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WESTERN DISTRICT OF TEXAS
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

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Federal Trade Commission, and
State of Ohio ex rel. Attorney General
Dave Yost,

Plaintiffs,

v.

Educare Centre Services, Inc., a New
Jersey corporation, also dba Credit Card
Services, Card Services, Credit Card
Financial Services, Care Net, Tripletel
Inc., Revit Educ Srvc, L.L. Vision, Care
Value Services, and Card Value Services,

Tripletel, Inc., a Delaware corporation,

Prolink Vision, S.R.L., a Dominican
Republic limited liability company,

9896988 Canada Inc., a Canadian
company,

Globex Telecom, Inc., a Nevada
corporation,

9506276 Canada, Inc., dba Globex
Telecom, Inc., a Canadian company,

Sam Madi, individually and as an owner,
officer, member, and/or manager of
Educare Centre Services, Inc.,

Mohammad Souheil a/k/a
Mohammed Souheil and Mike
Souheil, individually and as an owner,
officer, member, and/or manager of
Educare Centre Services, Inc., 9896988
Canada, Inc., Globex Telecom, Inc.,
9506276 Canada, Inc., and Prolink
Vision, S.R.L.,

Wissam Abedel Jalil a/k/a Sam Jalil,
individually and as an owner, officer,
member, and/or manager of Tripletel,
Inc., and Prolink Vision, S.R.L.,

No. 3:19-CV-196

FIRST AMENDED COMPLAINT
FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

1 **Charles Kharouf**, individually and as an
2 owner, officer, member, and/or manager
3 of Educare Centre Services, Inc., and
Prolink Vision, S.R.L.,

4 Defendants.

5
6
7 Plaintiffs, the Federal Trade Commission (“FTC”) and the State of Ohio, for their
8 First Amended Complaint (“FA Complaint”) allege:

9 1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade
10 Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b), 57b, and the Telemarketing and Consumer
11 Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, to obtain
12 temporary, preliminary, and permanent injunctive relief, rescission or reformation of
13 contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, the
14 appointment of a receiver, an asset freeze, and other equitable relief for Defendants’ acts or
15 practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of
16 the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

17
18 2. The State of Ohio, by and through its Attorney General, Dave Yost, brings
19 this action pursuant to the Telemarketing Act, 15 U.S.C. § 6103, the Ohio Consumer Sales
20 Practices Act (“CSPA”), O.R.C. 1345.07, and the Ohio Telephone Solicitation Sales Act
21 (“TSSA”), O.R.C. 4719.01 *et seq.*, in order to obtain temporary, preliminary, and permanent
22 injunctive relief, consumer damages, and other equitable relief from Defendants.
23

24 **JURISDICTION AND VENUE**

25 3. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331,
26 1337(a), 1345, and 1367.
27
28

1 4. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), (b)(3), and (c),
2 and 15 U.S.C. § 53(b).

3 **SUMMARY OF THE CASE**

4 5. Since at least February 2016, Sam Madi, Mohammad Souheil (a/k/a
5 Mohammed Souheil and Mike Souheil) (“Souheil”), Wissam Abedel Jalil (a/k/a Sam Jalil),
6 Charles Kharouf, Educare Centre Services, Inc. (“Educare”), Tripletel, Inc. (“Tripletel”),
7 Prolink Vision, S.R.L. (“Prolink”), 9896988 Canada, Inc. (“988”) (collectively the “Educare
8 Defendants”), Globex Telecom, Inc., and 9506276 Canada, Inc. (“276”) have engaged in or
9 assisted and facilitated a deceptive telemarketing scheme that markets a credit card interest
10 rate reduction service (“CCIRR service”) to consumers throughout the United States.
11

12 6. The Educare Defendants cold-call consumers, using live calls and
13 prerecorded messages (commonly known as “robocalls”), promising that, in exchange for a
14 fee ranging from \$798 to \$1,192, they will obtain substantially lower interest rates on
15 consumers’ credit cards. To help lure consumers to purchase the CCIRR service, the
16 Educare Defendants promise a 100% “money-back guarantee” if the Educare Defendants
17 fail to deliver the promised, substantially lower interest rate or the consumers are otherwise
18 dissatisfied with the service.
19

20 7. The Educare Defendants’ promises are false or unsubstantiated. For the vast
21 majority of consumers who pay their fee, if not all, the Educare Defendants do not secure
22 the promised substantial rate reduction. In addition, the Educare Defendants routinely fail
23 to honor their money-back guarantee.
24

25 8. The Educare Defendants collect their service fee from consumers through
26 remotely created checks or remotely created payment orders (collectively “RCPOs”) drawn
27 against consumers’ checking accounts. The TSR expressly prohibits such use of RCPOs in
28 connection with telemarketing sales.

1 restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C.
2 §§ 53(b), 57b.

3 15. Plaintiff State of Ohio is one of the fifty sovereign states of the United
4 States, and by and through its Attorney General, Dave Yost, it brings this action under
5 O.R.C. 1345.01 *et seq.* and O.R.C. 4719.01 *et seq.* Pursuant to the authority found in the
6 Telemarketing Act at 15 U.S.C. § 6103(a), Plaintiff State of Ohio is also authorized to initiate
7 federal district court proceedings to enjoin telemarketing activities that violate the TSR, and
8 in each such case, to obtain damages, restitution, and other compensation on behalf of Ohio
9 residents. This Court has supplemental jurisdiction over Plaintiff State of Ohio's state law
10 claims under 28 U.S.C. § 1367.

11
12 **DEFENDANTS**

13 16. The Educare Defendants sell the CCIRR service at issue; Prolink operates a
14 call center that telemarkets the CCIRR service to consumers on behalf of Educare; 988
15 maintained Educare's customer relationship management system ("CRM") and billing
16 reconciliation; and Globex Telecom, Inc. and 276 provided interconnected Voice over
17 Internet Protocol ("VoIP") communication services and facilities to Educare.

18
19 17. The four individual defendants are, or were during times relevant to the FA
20 Complaint, officers or managers of Educare, Prolink, 988, Globex Telecom, Inc., or 276,
21 and have directly participated in or controlled or had the authority to control the unlawful
22 conduct challenged by the FA Complaint.

23
24 ***The Corporate Defendants***

25 18. **Educare Centre Services, Inc.**, also dba Credit Card Services, Card
26 Services, Credit Card Financial Services, Care Net, Tripletel, Inc., Revit Educ Srvc, L.L.
27 Vision, Care Value Services, and Card Value Services is a New Jersey corporation with its
28 registered address at 244 5th Avenue, Suite 11417, New York, NY 10001.

1 19. Educare has no website and does not appear to have a physical location in
2 the United States. Its president, director, and nominal owner is Sam Madi.

3 20. Souheil is the *de facto* principal behind Educare. He appears to operate the
4 company from Canada.

5 21. Educare sells the CCIRR service at issue in the FA Complaint.

6 22. Educare contracts with and supervises telephone call centers, including
7 Prolink, to market the CCIRR service.

8 23. Educare has been the subject of more than 100 Better Business Bureau
9 (“BBB”) consumer complaints and it and its dbas, including Credit Card Services and Care
10 Net, have received a “D+” or “F” rating from the BBB serving the Metropolitan New York
11 area. Educare routinely fails to respond to consumer complaints to the BBB.

12 24. At all times material to this FA Complaint, acting alone or in concert with
13 others, Educare has advertised, marketed, distributed, or sold the products and services at
14 issue in this FA Complaint to consumers throughout the United States. Educare transacts or
15 has transacted business in this district and throughout the United States.

16 25. **Tripletel, Inc.** is a Delaware corporation with its registered address at 910
17 Foulk Road, Suite 201, Wilmington, DE 19803. Wissam Abedel Jalil is the president and
18 owner of Tripletel.

19 26. Tripletel is a dba of Educare, which received \$2.3 million in deposits from
20 Madera.

21 27. **Prolink Vision, S.R.L.** is a Dominican Republic limited liability company
22 with its principal place of business at Av. 27 de Febrero Esq. Tiradentes, Plaza Merengue,
23 Segundo Piso, Local 214, Ens. Naco, Santo Domingo.

24 28. Prolink is a telemarketer operating a telephone call center in the Dominican
25 Republic. It has been marketing the CCIRR service sold by Educare since at least February
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1 2016. In its marketing of the CCIRR service sold by Educare, Prolink telemarketers have:

2 (A) initiated numerous unsolicited telephone calls, including robocalls, to U.S. consumers; (B)
3 made unlawful telemarketing sales pitches regarding the CCIRR service sold by Educare; (C)
4 collected U.S. consumers' personal information, such as a Social Security number, email
5 address, credit card issuer and number, and bank account and routing numbers; and (D)
6 initiated three-way telephone calls with the U.S. consumers and the customer service
7 departments of the U.S. banks that issued the credit cards to the U.S. consumers.
8

9 29. Prolink received more than \$1.8 million in wire payments from the U.S.-
10 based Educare.

11 30. Prolink has an English language website at www.prolinkvision.com and a
12 Facebook webpage at www.facebook.com/Prolinkvision.

13 31. Prolink's officers Mohammed Souheil and Charles Kharouf, and previous
14 officer Wissam Abedel Jalil, appear to operate Prolink out of Canada.
15

16 32. Madi has identified himself as the General Manager of Prolink.

17 33. At all times material to this FA Complaint, acting alone or in concert with
18 others, Prolink has advertised, marketed, distributed, or sold the products and services at
19 issue in this FA Complaint to consumers throughout the United States. Prolink transacts or
20 has transacted business in this district and throughout the United States.
21

22 34. **9896988 Canada Inc.** is a Canadian corporation with a registered address of
23 7075 Place Robert-Joncas, Suite 225, St. Laurent, Québec H4M 2Z2, Canada. Souheil is the
24 sole owner and president of 988.

25 35. At Souheil's direction, 988 operated Educare's CRM, participated in the
26 debiting of consumers' accounts, and coordinated and reconciled the funds Educare had
27 withdrawn from consumers' checking accounts via unlawful RCPOs.
28

1 36. In performing operations related to 988, Souheil used the email address
2 mike@globextelecom.net.

3 37. 988 paid Madi almost \$100,000 CAD during 2017 and 2018, and Souheil
4 more than \$172,000 CAD from 2017 through 2019. Since at least February 2016, Educare
5 transferred at least \$1 million to 988. 988 also received more than \$100,000 from Globex
6 Telecom, Inc.

7 38. 988 transacts or has transacted business in this district and throughout the
8 United States.

9 39. **Globex Telecom, Inc.** (“Globex”) is a Nevada corporation. Its U.S. address
10 is 112 North Curry Street, Carson City, NV 89703. Globex also has an address in Canada at
11 7075 Robert-Joncas, Montreal, Quebec, H4M 2Z2 and 10 Four Seasons Place, 10th Floor,
12 Toronto, ON, M9B 6H7. It was previously organized under Delaware law and had a
13 Delaware address of 910 Foulk Road, Suite 201, Wilmington, Delaware 19803. Globex uses
14 the website address globextelecom.net.
15

16 40. Globex is an interconnected VoIP service provider. As an interconnected
17 VoIP service provider, Globex provides information services pursuant to 47 U.S.C. § 153 of
18 the Communications Act of 1934, as amended.
19

20 41. Souheil has been Globex’s chief executive officer, president and secretary, as
21 well as a director. Globex funds have been used for Souheil’s personal benefit.
22

23 42. On or about October 22, 2015, Globex entered into a Master Services
24 Agreement with Educare to provide Educare with “communication services and facilities.”
25 Souheil executed the Agreement on behalf of Globex. Between February 2016 and June
26 2018, Educare transferred more than \$1.6 million to Globex.

27 43. Globex transacts or has transacted business in this district and throughout
28 the United States.

1 51. In or around September 2017, Madi visited Prolink's office in the Dominican
2 Republic to, among other things, present reward certificates to several Prolink employees.
3 During his visit, Madi also took photos with Prolink employees; one such photo is posted to
4 Prolink's Facebook page, identifying Madi as Prolink's "General Manager."

5 52. On or about May 16, 2018, Madi sent an email to Mohammad Souheil from a
6 Prolink Vision email address in which Madi identified himself as the General Manager of
7 Prolink.
8

9 53. At all times material to this Complaint, acting alone or in concert with others,
10 Madi has formulated, directed, controlled, had the authority to control, or participated in the
11 acts and practices of Educare, including the acts or practices set forth in this Complaint.
12 Madi transacts or has transacted business in this district and throughout the United States.
13

14 54. **Mohammad Souheil**, a/k/a Mohammed Souheil and Mike Souheil
15 ("Souheil") is a Canadian citizen who resides in Montreal, Québec.

16 55. Souheil is the 51% owner and president of Prolink and the sole owner and
17 president of 988, which, together, have received wire transfers from Educare totaling more
18 than \$4 million.

19 56. Souheil was Educare's point of contact with Madera, Educare's El Paso,
20 Texas-based payment processor. Souheil regularly communicated with Madera via email,
21 text message, and telephone concerning Educare's processing settlements and consumers'
22 authorization for RCPOs. Souheil, using the email address mikesouheil@gmail.com, sent or
23 received more than 1200 emails to or from Madera concerning Madera's processing of
24 Educare payments.
25

26 57. Souheil knew that Educare's charges were being processed through RCPOs.

27 58. Soheil knew that Educare was telemarketing CCIRR services.
28

1 59. Souheil knew that Educare RCPOs had return rates of 10 to 20% and that
2 financial institutions had shut down Madera accounts used to process Educare payments.

3 60. According to Madera's owner and president, Bruce C. Woods, during the
4 four years that Madera processed payments for Educare, Souheil "always appeared to [him]
5 to be in charge of Educare."

6 61. In an email dated August 22, 2016, Souheil asked Woods if Educare can have
7 two logins under the Educare merchant account ("educare 2") because "I have a
8 [telemarketing] room i (sic) am opening and wanted to separate the login and the reports for
9 each how can we get that done?"

11 62. In an email dated October 13, 2016, Souheil informed Madera that Educare's
12 "[v]olume will double in the next 60-75 days. [W]e are aiming at [\$]1M a month in
13 processing on educare 2 this is what we are working hard to accomplish and it will be done i
14 (sic) am sure,... nothing will change this is why it takes time. I make sure the business model
15 stays the same and we grow in quality."

17 63. In an email dated May 22, 2018, Souheil requested that Madera set up a new
18 account for Educare under the descriptor "L.L. Vision" "so we move to it and start giving
19 this out to NEW clients."

20 64. On numerous occasions, Souheil received Educare funds via an account in
21 his name at a Canadian money transmitter, Altaif, Inc. From January 18, 2016 through May
22 25, 2019, Souheil received more than \$1.1 million from Educare via the Altaif, Inc. account.

24 65. Between 2008 and 2009, Souheil and defendant Wissam Abedel Jalil operated
25 a company known as FCS International ("FCS"), which exploited its membership in an
26 American Express affiliate program to market and sell CCIRR services to American Express
27 cardholders.
28

1 66. In 2009, American Express terminated its affiliate relationship with FCS after
2 receiving numerous complaints from cardholders about FCS's service. Consumers
3 complained that FCS failed to deliver on its promise to lower their credit card interest rates
4 in exchange for a fee, and submitted credit card applications on behalf of consumers
5 without authorization.

6 67. At all times material to this Complaint, acting alone or in concert with others,
7 Souheil has formulated, directed, controlled, had the authority to control, or participated in
8 the acts and practices of Educare, ProLink, 988, Globex Telecom, Inc., and 276, including
9 the acts or practices set forth in this Complaint. Souheil, in connection with the matters
10 alleged herein, transacts or has transacted business in this district and throughout the United
11 States.
12

13 68. **Wissam Abedel Jalil** a/k/a Sam Jalil ("Jalil") is a Canadian citizen who
14 resides in Montreal, Québec. Jalil is the president and owner of Tripletel.
15

16 69. Jalil executed an application for Educare's virtual office at 244 5th Avenue,
17 Suite 11417, New York, NY 10001. He also has signatory authority on a business checking
18 account in the name of Tripletel Inc., a dba of Educare, which received approximately \$2.3
19 million in deposits from Madera.
20

21 70. On numerous occasions co-defendant Madi used Sama Investments and
22 Trading, Inc., a Dearborn, Michigan money transmitter, to funnel Educare funds to Jalil via
23 an account in Souheil's name with a Canadian money transmitter, Altaif, Inc. Jalil received
24 more than \$283,000 from Educare via the Altaif, Inc., account in Jalil's name.

25 71. As described in Paragraphs 65-66 above, between 2008 and 2009, Jalil (along
26 with Souheil) operated a CCIRR scheme known as FCS, which marketed and sold CCIRR
27 services to American Express cardholders and generated numerous complaints about
28 deceptive acts and practices.

1 *de facto* principal of Educare. Both Madi and Jalil have executed applications for Educare's
2 virtual office at its New York address. Tripletel as a dba of Educare received \$2.3 million in
3 deposits from Madera.

4 80. Educare, Prolink, 988, and Tripletel have conducted business practices
5 described herein through interrelated companies, which have a common business purpose,
6 business functions, and employees; and that marketed and sold common services, shared
7 revenues, and comingled funds.
8

9 81. Because Educare, Prolink, 988, and Tripletel operated as a common
10 enterprise, each of the entities is jointly and severally liable for the acts and practices alleged
11 in this FA Complaint. At all times material to this Complaint, Souheil, Kharouf, Madi and
12 Jalil formulated, directed, controlled, had the authority to control, or participated in the acts
13 and practices of Educare, Prolink, 988, and Tripletel which constitute the Educare
14 Defendants common enterprise.
15

16 82. Defendants Globex Telecom, Inc. and 276 (collectively, "the Globex
17 Defendants") also have operated as a common enterprise while engaging in the unlawful acts
18 and practice alleged in this FA Complaint. They have conducted business practices
19 described herein through interrelated companies, which have a common business purpose,
20 business functions, and officers; have used the same name, shared revenues, and comingled
21 funds.
22

23 83. Because the Globex Defendants operated as a common enterprise, each is
24 jointly and severally liable for the acts and practices alleged against them in this FA
25 Complaint. At all times material to this Complaint, Souheil formulated, directed, controlled,
26 had the authority to control, or participated in the acts and practices of the Globex
27 Defendants.
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COMMERCE

84. At all times material to this FA 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.

REMOTELY CREATED PAYMENT ORDERS

AND REMOTELY CREATED CHECKS

85. An RCPO is a check or order of payment that the payee (typically a merchant or its agent) creates electronically, with software, using the payor’s (typically a consumer) bank account information.

86. Unlike with a conventional check, the payor does not sign the RCPO. Instead, the RCPO usually bears a statement indicating that the account holder (the account from which the money is to be drawn) authorized the check, such as “authorized by account holder” or “signature not required.”

87. RCPOs can be printed and manually deposited into the check clearing system like a conventional check. An electronic version of an RCPO that looks like a paper check, but never exists in paper form, can also be deposited into the check clearing system using remote deposit capture—a system that allows a depositor to scan checks remotely and transmit the check images to a bank for deposit.

88. RCPOs are generally subject to less oversight and monitoring than more prevalent methods of consumer payments, such as Automated Clearinghouse (“ACH”) and debit and credit card transactions.

89. Payments cleared through the ACH network are subject to oversight by NACHA - The Electronic Payments Association (“NACHA”), a self-regulatory trade association that enforces a system of rules, monitoring, and penalties for noncompliance.

1 NACHA monitors the levels at which ACH debits are returned (or rejected) by consumers
2 or consumers' banks, among other reasons, because high rates of returned transactions can
3 be indicative of unlawful practices by merchants.

4 90. The credit and debit card networks ("card networks"), such as MasterCard
5 and Visa, also have rules regarding onboarding and monitoring of merchants, and penalties
6 for noncompliance. These include heightened monitoring requirements for merchants
7 designated as high risk, such as telemarketers.
8

9 91. The card networks require network participants – including merchants,
10 payment processors and merchant banks – to monitor transactions for unusual activity
11 indicative of fraud or deception. One prominent indicator is a high chargeback rate.
12 Chargebacks occur when customers contact their credit card issuing bank to dispute a charge
13 appearing on their credit card account statement. Merchants with high chargeback rates may
14 be placed in a monitoring program and their sponsoring banks may be subject to fees and
15 fines.
16

17 92. Unlike ACH and debit and credit card transactions, RCPOs are not subject to
18 centralized and systemic monitoring.

19 93. Since June 13, 2016, the TSR has prohibited sellers and telemarketers from
20 using RCPOs in telemarketing sales. The FTC added this prohibition to the TSR because,
21 after an extensive notice and comment process, it found little record of legitimate
22 telemarketing business using RCPOs.
23

24 **DEFENDANTS' UNLAWFUL BUSINESS PRACTICES**

25 94. Since at least February 2016, the Educare Defendants have engaged in a
26 telemarketing scheme that markets a CCIRR service to consumers using false or
27 unsubstantiated claims. The Educare Defendants promise to reduce significantly the interest
28 rate on consumers' credit cards, and further promise a 100% money back guarantee if the

1 promised rate reduction does not materialize or the consumer is dissatisfied with the CCIRR
2 service. As described below, these promises are false or unsubstantiated.

3 95. The Educare Defendants use RCPOs to collect payments from consumers in
4 violation of the TSR, which expressly prohibits using RCPOs in connection with
5 telemarketing sales.

6 Defendants' Deceptive Telemarketing Campaign

7
8 96. Since at least February 2016, the Educare Defendants have engaged in a plan,
9 program, or campaign to advertise, market, promote, offer for sale, or sell a CCIRR service
10 through interstate telephone calls to consumers throughout the United States.

11 97. In numerous instances, the Educare Defendants have initiated, or directed
12 others, including telemarketers with Prolink, to initiate unsolicited telemarketing calls that
13 offer consumers an opportunity to lower their credit card interest rates.

14
15 98. In numerous instances, the Educare Defendants' telemarketing calls deliver
16 prerecorded voice messages. These messages offer consumers the opportunity to secure
17 credit card interest rates that are substantially lower from those consumers were paying, and
18 instruct consumers to press a button on the telephone keypad to hear more about the
19 service.

20
21 99. Consumers who press a button on their telephone keypad to hear more
22 about the service are connected to a live telemarketer who continues the deceptive sales
23 pitch, as described below. Many, if not all, of these telemarketers are associated with
24 Prolink's call center.

25 100. In numerous instances, the Educare Defendants' telemarketers fail to
26 disclose to consumers, truthfully, promptly, and in a clear and conspicuous manner, the
27 identity of the seller of the CCIRR service. Instead, the Educare Defendants' telemarketers
28 routinely identify themselves as representatives of "Credit Card Services," "Credit Card

1 Financial Services,” or similar Educare dbas that sound like the name of a bank or credit
2 card company.

3 101. In many instances, the Educare Defendants’ telemarketers know the last four
4 digits of at least one of the consumer’s credit cards. That fact often leads consumers to
5 assume that they are speaking with a representative or agent of their bank or credit card
6 company.

7
8 102. The Educare Defendants’ telemarketers guarantee to consumers that they
9 can substantially reduce consumers’ credit card interest rates.

10 103. In numerous instances, the Educare Defendants’ telemarketers have told
11 consumers holding credit cards with high double-digit interest rates that the CCIRR service
12 would reduce the interest rates on the consumers’ cards to 0%-10%, or transfer the balance
13 to credit cards with such substantially lower interest rates.

14
15 104. For example, one telemarketer placed a consumer on hold, and returned a
16 few minutes later stating that the Educare Defendants had permanently lowered the interest
17 rate on one of consumer’s credit cards to 3%, and would similarly lower the interest rates on
18 the consumer’s other credit cards if the consumer signed an online agreement.

19 105. Another of the Educare Defendants telemarketers told a consumer paying
20 about 29% on a combined credit balance of nearly \$8,000 that the Educare Defendants
21 worked with a bank that would give the consumer one new credit card with a 6.9% interest
22 rate and a credit limit exceeding the consumer’s combined balance.

23
24 106. In numerous instances, the Educare Defendants’ telemarketers tell
25 consumers that using the CCIRR service will not harm the consumers’ credit history. Some
26 of the Educare Defendants’ telemarketers have represented that the CCIRR service will
27 improve the consumers’ credit history because the consumer will be able to pay off his or
28 her credit card debt faster.

1 107. The Educare Defendants' telemarketers typically instruct consumers to
2 provide their personal information, such as a social security number, email address, credit
3 card issuer and number, and bank account and routing numbers.

4 108. Either before or after the consumers provide this information, the Educare
5 Defendants' telemarketers tell consumers that they have to pay an up-front fee for the
6 CCIRR service, which typically ranges from \$798 to \$1,192.

7 109. In numerous instances, the Educare Defendants' telemarketers have told
8 consumers that the significant savings the CCIRR service provides to the consumer would
9 offset the fee payment.
10

11 110. The Educare Defendants' telemarketers typically ask if the consumer agrees
12 to the fee and the CCIRR service, and tell consumers that their responses are being
13 recorded.
14

15 111. The Educare Defendants' telemarketers often tell consumers that they will
16 receive a written agreement describing the CCIRR service in the mail. In numerous, if not
17 all, instances, the consumers do not receive the promised agreement in the mail.

18 112. In numerous instances, the Educare Defendants' telemarketers tell
19 consumers that they will receive a text or email message asking them to confirm that they
20 want to purchase the CCIRR service. For example, one consumer received the following
21 text message: "Dear [consumer's name], Please reply YES to this msg to authorize the fee
22 of \$798 for services rendered by educare split into 5 payments. Thank you!"
23

24 113. As in the above instance, the Educare Defendants' telemarketers often do
25 not disclose the identity of Educare or its dbas up front. Instead, Educare or its dbas appear
26 for the first time in the confirmation-request email or text.

27 114. Consumers who respond to the confirmation-request text or email message
28 typically receive a subsequent text or email message confirming the fee authorization. For

1 example, one consumer received the following text message: “[Consumer’s name]: You have
2 approved 5 payment of \$159.60 for a total of \$798 to be debited from your Account XXX
3 Cst Srv: 866-456-1676”

4 115. In numerous instances, the Educare Defendants’ telemarketers and customer
5 service agents have refused to honor requests to cancel service from consumers who have
6 become concerned with or suspicious of the CCIRR service, including requests made on the
7 same day the service was purchased.
8

9 116. For example, in 2018, a telemarketer who identified himself as William Silva
10 and a “financial advisor” for “Card Services,” refused a consumer’s cancellation request after
11 the consumer agreed to pay for the CCIRR service but then attempted to back out of the
12 deal upon realizing during the telephone call that Mr. Silva did not represent his credit card
13 company.
14

15 117. Another Educare Defendants telemarketer told a consumer who requested to
16 cancel the CCIRR service on the same day of the purchase that it was too late because the
17 consumer had already agreed to the charges.

18 118. The Educare Defendants have also threatened consumers who sought to
19 cancel the CCIRR service with sending the consumers’ accounts to collections.
20

21 119. For example, a telemarketer who identified himself as Jacob Scott with Care
22 Value Services told one consumer who requested cancellation of the CCIRR service that the
23 consumer could not cancel, and that the Educare Defendants were still going to debit the
24 fees from consumer’s checking account, and if the consumer did not pay, the Educare
25 Defendants would tack on additional fees and sue him in court.

26 120. In numerous instances, the Educare Defendants have drawn, or caused to be
27 drawn, payments from accounts of consumers who requested to cancel the CCIRR service
28 and instructed the Educare Defendants not to draw funds from their accounts.

1 21. For example, in mid-2018, Educare debited nearly \$800 over a period of 5
2 months from the checking account of a consumer who told the Educare Defendants'
3 telemarketers and customer service agents not to charge his account and made repeated
4 requests to cancel the CCIRR service.

5 Unlawful RCPOs Drawn Against Consumers' Checking Accounts

6 22. To collect the fee for the CCIRR service, the Educare Defendants, with the
7 help of payment processor Madera, use personal information they solicit from consumers,
8 including bank account and routing number, to cause the creation of RCPOs drawn against
9 consumers' bank accounts.

11 23. Many such RCPOs are returned by the consumers' banks for reasons such as
12 "stop payment," "forgery," "closed account," and "unable to locate."

14 24. During the relevant period, several bank accounts opened by Madera under
15 various dbas of Educare had return rates of 20% or more.

16 25. Since January 2016, Madera has transferred to Educare at least \$11.5 million
17 in consumer funds collected through RCPOs. The Educare Defendants and Madera have
18 collected more than \$7 million of that amount from consumers after June 13, 2016, the date
19 on which the TSR started banning the use of RCPOs in connection with any telemarketing
20 sales.

22 Defendants Fail to Deliver the Promised Substantial Rate-Reduction

23 26. In some instances, after the consumers authorized the fee payment, the
24 Educare Defendants' telemarketers initiate three-way telephone calls with the consumers and
25 the customer service departments of the banks that issued the credit cards to the consumer.
26 During these three-way calls, the Educare Defendants' telemarketers request, or prompt the
27 consumers to request, that the bank reduce the interest rate on the consumers' credit cards.
28

1 127. In some instances, the Educare Defendants' telemarketers have asked
2 consumers to misrepresent or fabricate personal information to bank representatives.

3 128. In most instances, the three-way calls that the Educare Defendants'
4 telemarketers initiate with the consumers and the credit card issuing banks do not lead to the
5 promised substantial interest rate reduction, if any at all.

6 129. In numerous instances, the Educare Defendants use the information they
7 obtain from consumers to apply on behalf of consumers, or advise the consumer to apply,
8 for new credit cards with low introductory rates (commonly known as "teaser rates") and
9 transfer their existing credit card balances to those new cards.

10 130. For example, an Educare Defendants' telemarketer promised a consumer a
11 new credit card with a 0% APR for 1 year and a 6.99% fixed rate thereafter, but the
12 consumer actually received a new credit card with a 0% APR for 9 months and over 20%
13 APR thereafter.

14 131. In some instances, Educare Defendants' telemarketers apply for new credit
15 cards with teaser rates on behalf of consumers without consumers' knowledge or consent.

16 132. For example, the consumer whose unsuccessful efforts to cancel the CCIRR
17 service are discussed in Paragraph 116 of this Complaint received an email from Experian
18 Credit Reporting stating that two credit card applications were submitted using his personal
19 information. Soon thereafter, the consumer received a telephone call from a representative
20 of Chase Bank seeking to verify his application for a credit card, which the consumer had no
21 prior knowledge of and did not authorize.

22 133. The Educare Defendants' balance transfer tactic does not typically deliver the
23 promised substantial rate reduction. Consumers often cannot qualify for the new credit
24 cards, and in any event, the reduced rates are only temporary and commonly followed by
25 double-digit rates.
26
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1 134. After securing the consumer's payment and failing to provide the promised
2 substantial rate reduction, the Educare Defendants often stop returning the consumer's
3 phone calls and otherwise cease communicating with the consumer.

4 The Educare Defendants Routinely Refuse to Issue Refunds

5 135. In their sales pitches, the Educare Defendants' telemarketers routinely tout a
6 100% money-back guarantee if the Educare Defendants fail to deliver the promised
7 substantially lower credit card interest rate, or if the consumer is otherwise dissatisfied with
8 the CCIRR service.
9

10 136. In numerous instances, the Educare Defendants do not honor the refund
11 promises. Instead, the Educare Defendants routinely make it extremely difficult, if not
12 impossible, for consumers to reach a representative via telephone to process refund requests.
13

14 137. Many consumers have discovered that the contact number the Educare
15 Defendants' telemarketer provided is no longer in service.

16 138. Consumers who have been able to reach a representative of the Educare
17 Defendants by telephone have reported being strung along with no refund or even partial
18 refund issued.

19 139. For example, one consumer made over 20 telephone calls to Educare in an
20 effort to cancel the CCIRR service and get a refund, and spoke with various representatives
21 who were difficult to understand, evasive, condescending, transferred her to a "manager"
22 that never answered the phone, or misrepresented that Educare had delivered the promised
23 interest rate reduction even though it had not done so.
24

25 140. In addition, Educare has routinely failed to respond to consumer complaints
26 and refund requests sent to it by the Better Business Bureau and state attorneys general.
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The Educare Defendants' Abusive Telemarketing Practices

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141. In numerous instances, the Educare Defendants, acting directly or through one or more intermediaries, have initiated telemarketing calls to consumers throughout the United States that delivered a prerecorded message promoting the CCIRR service, without first having obtained the consumer's signed express written agreement to receive such calls by or on behalf of the Educare Defendants.

142. In marketing the CCIRR service, in numerous instances, the Educare Defendants, acting directly or through one or more intermediaries, have called telephone numbers listed in various area codes throughout the United States, including telephone numbers listed on the National Do Not Call Registry maintained by the FTC, without the Educare Defendants' first paying the annual fee for access to the telephone numbers within such area codes.

143. In numerous instances, the Educare Defendants have received fees they caused to be drawn from consumers' bank accounts during or immediately after the telemarketing call offering the CCIRR service, but before the Educare Defendants had undertaken any efforts to reduce the consumers' credit card interest rates. This is illegal under the TSR.

144. In numerous instances, the Educare Defendants, acting directly or through one or more intermediaries, have caused the creation of RCPOs as payment for the CCIRR service offered or sold through telemarketing.

The Globex Defendants Assisted and Facilitated Educare's Telemarketing Scheme

145. The Globex Defendants provided substantial assistance to the Educare Defendants by providing them with the means to call consumers throughout the United States via interconnected VoIP communication services and facilities.

1 146. Since circa January 2016, the Globex Defendants and their owner and *de facto*
2 principal, Souheil, knew or consciously avoided knowing that Educare was violating the TSR
3 in its telemarketing of CCIRR services. Souheil and the Globex Defendants knew or
4 consciously avoiding knowing that, among other things, Educare:

- 5 A. Misrepresented that consumers who purchase the CCIRR service (1)
6 would have their credit card interest rates reduced substantially; or
7 (2) would be entitled to a full refund if the Educare Defendants
8 could not obtain a lower interest rate or if the consumer was not
9 completely satisfied with the CCIRR service;
10
11 B. Created or caused to be created, directly or indirectly, a remotely
12 created payment order as payment for goods or services offered or
13 sold through telemarketing, during the time periods set forth in the
14 FA Complaint;
15
16 C. Charged or received a fee in advance of providing debt relief service;
17
18 D. Initiated outbound telephone calls that delivered unlawful;
19 prerecorded messages; or
20
21 E. Failed to disclose the identity of the seller of the CCIRR service
22 truthfully, promptly, and in a clear and conspicuous manner to the
23 person receiving the call.

24 147. Between January 2016 and November 2018, Educare caused more than \$9.5
25 million in unreimbursed consumer harm to consumers in the United States. The Globex
26 Defendants are jointly and severally liable with the Educare Defendants for that harm, which
27 was caused by their provision of communication services and facilities to the Educare.
28

Ohio's Telephone Solicitor's Registration Requirement

1
2 148. Ohio's Telephone Solicitation Sales Act, O.R.C. 4719.01 *et seq.*, generally
3 requires telephone solicitors that make telephone solicitations to individuals in Ohio to
4 register with and file a copy of a surety bond with the Ohio Attorney General.

5 149. Defendants Educare and ProLink have been solicitors that make telephone
6 solicitations to individuals in Ohio. Nevertheless, they have neither registered as telephone
7 solicitors with, nor provided a copy of a surety bond to, the Ohio Attorney General.
8

9 150. Based on the facts and violations of law alleged in this Complaint, Plaintiffs
10 have reason to believe that the Educare Defendants and the Globex Defendants are violating
11 or are about to violate laws enforced by the Commission and the Ohio Attorney General.

12 **VIOLATIONS OF THE FTC ACT**

13 151. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or deceptive
14 acts or practices in or affecting commerce."
15

16 152. Misrepresentations or deceptive omissions of material fact constitute
17 deceptive acts or practices prohibited by Section 5(a) of the FTC Act. 15 U.S.C. § 45(a).

18 **COUNT ONE (EDUCARE DEFENDANTS)**

19 **False or Unsubstantiated Credit Card Interest Rate Reduction and Refund Claims**

20 21 153. In numerous instances, in connection with the advertising, marketing,
22 promotion, offering for sale, or sale of a debt relief service, the Educare Defendants have
23 represented, directly or indirectly, expressly or by implication, that:

- 24 A. Consumers who purchase the CCIRR service would have their credit
25 card interest rates reduced substantially; and/or
26 B. Consumers who purchase the CCIRR service would be entitled to a
27 full refund if Defendants could not obtain a lower interest rate or if
28 the consumer was not completely satisfied with the CCIRR service.

1 telephones and which involves more than one interstate telephone call. 16 C.F.R. §
2 310.2(gg).

3 159. The Educare Defendants are sellers or telemarketers of “debt relief services”
4 as defined by the TSR, 16 C.F.R. § 310.2(o). Under the TSR, a “debt relief service” is any
5 program or service represented, directly or by implication, to renegotiate, settle, or in any
6 way alter the terms of payment or other terms of the debt between a person and one or
7 more unsecured creditors, including, but not limited to, a reduction in the balance, interest
8 rate, or fees owed by a person to an unsecured creditor or debt collector. 16 C.F.R. §
9 310.2(o).

11 160. The TSR prohibits sellers and telemarketers from misrepresenting, directly or
12 by implication, any material aspect of any debt-relief service, including but not limited to,
13 the amount of money or the percentage of the debt amount that a customer may save by
14 using the service. 16 C.F.R. § 310.3(a)(2)(x).

16 161. The TSR prohibits sellers and telemarketers from requesting or receiving
17 payment of any fee or consideration for any debt relief service until and unless:

- 18 A. The seller or telemarketer has renegotiated, settled, reduced, or otherwise
19 altered the terms of at least one debt pursuant to a settlement agreement,
20 debt management plan, or other such valid contractual agreement
21 executed by the customer;
- 23 B. The customer has made at least one payment pursuant to that settlement
24 agreement, debt management plan, or other valid contractual agreement
25 between the customer and the creditor or debt collector; and
- 26 C. To the extent that debts enrolled in a service are renegotiated, settled,
27 reduced, or otherwise altered individually, the fee or consideration either:
28

- 1 i. Bears the same proportional relationship to the total fee for
2 renegotiating, settling, reducing, or altering the terms of the
3 entire debt balance as the individual debt amount bears to the
4 entire debt amount. The individual debt amount and the entire
5 debt amount are those owed at the time the debt was enrolled in
6 the service; or
- 7
8 ii. Is a percentage of the amount saved as a result of the
9 renegotiation, settlement, reduction, or alteration. The percentage
10 charged cannot change from one individual debt to another. The
11 amount saved is the difference between the amount owed at the
12 time the debt was enrolled in the service and the amount actually
13 paid to satisfy the debt. 16 C.F.R. § 310.4(a)(5)(i).

14
15 162. The TSR prohibits sellers and telemarketers from creating or causing to be
16 created, directly or indirectly, a remotely created payment order as payment for goods or
17 services offered or sold through telemarketing. 16 C.F.R. § 310.4(a)(9). A remotely created
18 payment order includes a remotely created check. 16 C.F.R. § 310.2(cc).

19 163. The 2003 amendments to the TSR established the National Do Not Call
20 Registry, maintained by the FTC, of consumers who do not wish to receive certain types of
21 telemarketing calls. Consumers can register their telephone numbers on the Registry without
22 charge either through a toll-free telephone call or over the Internet at www.donotcall.gov.

23
24 164. The FTC allows sellers, telemarketers, and other permitted organizations to
25 access the Registry over the Internet at www.telemarketing.donotcall.gov, to pay any required
26 fee(s), and to download the numbers not to call.

27 165. The TSR prohibits sellers and telemarketers from calling any telephone
28 number within a given area code unless the seller on whose behalf the call is made has paid

1 the annual fee for access to the telephone numbers within that area code included in the
2 Registry. 16 C.F.R. § 310.8.

3 166. The TSR prohibits sellers and telemarketers from initiating an outbound
4 telephone call to telephone numbers on the Registry. 16 C.F.R. § 310.4(b)(1)(iii)(B).

5 167. The TSR prohibits initiating a telephone call that delivers a prerecorded
6 message to induce the purchase of any good or service unless the seller has obtained from
7 the recipient of the call an express agreement, in writing, that evidences the willingness of
8 the recipient of the call to receive calls that deliver prerecorded messages by or on behalf of
9 a specific seller. 16 C.F.R. § 310.4(b)(1)(v)(A).

11 168. The TSR requires telemarketers in an outbound telephone call or internal or
12 external upsell to induce the purchase of goods or services to disclose the identity of the
13 seller truthfully, promptly, and in a clear and conspicuous manner to the person receiving the
14 call. 16 C.F.R. § 310.4(d)(1).

15 169. It is a deceptive telemarketing act or practice and a violation of this Rule for
16 a person to provide substantial assistance or support to any seller or telemarketer when that
17 person knows or consciously avoids knowing that the seller or telemarketer is engaged in any
18 act or practice that violates Sections 310.3(a), (c) or (d) or Section 310.4 of this Rule. 16
19 C.F.R. § 310.3(b).

21 170. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and
22 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an
23 unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of
24 the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

(By the FTC and the State of Ohio)

COUNT TWO (EDUCARE DEFENDANTS)

Misrepresentations of Material Aspects of a Debt Relief Service

171. In numerous instances since February 2016, in connection with the telemarketing of a debt relief service, the Educare Defendants have misrepresented, directly or by implication, material aspects of the service, including, but not limited to, that:

- A. Consumers who purchase the CCIRR service would have their credit card interest rates reduced substantially; and/or
- B. Consumers who purchase the CCIRR service would be entitled to a full refund if the Educare Defendants could not obtain a lower interest rate or if the consumer was not completely satisfied with the CCIRR service.

172. The Educare Defendants' acts and practices, as set forth in Paragraph 171 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(x).

COUNT THREE (EDUCARE DEFENDANTS)

Charging or Receiving a Fee in Advance of Providing

Debt Relief Service

173. In numerous instances since February 2016 in connection with the telemarketing of a debt relief service, the Educare Defendants have requested or received payment of a fee or consideration for a debt relief service before: (a) they have renegotiated, settled, reduced, or otherwise altered the terms of at least one debt pursuant to a settlement agreement, debt management plan, or other such valid contractual agreement.

1 executed by the consumer; and (b) the consumer has made at least one payment pursuant to
2 that agreement.

3 174. The Educare Defendants' acts or practices, as set forth in Paragraph 173
4 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. §
5 310.4(a)(5)(i).

6 **COUNT FOUR (EDUCARE DEFENDANTS)**

7 **Use of Remotely Created Payment Orders**

8 **in Connection with Telemarketing**

9
10 175. In numerous instances since June 13, 2016, the Educare Defendants have
11 created or caused to be created, directly or indirectly, a remotely created payment order as
12 payment for goods or services offered or sold through telemarketing.

13 176. The Educare Defendants acts or practices, as set forth in Paragraph 175
14 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. §
15 310.4(a)(9).

16 **COUNT FIVE (EDUCARE DEFENDANTS)**

17 **Initiating Unlawful Prerecorded Messages**

18
19 177. In numerous instances since February 2016, in connection with
20 telemarketing, the Educare Defendants have engaged in, or caused a telemarketer to engage
21 in, initiating outbound telephone calls that deliver prerecorded messages in violation of the
22 TSR, 16 C.F.R. § 310.4(b)(1)(v)(A).

23 **COUNT SIX (EDUCARE DEFENDANTS)**

24 **Failing to Pay National Registry Fees**

25
26 178. In numerous instances since February 2016, in connection with
27 telemarketing, the Educare Defendants have initiated, or caused others to initiate, an
28 outbound telephone call to a telephone number within a given area code when the Educare

1 Defendants had not, either directly or through another person, paid the required annual fee
2 for access to the telephone numbers within that area code that are included in the National
3 Do Not Call Registry, in violation of the TSR, 16 C.F.R. § 310.8.

4 **COUNT SEVEN (EDUCARE DEFENDANTS)**

5 **Failure to Make Oral Disclosures Required by the TSR**

6 179. In numerous instances since February 2016, in connection with
7 telemarketing, the Educare Defendants have initiated, or caused others to initiate, an
8 outbound telephone call to induce the purchase of a CCIRR service that failed to disclose
9 the identity of the seller of the CCIRR service truthfully, promptly, and in a clear and
10 conspicuous manner to the person receiving the call, in violation of the TSR, 16 C.F.R.
11 § 310.4(d)(1).
12

13 **COUNT EIGHT (GLOBEX DEFENDANTS)**

14 **Assisting and Facilitating**

15 180. As described in paragraphs 16-17, 42, 67, 82-83, 145-47, above, the Globex
16 Defendants have, in numerous instances, provided substantial assistance and support,
17 though the provision of communication services and facilities, to one or more sellers or
18 telemarketers, whom the Globex Defendants knew, or consciously avoided knowing, were
19 violating §§ 310.3(a)(2)(x), 310.4(a)(5)(i), 310.4(a)(9), 310.4(b)(1)(v)(A), and 310.4(d)(1) of the
20 TSR by:
21

- 22
- 23 A. Misrepresented that consumers who purchase the CCIRR service
24 (1) would have their credit card interest rates reduced substantially; or
25 (2) would be entitled to a full refund if the Educare Defendants could
26 not obtain a lower interest rate or if the consumer was not completely
27 satisfied with the CCIRR service;
 - 28 B. Charging or receiving a fee in advance of providing debt relief service;
 - C. Using RCPOs as payment for goods or services offered or sold through
telemarketing;

- 1 D. Initiating outbound telephone calls that deliver unlawful prerecorded
- 2 messages; or
- 3 E. Failing to disclose the identity of the seller of the CCIRR service
- 4 truthfully, promptly, and in a clear and conspicuous manner to the person
- 5 receiving the call.

6 181. The Globex Defendants' acts or practices, as described in Paragraph 181
7 above, violate the TSR, 16 C.F.R.; § 310.3(b).

8 **VIOLATIONS OF THE OHIO CONSUMER SALES PRACTICES ACT**

9 **(By the State of Ohio)**

10 182. Ohio's CSPA, O.R.C. 1345.01 *et seq.*, generally prohibits "suppliers" from
11 engaging in unfair or deceptive acts or practices in connection with "consumer transactions."

12 183. Defendants are "suppliers" as defined in O.R.C. 1345.01(C) because they, at
13 all times relevant hereto, were engaged in the business of effecting or soliciting consumer
14 transactions, whether or not they dealt directly with consumers.

15 **COUNT NINE (EDUCARE DEFENDANTS)**

16 **Failing to Deliver Services or Provide Refunds**

17 184. As described in paragraphs 16-149 above, the Educare Defendants
18 committed unfair or deceptive acts or practices in violation of the Failure to Deliver Rule,
19 O.A.C. 109:4-3-09(A) and the CSPA, O.R.C. 1345.02(A), by accepting money from
20 consumers for goods or services, and specifically offering services to reduce the consumers'
21 credit card rates, and then permitting eight weeks to elapse without making shipment or
22 delivery of the goods or services ordered, making a full refund, advising the consumer of the
23 duration of an extended delay and offering to send a refund within two weeks if so
24 requested, or furnishing similar goods or services of equal or greater value as a good faith
25 substitute.
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27
28

COUNT TEN (EDUCARE DEFENDANTS)

Misrepresenting Characteristics of the Transaction

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3 185. As described in paragraphs 16-149 above, the Educare Defendants
4 committed unfair or deceptive acts or practices in violation of the CSPA, O.R.C. 1345.02(A),
5 by misrepresenting that the subject of a consumer transaction has sponsorship, approval,
6 performance characteristics, uses, or benefits that it did not have, and specifically by (1)
7 misrepresenting that their services will substantially reduce consumers credit card interest
8 rates, (2) misrepresenting that their services have a 100% money-back guarantee, and (3)
9 misrepresenting that they will send consumers a written agreement packet in the mail after
10 consumers agree to the service over the telephone.
11

COUNT ELEVEN (EDUCARE DEFENDANTS)

Using Remotely Created Payment Orders in Connection with Telemarketing

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13
14
15 186. As described in paragraphs 16-149 above, the Educare Defendants
16 committed unfair or deceptive acts or practices in violation of the CSPA, O.R.C. 1345.02(A),
17 by creating or causing to be created, directly or indirectly, a remotely created payment order
18 as payment for goods or services offered or sold through telemarketing.

VIOLATIONS OF THE OHIO TELEPHONE SOLICITATION SALES ACT

(by the State of Ohio)

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20
21
22 187. Defendants initiated “telephone solicitations” to “purchasers,” as they were
23 at all times relevant herein, engaged in initiating “communications” on behalf of “telephone
24 solicitors” or “salespersons” to induce persons to purchases “goods or services,” as those
25 terms are defined in the TSSA, O.R.C. 4719.01(A).

26 188. Defendants are “telephone solicitors” as that term is defined in the TSSA,
27 O.R.C. 4719.01(A)(8), as they were at all times relevant herein, engaged in initiating
28

1 telephone solicitations directly or through one or more salespersons from a location in Ohio
2 or from a location outside of Ohio to persons in Ohio.

3 **COUNT TWELVE (EDUCARE DEFENDANTS)**

4 **Failure to Comply with Registration and Surety Bond Requirements**

5 189. As described in paragraphs 16-149 above, the Educare Defendants
6 committed unfair or deceptive acts and practices in violation of the TSSA, O.R.C.
7 4719.02(A) and 4719.04(A), and the CSPA, O.R.C. 1345.02(A), by acting as a telephone
8 solicitor without first having obtained a certificate of registration from the Ohio Attorney
9 General, and filing a copy of a surety bond in the amount of at least fifty thousand dollars
10 with the Ohio Attorney General.

11 **COUNT THIRTEEN (EDUCARE DEFENDANTS)**

12 **Failure to Disclose the True Name of the Solicitor and Business**

13 190. As described in paragraphs 16-149 above, the Educare Defendants
14 committed unfair or deceptive acts and practices in violation of the TSSA, O.R.C.
15 4719.06(A) and the CSPA, O.R.C. 1345.02(A), by failing to disclose the solicitor's true name
16 and the name of the company on whose behalf solicitations were made, within the first sixty
17 seconds of the telephone call.
18

19 **COUNT FOURTEEN (EDUCARE DEFENDANTS)**

20 **Failure to Obtain Signed Written Confirmation of Sales**

21 191. As described in paragraphs 16-149 above, the Educare Defendants
22 committed unfair or deceptive acts and practices in violation of the TSSA, O.R.C. 4719.07
23 and the CSPA, O.R.C. 1345.02(A), by taking payment from a consumer as the result of a
24 telephone solicitation and not providing to, and receiving back from the consumer, a written
25 confirmation that meets the requirements of O.R.C. 4719.07.
26
27
28

CONSUMER INJURY

1
2 192. Consumers are suffering, have suffered, and will continue to suffer
3 substantial injury as a result of Defendants' violations of the FTC Act, the TSR, the CSPA,
4 and the TSSA.

5 193. The Educare Defendants' fraudulent telemarketing scheme has caused more
6 than \$11.5 million to be withdrawn from consumers' checking accounts. In addition,
7 Defendants have been unjustly enriched as a result of their unlawful acts or practices.
8 Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers,
9 reap unjust enrichment, and harm the public interest.

10
11 **THIS COURT'S POWER TO GRANT RELIEF**

12 194. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to
13 grant injunctive and such other relief as the Court may deem appropriate to halt and redress
14 violations of any provision of law enforced by the FTC.

15
16 195. The Court, in the exercise of its equitable jurisdiction, may award ancillary
17 relief, including rescission or reformation of contracts, restitution, the refund of monies
18 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any
19 provision of law enforced by the FTC.

20
21 196. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to
22 allow Plaintiff State of Ohio, Office of Attorney General, to enforce its state law claims
23 against Defendants in this Court for violations of the CSPA and the TSSA, including
24 injunctive relief, rescission or reformation of contracts, the refund of monies paid, and the
25 disgorgement of ill-gotten monies.

26
27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiffs FTC and the State of Ohio, pursuant to Sections 13(b)
and 19 of the FTC Act, 15 U.S.C. §§ 53(b), 57b; the TSR; Section 1345.07 of the Ohio

1 CSPA; Section 4719.22 of the Ohio TSSA; and the Court's own equitable powers, request
2 that the Court:

3 A. Award Plaintiffs such preliminary injunctive and ancillary relief as may be
4 necessary to avert the likelihood of consumer injury during the pendency of this action and
5 to preserve the possibility of effective final relief, including temporary and preliminary
6 injunctions, and an order providing for the turnover of business records, an asset freeze,
7 immediate access, the appointment of a receiver, and disruption of telephone service;

8 B. Enter a permanent injunction to prevent future violations of the FTC Act,
9 the TSR, the Ohio CSPA, and the Ohio TSSA by Defendants;


10 C. Award Plaintiffs such relief as the Court finds necessary to redress injury to
11 consumers resulting from Defendants' violations of the FTC Act, the TSR, the Ohio CSPA,
12 and the Ohio TSSA, including rescission or reformation of contracts, restitution, the refund
13 of monies paid, and the disgorgement of ill-gotten monies; and

14 D. Award Plaintiffs the costs of bringing this action, as well as such other and
15 additional relief as the Court may determine to be just and proper.

16 Respectfully submitted,

17 ALDEN F. ABBOTT
18 General Counsel

19 Dated:

20 /s/ 
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22 J. Ronald Brooke, Jr.
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