16 THE TELEMARKETING SALES RULE

17 27. Congress directed the FTC to prescribe rules prohibiting abusive and
18 deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. 19 §§ 6101-6108. The FTC adopted the original Telemarketing Sales Rule in 1995,
20 extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. 21 Part 310.

22 28. Defendants are "seller[s 1" and/or "telemarketer[s 1" engaged in
23 "telemarketing," and Defendants have initiated, or have caused telemarketers to initiate, 24 "outbound telephone call[sl" to consumers to induce the purchase of goods or services, as 25 those terms are defined in the TSR, 16 C.F.R. § 310.2(v), (aa), (cc), and (dd).
26 29 Under the TSR, an "outbound telephone call" means a telephone call

1 30. The TSR prohibits sellers and telemarketers from misrepresenting, directly
2 or by implication, in the sale of goods or services, any material aspect of the performance, 3 efficacy, nature, or central characteristics of the goods or services that are the subject of a 4 sales offer. 16 C.F.R. § 31 0.3(a)(2)(iii).
5 31. The TSR prohibits sellers and telemarketers from misrepresenting, directly
6 or by implication, in the sale of goods or services, any material aspect of the nature or
7 terms of the seller's refund, cancellation, exchange, or repurchase policies. 16 C.F.R.
8 § 31 0.3(a)(2)(iv).
9 32. The TSR, as amended in 2003, established a "do-not-call" registry (the
1 0 "National Do Not Call Registry" or "Registry"), maintained by the FTC, of consumers 11 offer. th 7 r

1 credit when the seller or telemarketer has guaranteed or represented a high likelihood of 2 success in obtaining or arranging a loan or other extension of credit for a person. 16
3 C.F.R. § 310.4(a)(4).
4 38. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and 5 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes 6 an unfair or deceptive act or practice in or affecting commerce, in violation of Section
7 5(a) of the FTC Act, 15 U.S.C. § 45(a).
8
9 VIOLATIONS OF THE TELEMARKETING SALES RULE
10 COUNT THREE

11 Misrepresentations in Violation of the TSR
12 39. In numerous instances, in connection with the telemarketing

I COUNT FIVE

2 Violating the National Do Not Call Registry
3 43. In numerous instances, in connection with telemarketing, Defendants have 4 engaged, or caused a telemarketer to engage, in initiating an outbound telephone call to a 5 person's telephone number on the National Do Not Call Registry in violation of the TSR, 6

1 result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants
2 have been unjustly enriched as a result of their unlawful acts or practices. Absent
3 injunctive reliefby this Court, Defendants are likely to continue to injure consumers, reap 4 unjust enrichment, and harm the public interest.
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TillS COURT'S POWER TO GRANT RELIEF
48. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to
grant injunctive and such other relief as the Court may deem appropriate to halt and
redress violations of any provision of law enforced by the FTC. The Court, in the
exercise of its equitable jurisdiction, may award ancillary relief, including rescission or
reformation of contracts, restitution, the refund of monies paid, and the disgorgement of
ill-gotten monies, to prevent and remedy any violation of any provision of law enforced
by the FTC.
49. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) ofthe
Telemarketing Act, 15 U .S.C. § 61 05(b), authorize this Court to grant mon5 0 Td 55iolation 3

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1 and the TSR by Defendants;
2 C. Award such relief as the Court finds necessary to redress injury to
3 consumers resulting from Defendants' violations of the FTC Act and the TSR, including, 4 but not limited to, rescission or reformation of contracts, restitution, the refund of monies 5 paid, and the disgorgement of ill-gotten monies; and
6 D. Award Plaintiff the costs of bringing this action, as well as such other and 7 additional relief as the Court may determine to be just and proper.
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Dated: ~)O-Vt1f&~7,,(JJJ ,2012

Respectfully Submitted,
DAVID SHONKA

Acting General Counsel

JOHN D. JACOBS

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

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