

PREPARED STATEMENT OF
THE FEDERAL TRADE COMMISSION

on

CONSUMER PROTECTION IN FINANCIAL SERVICES:
SUBPRIME LENDING AND OTHER FINANCIAL ACTIVITIES

Before the

HOUSE COMMITTEE ON APPROPRIATIONS
SUBCOMMITTEE ON FINANCIAL SERVICES
AND GENERAL GOVERNMENT

Washington, D.C.
February 28, 2008

I. INTRODUCTION

Chairman Serrano, Ranking Member Regula, and Members of the Committee, I am Lydia B. Parnes, Director of the Bureau of Consumer Protection at the Federal Trade Commission (“FTC” or “Commission”).¹ I appreciate the opportunity to appear before you today to discuss the Commission’s wide range of activities to protect consumers of financial services, particularly in the subprime market.

The FTC deals with issues that touch the economic life of nearly every American. It is the only federal agency with both consumer protection and competition jurisdiction in broad sectors of the economy. In consumer protection, the Commission’s mandate is to protect consumers from unfair and deceptive practices. That broad mandate brings the Commission’s work into areas as varied as children’s online privacy, false claims for foods, drugs, and dietary supplements, weight-loss advertising, scholarship scams, pyramid schemes, and identity theft, to name just a few. The Commission’s actions to protect consumers of financial services are a very important part of its consumer protection work.

The Commission protects consumers at every stage of the consumer credit life cycle, from the advertising and marketing of financial products to debt collection and debt relief. The Commission assists consumers in obtaining the information they need to make better informed financial decisions and protects them from unlawful acts and practices that are likely to cause them harm.

¹The views expressed in this statement represent the views of the Commission. My oral presentation and responses to any questions are my own, however, and do not necessarily reflect the views of the Commission or any individual Commissioner.

alleging unfair practices or violations of the FTC's telemarketing rules. In an ongoing action, the FTC has charged a payment processor with debiting, or attempting to debit, over \$200 million from consumers' bank accounts on behalf of fraudulent merchants.

- The FTC also protects consumers in financial distress. For example, in the past decade, the FTC has brought 21 lawsuits for illegal debt collection practices, and has obtained both tough permanent injunctive relief and substantial monetary judgments.
- The FTC also acts aggressively against "credit repair" scams, in which marketers promise to cleanse individual credit reports of negative information, and debt reduction services that charge hidden fees and make false promises to lower consumers' debts.
- The FTC budget request for FY2009 contains additional funding to support this work as well as the other important work of the agency. To accomplish the agency's consumer protection and competition missions in FY 2009, the FTC requests \$256,200,000 and 1,102 Full Time Equivalents (FTEs). Of the requested amount, Hart-Scott-Rodino pre-merger filing fees and Do Not Call fees will provide the Commission with an estimated \$189,800,000 in FY 2009. Thus, the FTC anticipates that the remaining funds needed for its operations will come from a direct appropriation of \$66,400,000 from the General Fund in the United States Treasury.

This testimony will discuss: (1) the Commission's authority and mission related to financial services; (2) the FTC's efforts to protect mortgage borrowers, especially subprime mortgage borrowers; (3) the agency's activities to protect consumers of non-mortgage financial services, such as payday loans and payment cards; and (4) the Commission's efforts to help consumers in financial distress.

II. THE FTC'S ROLE IN FINANCIAL SERVICES

The Commission has responsibilities regarding many financial services affecting consumers. The Commission enforces Section 5 of the Federal Trade Commission Act ("FTC Act"), which broadly prohibits unfair or deceptive acts or practices in or affecting commerce.² The Commission also enforces statutes that address specific aspects of lending practices,

²15 U.S.C. § 45(a).

³15 U.S.C. §§ 1601-1666j (requiring disclosures and establishing other requirements in connection with consumer credit transactions).

⁴15 U.S.C. § 1639 (providing additional protections for consumers who enter into certain high-cost refinance mortgage loans). HOEPA is a part of TILA.

⁵15 U.S.C. §§ 1667-1667f (requiring disclosures, limiting balloon payments, and regulating advertising in connection with consumer lease transactions).

⁶15 U.S.C. §§ 1692-1692p (prohibiting abusive, deceptive, and unfair debt collection practices by third-party debt collectors).

⁷15 U.S.C. §§ 1681-1681x (imposing standards for consumer reporting agencies and information

¹¹*FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. 2006); *FTC v. Ranney*, No. 04-1065 (D. Colo. 2004); *FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. 2003); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002); *United States v. Mercantile Mortgage Co.*, No. 02-5079 (N.D. Ill. 2002); *FTC v. Associates First Capital Corp.*,

these landmark cases have resulted in large monetary judgments, collectively returning more than \$320 million to consumers.

Most of the Commission's enforcement actions have challenged the deceptive advertising or marketing of subprime loans. For example, the FTC's complaint against Associates First Capital Corp. and Associates Corporation of North America ("the Associates") alleged that the defendants marketed subprime mortgage loans through false and misleading statements about loan costs.¹² The Associates represented that consumers would save money when consolidating their existing debts, but these "savings claims" did not take into account the loan fees and closing costs the company typically added to consumers' loan amounts. Further, the claims did not disclose that, for certain Associates loans, consumers would pay only interest and still would owe the entire principal amount in a "balloon" payment at the end of the loan term. The complaint also alleged that the Associates deceptively sold single-premium credit insurance with its mortgage loans. The defendants paid a record \$215 million in consumer redress to settle the FTC's complaint aedre5 millie87 Tc[(P)9.1(e)2.9(i)2y-9.1edo81(ed)-191. The def[(P)9D0an1(d)-91h2e8sm9D

Inc., No. 99-496 (W.D. Ky. 1999); *FTC v. Wasatch Credit Corp.*, No. 99-579 (D. Utah 1999); *In re First Plus Fin. Group, Inc.*, FTC Docket No. C-3984 (2000); *In re Fleet Fin., Inc.*, FTC Docket No. C-3899 (1999); *FTC v. Capital City Mortgage Corp.*, No. 98-00237 (D.D.C. 1998).

¹²*FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. 2001).

¹³*FTC v. Associates First Capital Corp.*, No. 01-00606 (N.D. Ga. Jan. 26, 2002) (Order Preliminarily Approving Stipulated Final Judgment and Order).

¹⁴*FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

large balloon payment due at the end of the loan.¹⁵ In some of these cases, the Commission also has charged brokers with falsely promising consumers low fixed payments and rates on their mortgage loans.¹⁶

In a recent case, the Commission alleged that a mortgage broker misrepresented numerous key loan terms to Hispanic consumers who sought to refinance their homes.¹⁷ The complaint alleged that the broker conducted business with his clients almost entirely in Spanish, then provided at closing English-language documents with less favorable terms. The settlement of the case provided for, among other things, a \$240,000 suspended judgment against the broker, required that an independent settlement agent conduct the closing for each mortgage the defendant brokered, and imposed a permanent injunction prohibiting the broker from misrepresenting loan terms.¹⁸

In the Commission's most recent law enforcement initiative attacking potentially deceptive marketing by mortgage lenders, the FTC last fall warned over 200 mortgage brokers and lenders, and media outlets that carry their advertisements for home mortgages, that their advertising claims may violate federal law.¹⁹ The ads, including some in Spanish, were identified during a nationwide review focused on claims for very low monthly payment amounts or interest

¹⁵*FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

¹⁶*FTC v. Chase Fin. Funding*, No. 04-549 (C.D. Cal. 2004); *FTC v. Ranney*, No. 04-1065 (D. Colo. 2004); *FTC v. Diamond*, No. 02-5078 (N.D. Ill. 2002).

¹⁷*FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. 2006).

¹⁸*FTC v. Mortgages Para Hispanos.Com Corp.*, No. 06-00019 (E.D. Tex. Sept. 25, 2006) (Stipulated Final Judgment and Order of Permanent Injunction) (entering suspended judgment of \$240,000 and ordering payment of \$10,000 based on documented inability to pay full judgment amount).

¹⁹See Press Release, FTC, FTC Warns Mortgage Advertisers and Media That Ads May Be Deceptive (Sept. 11, 2007), available at www.ftc.gov/opa/2007/09/mortsurf.shtm.

²⁰The Commission's July 25, 2007 testimony before the Subcommittee on Oversight and Investigations of the House Committee on Financial Services detailed the Commission's fair lending program. The testimony is available at www.ftc.gov/os/testimony/P064806hdma.pdf.

²¹*See, e.g., United States v. Delta Funding Corp.*, No. CV 00 1872 (E.D.N.Y. 2000) (sex, race); *United States v. Ford Motor Credit Co.*, No. 99-75887 (E.D. Mich. 1999) (marital status); *United States v. Franklin Acceptance Corp.*, No. 99-CV-2435 (E.D. Pa. 1999) (sex, marital status); *United States v. Money Tree, Inc.*, No. 6-97-CV-7 (M.D. Ga. 1997) (age, receipt of public assistance); *FTC v. CIT*, No. 94-4092 (D. N.J. 1994) (marital status); *United States v. Shawmut Mortgage Co.*, No. 93CC-2453 (D. Conn. 1993) (race, national origin); *United States v. Academic Int'l*, No. 1:91-CV-2738 (N.D. Ga. 1991) (race); *United States v. Barclays Am.*, No. C-C-91-14 (W.D.N.C. 1991) (sex, marital status); *United States v. Blake*, No. 90-1064 (W.D. Okla. 1990) (sex, marital status); *United States v. Chesterfield*, No. 90 C 0347 (N.D. Ala. 1990) (age, sex, marital status); *United States v. City Fin.*, No. 1:90-cv-246 (N.D. Ga. 1990) (age, sex, marital status); *United States v. Tower Loan of Mississippi*, No. J90-0447 (S.D. Miss. 1990) (age); *United States v. GECC*, No. N89-483 (D. Conn. 1989) (age, sex, marital status); *United States v. Wanamakers*, No. 89-1466 (E.D. Pa. 1989) (sex, marital status); *United States v. William Lee Moore III*, No. N89-2531 (N.D. Tex. 1989) (age, sex, marital status); *United States v. ITT CFC*, 816 F. 2d 487 (9th Cir. 1987) (sex, marital status); *FTC v. Green Tree Acceptance*, No. CA 4 86 468 (N.D. Tex. 1986) (age); *United States v. Allied Fin.*, No. CA3-85-1933F (N.D. Tex. 1985) (age, sex, marital status); *United States v. Fid. Acceptance*, No. 3-85-1588 (D. Minn. 1985) (age); *United States v. Landmark Fin.*, No. N-84-5310 (D. Md. 1984) (age); *United States v. Aristar*, No. 83-0719 (S.D. Fla. 1983) (age); *United States v. Sec. Pac.*, No. 832 647 N (CM) (S.D. Ca. 1983) (sex, marital status); *United States v. Georgia Telco*, No. 80-1217A (N.D. Ga. 1982) (sex); *United States v. Amoco Oil Co.*, No. 80-1071 (D. D.C. 1980) (race, national origin, sex, marital status, receipt of public assistance); *United States v. Federated Dep't Stores*, No. C-1-78-730 (E.D. Va. 1979) (sex, marital status, age, receipt of public assistance); *In the Matter of Westinghouse Credit Corp.*, 94 FTC 1280 (1979) (marital status); *In the Matter of Alden's, Inc.*, 92 FTC 901 (1978) (sex, marital status).

²²For more than a decade, the FTC has been a member of the Interagency Task Force on Fair

year, based on a compliance review of the company, the Commission negotiated modifications of the 2003 consent order that provided substantial benefits to consumers beyond those in the original order, including additional refunds of fees paid in certain circumstances.²⁶

Finally, with the recent rapid increase in mortgage delinquencies and foreclosures, the FTC has intensified its focus on protecting consumers from mortgage foreclosure rescue scams.²⁷ There are many varieties of mortgage foreclosure rescue fraud but, in each case, the perpetrator makes misleading promises that a consumer's home will be saved from the pending foreclosure

Fairbanks Capital Holding Corp.).

²⁶*United States v. Fairbanks Capital Corp.*, No. 03-12219 (D. Mass. Sept. 4, 2007) (Modified Stipulated Final Judgment and Order).

²⁷In testimony on February 13, 2008 before the Senate Special Committee on Aging on foreclosure rescue fraud, the Commission set forth a more complete description of the FTC's efforts to address such fraud. The FTC's testimony is available at ftc.gov/os/testimony/P064814foreclosure.pdf.

²⁸See Prentiss Cox, *Foreclosure Equity Stripping: Legal Theories and Strategies to Attack a Growing Problem*, CLEARINGHOUSE REV. J. OF POVERTY LAW AND POL'Y, Mar.-Apr. 2006 at 607, 608.

In two of these cases, the Commission alleges that the defendants promise to stop foreclosure in exchange for a consumer's up-front payment of \$500 to \$1,200. After a consumer makes the payment, the defendants do little or nothing to stop the foreclosure. This fraud deprives consumers not only of much-needed funds but also of the opportunity to explore realistic options. In the third case, the Commission alleges that the defendants entice consumers into a second mortgage or home equity line of credit on very unfavorable terms without fully disclosing the costs, risks, and consequences of doing so.

In addition to its own law enforcement, the Commission is working with state and local partners in law enforcement and consumer outreach. More specifically, the FTC staff is leading or participating in seven federal-state-local task forces across the country. Task force members share information about mortgage foreclosure scams and coordinate their prosecutions.

As described above, the Commission has a vigorous law enforcement program to protect consumers in connection with many aspects of their mortgage loans. The FTC continues to explore ways to enhance the effectiveness of its law enforcement activities related to mortgage financing. For example, through the Interagency Pilot Project to Review Subprime Lender

²⁹See Press Release, FTC, Federal and State Agencies Announce Pilot Project to Improve Supervision of Subprime Mortgage Lenders (July 17, 2007), *available at* www.ftc.gov/opa/2007/07/subprime.shtm.

³⁰The Commission's consumer education materials are available from the FTC's website, www.ftc.gov. The FTC publishes many of its materials in both English and Spanish. Educational materials on mortgage and real estate issues are directly accessible from the FTC's webpage, Credit and Loans: Mortgages/Real Estate, www.ftc.gov/bcp/menus/consumer/credit/mortgage.shtm. In Spanish, the materials are available from the FTC's webpage, Crédito y Préstamos: Hipotecas/Propiedades, www.ftc.gov/bcp/menus/consumer/credit/mortgage_es.shtm.

The Commission also will send information to comanye12(ue an)9(at3(end)9.it apo) 3(be co)10rte,

Commission's Hispanic Outreach Program, are available to the public on the FTC's website or by calling the FTC's Consumer Response Center toll-free at 1-877-FTC-HELP.³²

The Commission also regularly partners with other agencies to educate consumers. Partnering with other agencies has proven to be an effective technique because it taps the respective expertise and distribution channels of the agencies involved. The FTC has jointly published with the banking regulators, the DOJ, and HUD brochures addressing key lending issues.³³ The FTC continues to participate in the governmental Financial Literacy and Education Commission, contributing its expertise to subcommittees that produced *MyMoney.gov* and *Taking Ownership of the Future: The National Strategy for Financial Literacy*.³⁴

C. Research and Policy Development

The mortgage marketplace in the United States is dynamic. The Commission therefore engages in public workshops and other research efforts so that it may better understand particular consumer protection issues in the changing marketplace, and advocate for policies that promote protections for consumers, such as policies that foster informed mortgage borrowing.

For example, in June 2007, the FTC staff released an empirical study assessing the effectiveness of mortgage disclosure documents that mortgage originators are required to provide

³²The Commission's Spanish-language publications are available from its webpages, Información de la FTC para Consumidores, *available at* www.ftc.gov/bcp/consumer_es.shtm, and ¡OHO! Mantente alerta contra el fraude: Infórmate con la FTC, *available at* www.ftc.gov/ojo.

³³*See, e.g., Looking for the Best Mortgage? Shop, Compare, and Negotiate, available at* www.ftc.gov/bcp/edu/pubs/consumer/homes/rea09.shtm.

³⁴*See* www.mymoney.gov. In addition, each April, the FTC participates in Financial Literacy Month. Activities include presentations to students on the importance of responsible credit card use and safeguarding personal information, and exhibits at Financial Literacy Day on Capitol Hill, where agency representatives distribute free consumer education materials.

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³⁷Similarly, in a comment filed with the FRB, the Commission stated that, as consumers shop for a mortgage, it is important that they receive timely and understandable information about the loan terms and costs of the particular products they are trying to analyze and compare. Moreover, for many mortgage products with payment schedules that likely will increase substantially in future years, it is

IV. PROTECTING CONSUMERS OF NON-MORTGAGE FINANCIAL SERVICES

The Commission's actions to protect consumers of financial services extend beyond mortgage lending to a wide range of non-mortgage financial services. As in mortgage financing, the Commission uses all tools at its disposal – law enforcement, consumer education, and research and policy development – to prevent consumers from being deceived as well as to assist them in obtaining the information they need to make better informed decisions about financial services.

A. Unsecured Consumer Credit

Nonbank entities extend credit to consumers, sometimes in the form of cash loans, and sometimes in the form of merchandise or services that consumers receive and then pay for over time. The FTC provides consumers with information to help them make better informed choices about unsecured consumer credit, including enhancing their ability to comparison shop among the credit alternatives available to them. The Commission also takes legal action when lenders deceive consumers about their credit terms or otherwise fail to provide the disclosures or other information that the law requires.³⁹

Payday loans are small, high-cost, short-term loans, usually based on a deferred presentment of a borrower's check or electronic access to his or her bank account. Payment is due on the borrower's next payday, which is usually in two weeks. Typical finance charges on

³⁹See, e.g., *FTC v. Stewart Finance Company Holdings, Inc.*, No. 03-2648 (N.D. Ga. Jan. 10, 2006) (Stipulated Final Judgment and Order, imposing \$10.5 million judgment against subprime lender that the FTC alleged deceptively marketed small personal loans).

⁴⁰See JEAN ANN FOX & PATRICK WOODALL, CONSUMER FEDERATION OF AMERICA , CASHED
OUT: CONSUMERS PAY STEEP PREMIUM TO “BANK” AT CHECK

In appropriate circumstances, the FTC also may take law enforcement action against refund anticipation lenders who engage in unfair or deceptive acts and practices in violation of the FTC Act or who violate other laws the Commission enforces. The FTC is monitoring the progress of the Treasury Department's promising initiative as it considers how it can be most effective in using its law enforcement and other activities to prevent harm to consumers of refund anticipation loans.

The Commission also acts against merchants that violate the law in connection with offering unsecured credit to consumers. This week, the Commission announced a settlement with BlueHippo Funding, LLC, and BlueHippo Capital, LLC ("BlueHippo"), which advertised high-end electronics to consumers with poor credit.⁴⁷ Consumers paid for these items by making a down payment and agreeing to allow BlueHippo to deduct installment payments directly from their bank accounts. The FTC alleged that BlueHippo failed to deliver merchandise as promised, causing many consumers to cancel their contracts. The FTC also alleged that Blue Hippo often failed to inform consumers that it would not refund installment payments, even if consumers never received their merchandise, resulting in thousands of consumers losing between \$99 and several hundred dollars each when they cancelled their contracts before they received the promised goods. The Commission's settlement agreement with BlueHippo requires the company to pay between \$3.5 million and \$5 million for consumer redress, prohibits the company from

WITH THE PREPARATION OF A TAX RETURN 379 (FEB. 4, 2008), *available at* www.irs.gov/pub/irs-irbs/irb08-05.pdf.

⁴⁷*FTC v. BlueHippo Funding, LLC*, No. 08-cv-1819 (S.D.N.Y. 2008) (alleging violations of the FTC Act, TILA, the Electronic Fund Transfer Act, 15 U.S.C. §§ 1693-1693r, and the Mail and Telephone Order Rule, 16 C.F.R. Part 435).

⁵²*FTC v. Edebit Pay, L.L.C.*, No. 07-04880 (C.D. Cal. 2007).

⁵³The Commission's consumer education materials on non-mortgage consumer credit are directly accessible from the FTC's webpage, Credit and Loans: Credit Cards and Consumer Loans, *available at* www.ftc.gov/bcp/menus/consumer/credit/loans.shtm. In Spanish, the materials are accessible from the FTC's webpage, Crédito y Préstamos: Tarjetas de Crédito y Préstamos, *available at* www.ftc.gov/bcp/menus/consumer/credit/loans_es.shtm.

⁵⁴Press Release, Nat'l Retail Fed'n, Gift Cards More Popular Than Ever, According to NRF

either an expiration date or a potential fee, known as a dormancy fee, for not using the card within a certain time period. Consumers are entitled to know when conditions and fees exist.

The Commission brought cases against gift card retailers Kmart Corp. and Darden Restaurants, Inc., owner of the restaurant chains Olive Garden, Red Lobster, Smokey Bones, and Bahama Breeze.⁵⁵ The cases alleged that Kmart and Darden failed to adequately disclose fees and expiration dates associated with their gift cards. Settlements reached last year prohibited the companies from marketing cards without clearly and prominently disclosing the existence of any fees and expiration dates on the front of the gift cards. The settlements also required the companies to disclose other material gift card terms to consumers before the consumers purchased the gift cards, and mandated that each company implement a program to reimburse eligible consumers whose cards previously were charged fees. Evidence suggests that large gift card retailers nationwide recently have changed their practices.⁵⁶

In conjunction with the Kmart and Darden cases, the Commission also released consumer education materials with tips for consumers who purchase or receive gift cards.⁵⁷ The materials

also MONTGOMERY COUNTY, MARYLAND, DIVISION OF CONSUMER AFFAIRS, GIFT CARDS 2007: BEST AND WORST RETAIN CARDS; A DEEPER VIEW OF BANK CARDS DOESN'T IMPROVE THEIR LOOK, *available at* www.montgomerycountymd.gov/content/ocp/giftcards2007final.pdf.

⁵⁵*In re Kmart Corp.*, FTC Docket No. 0623088 (Aug. 14, 2007); *In re Darden Restaurants, Inc.*, FTC Docket No. C-4189 (Apr. 3, 2007).

⁵⁶*See* MONTGOMERY COUNTY, MARYLAND, DIVISION OF CONSUMER AFFAIRS, GIFT CARDS 2007: BEST AND WORST RETAIL CARDS; A DEEPER VIEW OF BANK CARDS DOESN'T IMPROVE THEIR LOOK, at 7, *available at* www.montgomerycountymd.gov/content/ocp/giftcards2007final.pdf.

⁵⁷*See Buying, Using, and Giving Gift Cards*, *available at* <http://ftc.gov/bcp/edu/pubs/consumer/alerts/alt010.shtm> (English), and <http://ftc.gov/bcp/edu/pubs/consumer/alerts/salt010.shtm> (Spanish).

encourage consumers to ask whether a card they intend to buy has any expiration date or fees, and provide information for consumers who have had a problem with a gift card.

D. Unauthorized Debits From Bank Accounts

Consumers are injured when money is taken from their bank, credit card, or debit card accounts without their authorization. The Commission has a long history of bringing successful legal actions against fraudulent merchants and other actors who use deception to obtain consumers' account numbers.⁵⁸ These scam artists, however, generally need help to secure the proceeds of their fraud. Payment processors serve as intermediaries between merchants and banks, and their role is to submit merchants' demands for payments to banks. Merchant demands for payment may be made either in the form of Automated Clearinghouse ("ACH") system debits or through the use of unsigned, remotely created checks that payment processors submit to banks.⁵⁹ While payment processors generally perform an important function and make the payment system more efficient, they also can assist scam artists in defrauding consumers if they submit unauthorized charges to banks for these fraudulent actors.

In recent years, the Commission has filed seven enforcement actions against non-bank payment processors, alleging that they have committed unfair practices or violated the FTC's

⁵⁸Since 1991, the Commission has brought more than 350 telemarketing cases, the vast majority of which involved alleged fraud in the marketing of investment schemes, business opportunities, sweepstakes pitches, and the sales of various goods and services.

⁵⁹A recent Federal Reserve study found that 14.6 billion ACH payments were made in 2006, an increase of almost 6 billion payments from 2003. *See* Press Release, Fed. Reserve Bd., Federal Reserve Study Shows That More Than Two-Thirds of Noncash Payments Are Now Electronic (Dec. 10, 2007), *available at* www.federalreserve.gov/newsevents/press/other/20071210a.htm.

⁶⁰*FTC v. Your Money Access*, No. 07-5147 (D. Pa. 2007) (accounts debited through remotely created checks and ACH debits); *FTC v. Interbill Ltd. et al.*, No. 2:06-CV-01644 (D. Nev. 2007) (remotely created checks); *FTC v. Global Mktg. Group, Inc., et al.*,

NACHA'S NETWORK ENFORCEMENT RULE PROPOSAL (April 2007), *available at* www.ftc.gov/os/opinions/070423staffcommenttonacha.pdf.

⁶³*See* Protecting Consumers in the Next Tech-Ade, *available at* www.ftc.gov/bcp/workshops/techade/who.html. Additional information about the hearings is available at www.ftc.gov/bcp/workshops/techade/index.html.

⁶⁴Transcript, November 8, 2006, at 14, 16, 49-50, *available at* www.ftc.gov/bcp/workshops/techade/transcripts.html.

⁶⁵*See, e.g., Check 21: Substitute Checks, Electronic Processing, and What It Means to You, Electronic Check Conversion, and Credit, ATM, and Debit Cards: What to Do If They're Lost or Stolen*, These and other educational materials are directly accessible from the FTC's webpage, Credit and Loans: Credit Cards & Consumer Loans, www.ftc.gov/bcp/menus/consumer/credit/loans.shtm. Information in u1.]T

Commission has obtained tough permanent injunctive and equitable relief, including substantial

Inc., FTC Docket No. C-3893 (Aug. 27, 1999); *FTC v. Capital City Mortgage Co.*, No. 98-00237 (D.D.C. 1998); *United States v. Nationwide Credit, Inc.*, No. 98-2920 (N.D. Ga. 1998); *United States v. Lundgren & Assocs., P.C.*, No. 98-1274 (E.D. Cal. 1998); *In re May Dep't Stores Co.*, FTC Docket No. C-3848 (Nov. 2, 1998); *In re General Elec. Capital Corp.*, FTC Docket No. C-3839 (Dec. 23, 1998).

⁶⁸*See, e.g., FTC v. Check Investors, Inc.*, 2005 U.S. Dist. LEXIS 37199 (D.N.J. July 18, 2005) (ban on debt collection and \$10.2 million judgment), *aff'd*, 503 F.3d 159 (3d Cir. 2007), *petition for reh'g denied*, Nos. 05-3558, 05-3957 (3d Cir. Feb. 6, 2008).

⁶⁹*FTC v. Tono Records*, No. 07-3786 (C.D. Cal. 2007).

⁷⁰*United States v. LTD Financial Services, L.P.*, No. 07-3741 (S.D. Tex. Nov. 13, 2007). The complaint alleged that the defendants misled, threatened, and harassed consumers by falsely threatening them with lawsuits, criminal action, wage garnishment, and property seizure, and by disclosing their debts to third parties. The civil penalty award was the highest ever in an FTC debt collection case. The settlement also imposed strong injunctive relief, including a bar prohibiting the individual owners and top company managers from future law violations.

⁷¹*FTC v. Rawlins & Rivera, Inc.*, No. 07-146 (M.D. Fla. Jan. 14, 2008). The complaint alleged the defendants falsely threatened consumers nationwide with lawsuits, seizure of property, and arrest. The \$3.4 million judgment represented the total amount the defendants collected during the period that the Commission's complaint addressed.

⁷²*FTC v. Check Investors, Inc.*, 503 F.3d 159 (3d Cir. 2007), *petition for reh'g denied*, Nos. 05-3558, 05-3957 (3d Cir. Feb. 6, 2008).

⁷³Consumer education materials on debt collection and related issues are directly accessible from the FTC's webpage, *Credit and Loans: In Debt?*, available at [www.ftc.gov/bcp/menus/ctcom.3\(\)-13](http://www.ftc.gov/bcp/menus/ctcom.3()-13) available at

⁷⁵Also in the fall of 2007, the FTC issued an advisory opinion concluding that, after a consumer notifies a debt collector in writing that the consumer disputes a debt, the debt collector may, without violating the law, contact the consumer to tell him that the collector is halting its collection efforts. The Commission issued the opinion in response to ACA International, a debt collection trade association, that asked the FTC for clarification of the law. The FDCPA provides that if a debt collector contacts a consumer to collect a debt, and the consumer then disputes that debt in writing, the collector must stop collection efforts until it has sent the consumer written verification of the debt. The FTC's advisory opinion concluded that it would benefit consumers to receive notice that a debt collector has halted its collection efforts, and that such a notice would not violate the FDCPA.

⁷⁶*FTC v. Debt-Set*, No. 07-558 (D. Colo. 2007); *FTC v. Select Personnel Mgmt., Inc.*, No. 07-0529 (N.D. Ill. 2007); *FTC v. Dennis Connelly*, No. 06-701 (C.D. Cal. 2006); *FTC v. Express Consolidation*, No. 067

counseling services. In fact, the FTC alleged, AmeriDebt funneled profits to affiliated for-profit

⁷⁸See *FTC v. AmeriDebt, Inc.*, No. 03-3317 (D. Md. Jan. 9, 2006) (Stipulated Final Judgment and Permanent Injunction as to DebtWorks, Inc. and Andris Pukke). Subsequently, the court-appointed receiver determined that primary defendant Andris Pukke had hidden assets from the FTC, and the court entered a judgment requiring him to turn over tens of millions of dollars' worth of additional assets. Because he resisted turning over his assets even after the court found him in contempt of court, the Court ordered his incarceration pending full cooperation, lasting almost a month.

⁷⁹See, e.g., *FTC v. Sunshine Credit Repair, Inc.*, No. 05-20228 (S.D. Fla. 2005); *FTC v. Service Brokers Assoc., Inc.*, No. 05-60129 (S.D. Fla. 2005); *FTC v. ICR Services, Inc.*, No. 03-5532 (N.D. Ill. 2003); *FTC v. Cliff Cross, individually and d/b/a Build-It-Fast*, No. 99-018 (W.D. Tex. 2001); *FTC v. Patrick R. P.R.K. Enters.*, No. 99-562 (E.D.N.Y. 1999); *United States v. Cornerstone Wealth Corp.*, No. 98-0601 (N.D. Tex. 1998); *United States v. Jack Schrold*, No. 98-6212 (S.D. Fla. 1998); *FTC v. Midwest Mgmt. Assocs., Inc.*, No. 98-1218 (N.D. Ill. 1998).

⁸⁰Press Release, FTC, "Project Credit Despair" Snares 20 "Credit Repair" Scammers (Feb. 2, 2006), available at www.ftc.gov/opa/2006/02/badcreditbgone.shtm.

accurate and not obsolete.⁸¹ The court ruled that the defendants violated the law and ordered them to pay more than \$322,000 in equitable monetary relief.

The Commission also has taken enforcement actions against debt reduction services that

⁸¹*FTC v. Bad Credit B Gone, LLC*, No. 06-0254 (N.D. Ill. 2006).

⁸²*FTC v. Express Consolidation, Inc.*, No. 06-61851 (S.D. Fla. 2007).

⁸³Consumer education materials on debt negotiation, credit repair, and related issues are directly accessible from the FTC's webpage, *Credit and Loans: In Debt?*, available at www.ftc.gov/bcp/menus/consumer/credit/debt.shtm. In Spanish, the materials are available from the FTC's webpage, *Crédito y Préstamos: ¿Endeudado?*, available at www.ftc.gov/bcp/menus/consumer/credit/debt_es.shtm.

VI. CONCLUSION

The Commission is committed to protecting consumers of financial services, including subprime borrowers. The FTC's law enforcement, consumer education, and policy research initiatives in financial services are part of the FTC's broad, vigorous, and continuing program to protect consumers from deceptive, unfair, and otherwise illegal practices.

The Commission appreciates the opportunity to appear before you today to discuss the FTC's work relating to financial services. The budget request recently submitted by the President for FY2009 contains additional funding to support this work, as well as the other important work of the agency. To accomplish the agency's consumer protection and competition missions in FY 2009, the FTC requests \$256,200,000 and 1,102 Full Time Equivalents (FTEs). Of the \$256,200,000 requested amount, Hart-Scott-Rodino pre-merger filing fees and Do Not Call fees will provide the Commission with an estimated \$189,800,000 in FY 2009. Thus, the FTC anticipates that the remaining funds needed for its operations will come from a direct

⁸⁴The 18 FTE include: (a) 10 FTE for Consumer Protection to, among other things, protect consumers from unfair and deceptive practices in the financial services marketplace; protect consumers' privacy; improve compliance with FTC orders; pursue foreign-located evidence of fraud perpetrated against U.S. consumers; and provide support for the effective operation of this program; and (b) 8 FTE for Maintaining Competition to meet the increased workload required to challenge anticompetitive mergers and assure that the marketplace is free from anti-competitive business practices in the health care, pharmaceutical, energy, and technology sectors; promote convergence in competition policy of foreign enforcement practices; and provide support for the effective operation of this program.

⁸⁵The \$1,500,000 for non-FTE programs includes (a) \$1,100,000 for Consumer Protection, consisting of \$500,000 for "Green" marketing research, education campaign, and enforcement; \$250,000 for high-tech tools to stop fraudsters; \$250,000 for activities related to the marketing and advertising of

resources to continue to build on its past record of accomplishments in enhancing consumer protection and protecting competition.

food to children; and \$100,000 for privacy and identity theft and deceptive and unfair practices in mobile marketing; and (b) \$400,000 for Maintaining Competition to meet the challenges of an increased enforcement agenda and associated litigation and outreach efforts.