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UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

_____)	Case No. _____
FEDERAL TRADE COMMISSION,)	
Plaintiff,)	
v.)	
CARDFLEX, INC.,)	
a California corporation;)	**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**
BLAZE PROCESSING, LLC, an Idaho limited)	
liability company;)	
_____)	

	)
1 MACH 1 MERCHANTING, LLC, an Idaho	)
2 limited liability company;	)
3 ANDREW M. PHILLIPS, individually and as an	)
officer of CardFlex, Inc.;	)
4 JOHN S. BLAUGRUND, individually and as an	)
officer of CardFlex, Inc.;	)
5 SHANE FISHER, individually and as a manager	)
6 of Blaze Processing, LLC, and Mach 1	)
Merchanting, LLC;	)
7 and JEREMY LIVINGSTON, individually and as	)
a manager of Blaze Processing, LLC, and Mach 1	)
8 Merchanting, LLC;	)
9	)
10 Defendants.	)
	)

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

      1.   The FTC brings this action under Section 13(b) of the Federal Trade Commission

Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or

reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten

monies, and other equitable relief against CardFlex, Inc., Blaze Processing, LLC, Mach 1

Merchanting, LLC, Andrew M. Phillips, John S. Blaugrund, Shane Fisher and Jeremy

Livingston ("Defendants") for engaging in unfair acts or practices in connection with

Defendants' processing or arranging for processing of charges to consumers' credit and debit

cards on behalf of Defendants' merchant clients, in violation of Section 5(a) of the FTC Act,

15 U.S.C. § 45(a).

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7.   Defendant Blaze Processing, LLC, is a limited liability company organized under the laws of the State of Idaho. Blaze Processing, LLC conducts business from P.O. Box 777, Rigby, Idaho 83442-0777. Blaze Processing, LLC is a sales agent that arranges connections between merchants like iWorks and ISOs like CardFlex, Inc. Blaze Processing, LLC transacts or has transacted business in this district.

8.   Defendant Mach 1 Merchanting, LLC, is a limited liability company organized under the laws of the State of Idaho. Mach 1 Merchanting, LLC's principal place of business is located at 7009 S. Marble Circle, Idaho Falls, Idaho 83406-8207. Mach 1 Merchanting, LLC is also a sales agent that arranges connections between merchants like iWorks and ISOs like CardFlex, Inc. Mach 1 Merchanting, LLC transacts or has transacted business in this district.

9.   Defendant Andrew M. Phillips is the President and a director of CardFlex, Inc. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of CardFlex, Inc., including the acts and practices set forth in this Complaint. Phillips transacts or has transacted business in this district.

10. Defendant John Blaugrund is an officer and a director of CardFlex, Inc. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of CardFlex, Inc., including the acts and practices set forth in this Complaint. Blaugrund transacts or has transacted business in this district.

11. Defendant Shane Fisher is a manager and principal of Blaze Processing, LLC, and Mach 1 Merchanting, LLC. At all times material to this Complaint, acting alone or in

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concert with others, he has formulated, directed, controlled, or participated in the acts and

practices of Blaze Processing, LLC and Mach 1 Merchanting, LLC, including the acts and

practices set forth in this Complaint. Fisher transacts or has transacted business in this

district.

12. Defendant Jeremy Livingston is a manager and principal of Blaze Processing,

LLC, and Mach 1 Merchanting, LLC. At all times material to this Complaint, acting alone or

in concert with others, he has formulated, directed, controlled, or participated in the acts and

practices of Blaze Processing, LLC and Mach 1 Merchanting, LLC, including the acts and

practices set forth in this Complaint. Livingston transacts or has transacted business in this

district.

COMMERCE

13. At all times material to this Complaint, Defendants have maintained a substantial

course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC

Act, 15 U.S.C. § 44.

SUMMARY OF CASE

14. This is an action by the FTC for injunctive and equitable monetary relief on

behalf of consumers against Defendants for their actions in causing more than $26 million in

unauthorized charges to consumers' credit and debit card accounts. Defendants caused these

unauthorized charges by arranging for a group of interrelated merchants, known as iWorks,

to obtain and maintain merchant accounts that enabled iWorks to process unlawful credit and

debit card payments through the Visa and MasterCard payment networks. Defendants

caused these charges to consumers' credit card accounts by actively employing, and advising

or enabling the fraudulent merchants to employ, numerous tactics that were designed to

institution ("merchant bank"). Without access to a merchant bank that is a member of the

card associations, such as MasterCard or Visa, merchants are not able to accept consumer

credit or debit card payments.

18. At all times material to this complaint, CardFlex worked as an ISO soliciting

merchants ("merchant-clients") in need of payment processing services and signing them up

for merchant accounts through banks and payment processors. CardFlex referred merchant-

clients to Wells Fargo Bank ("Wells Fargo") and its payment processor First Data Merchant

Services ("First Data"). A payment processor is an entity that merchants and merchant banks

use to transmit credit and debit card transaction data, and allocate or settle funds between

merchants and consumers via merchant accounts. Merchant banks (also referred to as

"acquiring banks") frequently enter into contracts with payment processors that manage the

bank's merchant processing program.

19. CardFlex essentially acted as an intermediary to link its merchant-clients and Servifreqwaint, (rch

1   Under the Agency Agreements, Blaze agreed to act as Defendant CardFlex's agent in

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23. The iWorks websites lured consumers into an expensive bait and switch. After viewing misrepresentations on iWorks' websites, consumers were led to believe they would be charged only a small fee for shipping and handling, such as $1.99 or $2.99, to receive information about obtaining government grants or making substantial amounts of money. Consumers would then fill out a form and provide their credit card or bank account information. However, buried in the fine print on the iWorks websites (if disclosed at all) or on a separate terms page were additional terms that completely transformed the offer. Instead of providing a free product or service for the nominal shipping and handling fee, iWorks enrolled consumers in multiple expensive online plans and charged recurring fees or other additional fees until consumers affirmatively cancelled enrollment in the plan ("Negative Option Plans"). iWorks enrolled consumers in online Negative Option Plans for both the advertised product as well as for additional products and services. Pursuant to the Negative Option Plans, iWorks charged consumers' credit cards hefty one-time fees of as much as $189 and then recurring monthly fees of as much as $59.95 for the core product, as well as recurring monthly fees for the additional products and services costing as much as $39.97.

24. The iWorks scam lasted from at least 2006 until January 13, 2011, and ceased only after this Court granted the FTC's request for a temporary restraining order ("TRO") halting the scheme. *See FTC v. Jeremy Johnson, et al.* No. 2:10-cv-2203-RLH-GWF (D. Nev., filed December 21, 2010).

25. The FTC suit charged iWorks, its owner Jeremy Johnson, and numerous other individual and corporate defendants with engaging in widespread deception in violation of Section 5 of the FTC Act, as well as other law violations.

26. From August 2009 until April 2010, Defendants opened and managed at least 293 merchant accounts in 30 separate corporate names for processing iWorks transactions. Opening and managing these merchant accounts enabled iWorks to maintain largely unfettered access to the credit card payment system and to use its merchant accounts to initiate more than $26 million in unauthorized charges to consumers' credit and debit card accounts.

UNDERWRITING AND MONITORING MERCHANT ACCOUNTS

27. Merchant banks and payment processors have underwriting criteria that a merchant must meet to obtain a merchant account. These criteria are designed to avoid losses associated with sales transactions that are charged back, especially losses due to transactions induced by fraud or unauthorized transactions. A chargeback occurs when customers contact their credit card issuing bank to dispute a charge appearing on their credit card account statements, and the issuing bank charges that amount back to the merchant bank. Each chargeback receives a chargeback reason code that descri

29. When a merchant generates excessive chargebacks and has a high chargeback rate for two consecutive months, Visa and MasterCard place the merchant in compliance monitoring programs designed to detect and correct practices that harm consumers and to protect the integrity of the payment system.

30. For example, Visa identifies U.S. merchants for its Merchant Chargeback Monitoring Program ("MCMP") when the following three conditions arise in the same calendar month: (a) a merchant has at least 100 sales transactions; (b) the merchant has at least 100 chargebacks; and (c) the merchant has a chargeback rate of at least one percent. MasterCard maintained similar thresholds and triggers for its "Excessive Chargeback Merchant" program ("ECM").

31. To assist in the underwriting process, the card associations have created a program to track merchants and individuals that previously have had merchant accounts terminated by merchant banks for, among other things, excessive chargebacks. MasterCard, for example, maintains the Member Alert to Control High-risk Merchants ("MATCH") list. This list includes merchants (along with the principals) whose accounts were terminated by merchant banks for certain reasons. For example, a merchant bank must place a merchant on the MATCH list when the merchant bank terminates the merchant's processing account for fraud, excessive chargebacks or other violations of card association operating rules. Many acquiring banks will refuse to establish merchant accounts for merchants or individuals who appear on the MATCH list, given the high risk involved.

32. Craig Hirsch's Chargeback Processing with Wells Far

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same standards when they referred merchants to CardFlex and Wells Fargo and First Data.

The standards required a due diligence review of prospective merchant-clients, including site

inspections of their business premises. Defendants were precluded from accepting merchant

applications from merchants engaged in several unacceptable business practices including

"Get Rich Quick Schemes."

33. To facilitate the opening and monitoring of merchant accounts, Defendants

reviewed, verified, and then forwarded copies of the merchant application, contract, and

supporting documents to Wells Fargo and First Data.

34. After CardFlex established a merchant-client's account, it maintained access to

the data regarding that client's processing activities. This access enabled CardFlex to view

and monitor transaction activity for its merchant-client, including individual transaction

details, as well as monthly and year-to-date summaries of overall transaction and chargeback

counts and volume for each merchant account.

35. Beginning in 2009, Defendants first solicited and arranged to open merchant

accounts for iWorks.

<div align="center"><u>DEFENDANTS' UNFAIR BUSINESS PRACTICES</u></div>

A. Defendants Opened Hundreds Of Merchant Accounts For iWorks With Minimal Underwriting Based On A Personal Guarantee By Jeremy Johnson

36. In 2009, iWorks began using the services of Blaze to find payment processing

relationships so that it could continue to accept sales transactions from its deceptive websites.

37. During this time, iWorks' merchant accounts generated high chargeback rates and

associated fees, and were repeatedly placed in the credit card associations' chargeback

monitoring programs. iWorks d/b/a's were first placed on the MATCH list in November

2006. By June 2009, Jeremy Johnson had been placed on the MATCH list as the principal of

<div align="center">11</div>

merchant accounts by four separate banks. Most recently, Harris Bank had terminated 13

merchant accounts associated with Johnson on May 20, 2009.

38. In June 2009, after various other payment processors and merchant banks

terminated their merchant accounts with iWorks, Blaze introduced iWorks' principal, Jeremy

Johnson, to Andrew Phillips and John Blaugrund, principals of CardFlex. Jeremy Johnson

met with CardFlex to discuss obtaining merchant accounts for his companies.

39. In late June 2009, CardFlex began opening merchant accounts for iWorks. Had

the shell corporation and iWorks when it completed merchant applications on iWorks'

behalf.

46. On July 9, 2009, for example, Jeremy Livingston signed a merchant processing

agreement for a company called GGL Rewards, Inc. which purported to have 250 employees.

Livingston left the "Other currently/previously owned businesses" and "Who Performs the

Product Service Fulfilment" sections of the application blank. Livingston also certified that

he had inspected the business premises for GGL, and that the application was correct. GGL

Rewards was actually a shell company that did not have any employees.

47. Similarly, on July 15, 2009, Shane Fisher signed a merchant processing

agreement for a company called Business Loan Success, Inc. which purported to have 180

employees. Fisher wrote "NA" for "Other currently/previously owned businesses" and he

left the "Who Performs the Product Service Fulfilment" section of the application blank.

Fisher also certified that he has inspected the premises of Business Loan Success, and that

the application was correct. In fact, Business Loan Success was also a shell corporation

without any employees.

48. On information and belief, neither Livingston nor Fisher actually inspected the

premises of GGL Rewards or Business Loan Success, Inc. These applications were

forwarded to CardFlex and Wells Fargo, and the merchant accounts were opened.

B. iWorks Accounts Are Immediately Shut Down Due To High Charge Back Rates

49. Immediately after it began processing transactions for iWorks accounts,

Defendants learned that iWorks accounts had chargeback rates that would place the accounts

on merchant monitoring lists and potentially subject the accounts to high fines and

termination, if the chargeback rates c

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emailed Jeremy Johnson and Jeremy Livingston to thank them for a golfing trip to Pebble

Beach, an exclusive resort. In the email message, Phillips also told Johnson and Livingston

that "everyone of your accounts is at 3% [chargeback rate] and above and this is month one."

Phillips explained that the high chargeback rates could be because "nowhere [on the iWorks

merchant website] does it even reference an on-going relationship." Phillips also noted that

the $39.95 fee only shows up on the bottom of the page and "if I weren't looking for it I

never would have known I was going to be billed."

50. In his email, Phillips asked Johnson to follow-up so they could "implement

corrections fast," but iWorks' chargeback rates would remain steady throughout its business

relationship with CardFlex.

51. The next day, iWorks and Blaze had a meeting to discuss what iWorks described

as "CardFlex issues." One of the action items following the call was for iWorks to make

changes to the billing descriptors that appeared on customer's credit card statements. In a

September 18, 2009 email that copied Shane Fisher, iWorks described its task as: "keeping

the descriptor different enough so that Visa won't connect the dots, but keeping them similar

enough so that the customer can connect the purchase with the charge."

52. The fact that every account Defendants had opened for iWorks had excessive

chargebacks should have caused Defendants to cease doing business with Johnson, or to at

least substantially reevaluate the terms of their relationship. Instead, the pace at which

Defendants opened processing accounts for iWorks in the name of various shell corporations

only increased. Over the next 3 months, between September 2009 and December 2009,

Defendants would open more than 200 additional merchant accounts for iWorks.

53. In a single email on October 14, 2009, an iWorks employee emailed Blaze a request to open 75 merchant accounts.   The iWorks employee provided basic information such as the name of the corporation, the name under which it was doing business, the contact information, banking information, website, merchant descriptor, telephone number, articles of incorporation, and bylaws. Blaze then completed the merchant applications and submitted them for approval.

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Load Balancing for Credit Cards" and then enter the accounts that would be included in the balancing and the maximum value of transactions that could be processed through each account per month.

62. As a CardFlex employee explained, the system would process sales on the default account until the monthly sales limit was reached, then it would process sales on the next account until the monthly sales limit was reached, and it would continue cycling through accounts until all of the sales limits had been reached. At that point, the system would return to processing on the initial account until the actual account limit was reached.

63. The system CardFlex presented had the sole capability of artificially limiting the sales volume on a particular merchant account. If implemented correctly, the system CardFlex provided could guarantee that iWorks merchant accounts would not process enough transactions to qualify for placement in merchant monitoring programs and thus, presumably, would not be terminated.

64. Moreover, Defendants and iWorks did not even face the additional burdens in underwriting and approving the new accounts that were created in order to load balance iWorks transactions. Because, as Jeremy Johnson explained, CardFlex was willing to open "any account in any name or corp we want," and Blaze was willing to fill out and sign merchant applications that it knew contained false information, iWorks had no difficultly opening as many new accounts as it needed to implement load balancing without affecting its sales volume.

65. The load balancing system created by CardFlex in December 2009 was not immediately implemented because it was not sophisticated enough to account for the complexity of iWorks' scheme. In December 2009, iWorks was deceptively billing

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72. On January 29, 2010, CardFlex notified iWorks that it had obtained Wells Fargo's approval to begin processing the exact same merchant accounts that had been shut down by Global Payments.

73. On February 5, 2010, CardFlex notified iWorks that 11 applications for "legacy accounts" had been approved and would begin processing that day. On March 10, 2010, CardFlex approved additional "legacy accounts" for processing.

F. Defendants Continued to Provide Payment Processing Services For iWorks Until They Were Forced To Stop By Wells Fargo And First Data

74. By spring of 2010, iWorks transactions we

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1   system that permits the electronic transmission of payments between financial institutions.

2   The ACH network operates independently of th

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B. Enter a permanent injunction to prevent future violations of the FTC Act by

Defendants;

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C. Award such relief as the Court finds necessary to redress injury to consumers

resulting from Defendants' violations of the FTC Act, including but not

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limited to, rescission or reformation of contracts, restitution, the refund of

monies paid, and the disgorgement of ill-gotten monies; and

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D. Award Plaintiff the costs of bringing this action, as well as such other and

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additional relief as the Court may determine to be just and proper.

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Respectfully submitted,

JONATHAN E. NUECHTERLEIN

FEDERAL TRADE COMMISSION

General Counsel

Dated: July 30, 2014

/s/ Benjamin R. Davidson

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