

FAYE CHEN BARNOUW, CA Bar No. 168631

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## FINDINGS

1. This Court has jurisdiction over this matter.

2. The First Amended Complaint charges that Defendants participated in deceptive and unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, in a scheme to place unauthorized charges on consumers' mobile telephone bills, a practice known as "cramming."

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1 **ORDER**

2 **I. BAN ON PLACING CHARGES ON TELEPHONE BILLS**

3 IT IS HEREBY ORDERED that Settling Defendants are permanently  
4 restrained and enjoined from billing, submitting for billing, or assisting or  
5 facilitating the billing or submitting for billing, charges to any telephone bill,  
6 including but not limited to a bill for any voice, text, or data service.

7 **II. PROHIBITION AGAINST MISREPRESENTATIONS**

8 IT IS FURTHER ORDERED that, in connection with the advertising,  
9 marketing, promotion, offering for sale, sale, or distribution of any product or  
10 service, Settling Defendants, Settling Defendants' officers, agents, employees, and  
11 attorneys, and all other persons in active concert or participation with any of them,  
12 who receive actual notice of this Order, whether acting directly or indirectly, are  
13 permanently restrained and enjoined from making, or assisting others in making,  
14 expressly or by implication, any false or misleading representation, including  
15 representations concerning the cost, performance, efficacy, nature, characteristics,  
16 benefits, or safety of any product or service, or concerning any consumer's  
17 obligation to pay for charges for any product or service.

18 **III. PROHIBITION AGAINST UNFAIR BILLING PRACTICES**

19 IT IS FURTHER ORDERED that, in connection with the advertising,  
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1 Commission representative may designate, without the service of a subpoena.

2 **VI. ORDER ACKNOWLEDGMENTS**

3 IT IS FURTHER ORDERED that Settling Defendants obtain  
4 acknowledgments of receipt of this Order:

5 A. Each Settling Defendant, within 7 days of entry of this Order, must  
6 submit to the Commission an acknowledgment of receipt of this Order sworn  
7 under penalty of perjury.

8 B. For 3 years after entry of this Order, each Individual Settling  
9 Defendant for any business involved with placing charges on phone bills that such  
10 Defendant, individually or collectively with any other Defendants, is the majority  
11 owner or controls directly or indirectly, and each Corporate Settling Defendant,  
12 must deliver a copy of this Order to: (1) all principals, officers, directors, and LLC  
13 managers and members; (2) all employees having managerial responsibilities for  
14 the placement of charges on phone bills and all agents and representatives who  
15 participate in the placement of charges on phone bills; and (3) any business entity  
16 resulting from any change in structure as set forth in the Section titled Compliance  
17 Reporting. Delivery must occur within 7 days of entry of this Order for current  
18 personnel. For all others, delivery must occur before they assume their  
19 responsibilities.

20 C. From each individual or entity to which a Settling Defendant  
21 delivered a copy of this Order, that Settling Defendant must obtain, within 30 days,  
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1 any subsidiary, parent, or affiliate that engages in any acts or practices subject to  
2 this Order.

3 2. Additionally, each Individual Settling Defendant must report  
4 any change in: (a) name, including aliases or fictitious name, or residence address;  
5 or (b) title or role in any business activity, including any business for which such  
6 Defendant performs services whether as an employee or otherwise and any entity  
7 in which such Defendant has any ownership interest, and identify the name,  
8 physical address, and any Internet address of the business or entity.

9 C. Each Settling Defendant must submit to the Commission notice of the  
10 filing of any bankruptcy petition, insolvency proceeding, or similar proceeding by  
11 or against such Defendant within 14 days of its filing.

12 D. Any submission to the Commission required by this Order to be  
13 sworn under penalty of perjury must be true and accurate and comply with 28  
14 U.S.C. § 1746, such as by concluding: “I declare under penalty of perjury under  
15 the laws of the United States of America that the foregoing is true and correct.  
16 Executed on: \_\_\_\_\_” and supplying the date, signatory’s full name, title (if  
17 applicable), and signature.

18 E. Unless otherwise directed by a Commission representative in writing,  
19 all submissions to the Commission pursuant to this Order must be emailed to  
20 DEbrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to:  
21 Associate Director for Enforcement, Bureau of Consumer Protection, Federal  
22 Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The  
23 subject line must begin: FTC v. Darcy Michael Wedd, et al., X140034.

## 24 **VIII. RECORDKEEPING**

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