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FILED

NOV 5 1996

AT 8:30 P.M.
WILLIAM WALSH
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,	:	Hon. Alfred M. Wolin
et al.,	:	
	:	Civil Action No. 96-3228 (AMW)
Plaintiffs,	:	
	:	
-against-	:	STIPULATED FINAL JUDGMENT
	:	FOR PERMANENT INJUNCTION
SPARTA CHEM, INC., et al.,	:	
	:	
Defendants.	:	

Plaintiffs, the Federal Trade Commission ("FTC") and the States of New Jersey and Michigan, filed their complaint pursuant to Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, the Telemarketing and Consumer Fraud Abuse and Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101, et seq., and the New Jersey Consumer Fraud Act (the "CFA"), N.J.S.A. 56:8-1 et seq., charging Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, and Dennis J. Saccurato, with violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, and N.J.S.A. 56:8-2 of the CFA. On July 1, 1996, the Court granted the Plaintiffs' *ex parte* Motion for a Temporary Restraining Order with Asset Freeze, Appointment of a Temporary Receiver, and Other Equitable Relief, and ordered Defendants to Show Cause why a preliminary injunction should not issue against them. The parties subsequently agreed to a Stipulated 60-Day Continuance of the Temporary Restraining Order,

ENTERED
 on THE DOCKET
 11-8-96
 WILLIAM T. WALSH, CLERK
 By [Signature]
 (Deputy Clerk)

Receivership with Asset Freeze, and Other Relief, which was approved by this Court July 16, 1996.

NOW, Plaintiffs FTC and the States of New Jersey and Michigan, and Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, and Dennis J. Saccurato, by and through their counsel, having agreed to entry of this Stipulated Final Judgment ("Judgment") to resolve all matters of dispute between them in this action, without trial or adjudication of any issue of law or fact, Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, and Dennis J. Saccurato having consented to the entry of this Judgment for settlement purposes only and without admitting any violation of law as alleged in the Complaint, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED AS FOLLOWS:**

DEFINITIONS

1. "Defendants" means Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, and their officers, directors, agents, servants, employees, attorneys, subsidiaries, affiliates, successors or assigns, and Dennis J. Saccurato, individually and in his representative capacities, jointly and severally, and all other persons or entities in active concert or participation with them who receive actual notice of this Judgment by personal service or otherwise.

2. "Unordered merchandise" includes goods that are shipped or billed to a consumer:

(a) without a prior sales agreement entered into by the consumer or by an agent of the consumer having actual authority to enter into the sales agreement on behalf

of the consumer; or,

(b) without a prior sales agreement for the type, quantity, size, brand name, or total price (including shipping, handling, insurance or any other costs) of goods shipped; or

(c) with a sales agreement entered into after Defendants have made any misrepresentation prohibited by Paragraph I of this Judgment, or entered into after Defendants have offered any agent of the consumer any gift of goods having a retail value of \$25 or more, or any gift of money or thing exchangeable for goods (such as a gift certificate) with a retail or face value of \$10 or more, without disclosing that fact in all billings to the consumer.

3. "Consumer" means any person, group, unincorporated association, limited or general partnership, corporation, or other business entity.

FINDINGS

1. This Court has jurisdiction of the subject matter of this case and of the parties.

2. The Complaint states a claim upon which relief may be granted against Defendants under Sections 5(a), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b) and 57b; the Telemarketing Act, 15 U.S.C. § 6101, et seq.; the Commission's TSR, 16 C.F.R. Part 310; and the New Jersey CFA, N.J.S.A. 56:8-1 et seq.

3. The acts and practices of the Defendants as alleged in the Complaint are in or affecting commerce, as "commerce" is

defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

4. Entry of this Judgment is in the public interest.

5. Venue in the United States District Court for the District of New Jersey is proper.

ORDER

I. PROHIBITED BUSINESS ACTIVITIES

IT IS THEREFORE ORDERED that, in connection with the advertising, offering for sale, sale, or distribution of any goods, Defendants are hereby permanently restrained and enjoined from:

A. Misrepresenting, in any manner, expressly or by implication:

1. That the Defendants have previously done business with the consumer or are the consumer's regular or approved supplier;
2. The purpose of any telephone call to, or other communication with, any consumer, including, but not limited to misrepresenting that the purpose of the communication is
 - a. to obtain the consumer's agreement to examine Defendants' promotional materials; or,
 - b. to provide the consumer a gift, souvenir, or free promotional item;
3. The existence or validity of a sales agreement, including, but not limited to, misrepresenting to any agent of the consumer that another agent of the consumer has

- a. authorized the sale; or,
 - b. directed the Defendants' salesperson to call for a purchase order number or other evidence that a sale is authorized;
4. The terms of any sales agreement, including, but not limited to
 - a. the total costs to purchase, receive or use the offered goods (including, but not limited to, the amount of any handling, shipping, insurance, or other costs);
 - b. the quantity of the offered goods; or,
 - c. material aspects of the performance, efficacy, nature or central characteristics of the goods;
 5. The purpose of any shipment, including, but not limited to, misrepresenting that a shipment comprises a free or inexpensive sample of goods to try out;
 6. That the Defendants have verified any order for goods;
 7. That the consumer has any obligation to pay for, return, insure, pay shipment costs or pay a restocking fee to return unordered merchandise; or
 8. Any other material fact to a consumer;

B. Violating any provision of the TSR, 16 C.F.R. Part 310, a copy of which is attached hereto as Attachment A and incorporated herein as if fully set forth verbatim, or the TSR as

it may hereafter amended, including but not limited to:

1. Failing to disclose promptly and in a clear and conspicuous manner to the person receiving the call that the purpose of the call is to sell goods, thereby violating 16 C.F.R. § 310.4(d)(2);

2. Misrepresenting, directly or by implication, (a) the total costs to purchase, receive or use the offered goods (including, but not limited to, the amount of any handling, shipping, insurance, or other costs), (b) the quantity of the offered goods, or (c) material aspects of the performance, efficacy, nature or central characteristics of the offered goods, thereby violating 16 C.F.R. § 310.3(a)(2);

3. Making false or misleading statements to induce the consumer to pay for goods, thereby violating 16 C.F.R. § 310.3(a)(4); or

4. Using threats, intimidation, or profane or obscene language, including, but not limited to, harassing telephone calls and unfounded threats to refer the matter to a collection agency, to ruin the consumer's credit, or to take legal action, thereby violating 16 C.F.R. § 310.4(a)(1);

C. Shipping any unordered merchandise unless a clear and conspicuous statement is attached to the merchandise that it may be treated by the consumer as a gift that may be retained, used, discarded, or disposed of in any manner by the consumer without any obligation;

D. Seeking or accepting payment for any unordered merchandise;

E. Seeking the return of any unordered merchandise;

F. Failing to disclose promptly and clearly that a purpose of the call is to sell goods;

G. Failing, before the completion of any sales call, or any call verifying an order, to state, clearly and conspicuously, the total cost of the order, the number, quantity and identity of all items included in the order, and all charges that will be added to the consumer's invoice, including, without limitation, shipping, insurance, handling, and any other charges;

H. Failing, before any order is fulfilled, to obtain from the consumer the consumer's written or tape-recorded confirmation of the order;

I. Failing to disclose in all billings any gift of goods having a retail value of \$25 or more, or any money or thing exchangeable for goods (such as a gift certificate) with a retail or face value of \$10 or more, provided to any agent of the consumer;

J. Failing to make promptly and fully any refund requested by any consumer who pays for unordered merchandise; **provided,** however, this refund requirement shall not apply to any transaction for which the consumer has received redress under the terms of Paragraphs III and IV of this Judgment;

K. Unless Defendants have the consumer's written or tape-recorded confirmation of any order, failing, immediately and without prior demand, to cease any and all collections activity and rescind the sale upon being notified by the consumer that the goods were not ordered;

L. Making unfounded threats to refer the matter to a collection agency, to ruin the consumer's credit, or to take legal action.

M. Offering for sale, selling, or distributing to any person (other than to a federal, state or local law enforcement agency) any consumer's name, address, telephone number, bank account number or credit card number or other identifying information, or names of a consumer's employees.

N. Violating the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-2 by:

1. eliciting and verifying information for purposes of completing false invoices;
2. misleading consumers with respect to goods or quantities or prices of goods being offered;
3. shipping unordered merchandise or of more or different goods than were ordered;
4. shipping goods under pretense that they are a "reorder" of a fictional previous order;
5. billing for unordered merchandise or for more merchandise than was ordered or for merchandise at greater cost than was represented;
6. attempting to impose restocking or shipping costs on consumers wishing to return unordered merchandise;
7. failing to identify unordered merchandise as a gift, free sample, or the like that the consumer might use or dispose of without obligation to

Defendants of any kind;

8. attempting to collect, intimidate or bully customers to pay for unordered merchandise; or
9. making deceptive, misleading or confusing use of aliases.

II. BOND REQUIREMENT

IT IS FURTHER ORDERED that Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, their successors and assigns, and Dennis J. Saccurato, and each of them, are permanently restrained from engaging or participating, whether directly, in concert with others, or through any business entity, investment or other device, in the advertising, offering for sale, sale, or distribution of any goods, unless and until Defendants first obtain a performance bond in the principal sum of one hundred thousand dollars (\$100,000). The FTC, the States of New Jersey or Michigan, or the County of Bergen, may apply to the Court for additional bonding and, upon demonstrating to this Court by a preponderance of the evidence that any of the Defendants has, after the effective date of this Judgment, violated the laws, the TSR, or this Judgment, the Defendants hereby waive any right to contest the Court's increasing the required performance bond to a principal sum of two hundred thousand dollars (\$200,000), or to a sum sufficient to protect consumers, whichever is greater, and its increasing the period the performance bond must be maintained for as many additional years as the Court deems necessary to protect consumers.

- A. The performance bond shall be an insurance agreement

local law;

D. Within five days of obtaining the bond required by this Paragraph Defendants shall provide a copy to the FTC's Associate Director for Enforcement and the Director of the Bergen County Office of Consumer Protection, at the addresses specified in Paragraph VIII;

E. The FTC, the States of New Jersey or Michigan, or the County of Bergen, may execute against the performance bond if any of them demonstrate to this Court by a preponderance of the evidence that, after the effective date of this Judgment; any of the Defendants or any business in which they engage or participate has violated the laws, the TSR, or this Judgment; and

F. Proceedings instituted under this Paragraph are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any other proceedings the Commission or the States of New Jersey or Michigan, or the County of Bergen, may initiate to enforce this Judgment.

III. MONETARY JUDGMENT

IT IS FURTHER ORDERED that a judgment in the amount of three hundred five thousand dollars (\$305,000.00) is hereby entered against Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, their successors and assigns, and Dennis J. Saccurato, jointly and severally, in favor of the FTC. Defendants shall pay this judgment, within thirty days after entry of this Judgment, by delivering to the FTC or its designated agent a certified check in the entire amount made payable to the "Federal Trade

Commission." In the event of any default in payment, interest as computed under 28 U.S.C. § 1961 shall accrue on the unpaid balance from the date of default until the balance is fully paid. Except as provided in Paragraph VII of this Judgment, payment by the Defendants of \$305,000.00 and any interest on this amount under the terms of this Paragraph shall satisfy all claims for monetary relief against them individually in this action by the FTC.

IV. CLAIMS PROCEDURE

IT IS FURTHER ORDERED that after payment of the monetary judgment by Defendants, the FTC shall, if practical, develop a claims procedure that will (1) enable consumers who purchased goods from or sent money to the Defendants between July 1, 1995 and June 30, 1996, to make claims against those funds, and (2) provide for a means of distributing the funds recovered to the consumers who have approved claims. The Defendants forever disclaim all right, title, and interest in all sums paid to the FTC. None of these funds shall be returned to any of the Defendants, their successors, heirs, or assigns. If the FTC determines, in its sole discretion, that redress in any form is practical, it shall so advise consumers using a notice and claim form substantially similar to Attachment B. If the FTC determines, in its sole discretion, that redress to consumers is wholly or partially impractical, or if any portion of the funds used for redress remains unclaimed by consumers after a period for making claims ends, 10% of any funds not so used shall be paid to the State of New Jersey, and 10% shall be paid to the

State of Michigan in settlement of claims by them on behalf of their residents, and the remainder deposited in the United States Treasury. No portion of any payments under this judgment shall be deemed a payment of any fine, penalty, or punitive assessment.

V. RIGHT TO REOPEN

IT IS FURTHER ORDERED that the FTC's agreement to this Judgment is expressly premised upon the truthfulness, accuracy, and completeness of the Financial Statement of Defendant Dennis J. Saccurato executed on July 10, 1996, the Financial Statement of Defendant Compu-Kleen Inc. of Elmwood Park executed on July 10, 1996, and the Financial Statement of Defendant Sparta Chem, Inc. executed on July 10, 1996. The financial statements contain material information upon which the FTC has relied in negotiating and agreeing to the terms of this Judgment. If, upon motion by the FTC, this Court finds that any of Defendants' financial statements was untruthful, inaccurate or incomplete, or materially misrepresented Defendants' financial condition, income, or the value of any asset, or made any other material misrepresentations or omissions of assets, the FTC may request that the Judgment be reopened for the purpose of modifying the terms of the Judgment to provide a larger payment by Defendants in redress to consumers or disgorgement to the United States Treasury; provided, however, that in all other respects this Judgment shall remain in full force and effect unless otherwise ordered by this Court; and, provided further, that proceedings instituted under this paragraph are in addition to, and not in lieu of, any other civil or criminal remedies that may be

provided by law, including any other proceedings that the FTC may initiate to enforce this Judgment. Solely for the purposes of this Paragraph, Defendants waive any right to contest any of the allegations in the Plaintiffs' complaint.

VI. PAYMENT TO STATE OF NEW JERSEY AND COUNTY OF BERGEN

IT IS FURTHER ORDERED that Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, their successors and assigns, and Dennis J. Saccurato, shall pay Plaintiff State of New Jersey the amount of forty-five thousand dollars (\$45,000) on account of its investigative and legal costs in this matter; and pay the County of Bergen five thousand dollars (\$5,000) on account of its investigative and legal costs. These costs are awarded pursuant to Rule 46 of the General Rules of the U.S. District Court for the District of New Jersey. Defendants hereby waive any requirements that the State of New Jersey or the County of Bergen file any proofs of costs and fees; and hereby stipulate that the above-stated costs and fees are reasonable. Defendants are jointly and severally liable for these payments. Defendants shall make the payment to the State of New Jersey within thirty days after entry of this Judgment, by delivering to the Attorney General State of New Jersey a certified check, or a check drawn by counsel for defendants on his attorney trust account, in the entire amount made payable to the "New Jersey Division of Consumer Affairs"; and they shall make the payment to the County of Bergen within five days after entry of this Judgment, by delivering to it a certified check, or a check drawn by counsel for defendants on his attorney trust account, in the entire

amount made payable to "County of Bergen," for appropriate disposition. In the event of default in either payment, interest as computed under Rule 4:42-11(a) of New Jersey Court Rules Governing Civil Practice shall accrue on the unpaid balance from the date of default until the balance is fully paid.

VII. COSTS AND ATTORNEY FEES

IT IS FURTHER ORDERED as follows:

A. Except as set forth in Paragraph VI and this Paragraph, each party to this Judgment shall bear its own costs and attorney fees incurred in connection with this action; **provided, however,** in the event any Plaintiff initiates proceedings to enforce the provisions of this Judgment, and, **provided further,** the Court determines that the Defendants have violated any term or provision of this Judgment, Defendants shall pay the costs and attorney fees incurred by the Plaintiff in connection with proceedings to enforce this Judgment; and

B. Notwithstanding any other provision of this Judgment, Defendants agree that, if Defendants fail to meet the payment obligations set forth in Paragraphs III and VI, Defendants shall pay the costs and attorneys fees incurred by the Federal Trade Commission and its agents, or the State of New Jersey and its agents, or the County of Bergen and its agents, in any attempts to collect amounts due any of them pursuant to this Judgment. Defendants further agree that the facts as alleged in the Complaint shall be taken as true in any subsequent litigation filed by the FTC to enforce its rights under Paragraph III, or the State of New Jersey or County of Bergen to enforce their

rights under Paragraph VI, including but not limited to a nondischargeability complaint in any subsequent bankruptcy proceeding.

VIII. NOTICE OF AFFILIATION OR CHANGE IN STATUS

IT IS FURTHER ORDERED that, for a period of three years from the entry of this Judgment, Defendant Dennis J. Saccurato shall promptly give written notice to the Associate Director for Enforcement, Federal Trade Commission, Washington, D.C. 20580, and to the Director of the Bergen County Office of Consumer Protection, 21 Main Street, Hackensack, New Jersey 07601, of:

A. Any change in his employment status (including self-employment) within ten days of such change. Such notice shall include the name and address of each business that he is affiliated with or employed by, a statement of the nature of the business, and a statement of his duties and responsibilities in connection with the business or employment; and

B. Any proposed change in the structure of the corporate Defendants, or any business entity owned or controlled by Dennis J. Saccurato, such as creation, incorporation, dissolution, assignment, sale, creation or dissolution of subsidiaries, or any other change that may affect compliance obligations arising out of this Judgment, thirty days prior to the effective date of any proposed change.

IX. MAINTENANCE OF BUSINESS RECORDS

IT IS FURTHER ORDERED that, for a period of three years from the entry of this Judgment, in connection with the advertising, promoting, offering for sale, sale, or distribution of any goods,

Defendants shall each create and maintain:

A. Records containing the name, address, telephone number, and Social Security number of each person employed by each Defendant in any capacity, that person's job title or position, the date upon which the employee commenced work, and the date and reason for the employee's termination, if applicable;

B. Records containing the names, addresses, and telephone numbers, and all written or tape-recorded communications with consumers to whom each Defendant, whether directly or indirectly, or through any business entity, sells, invoices, or ships goods;

C. Records and accounts that, in reasonable detail, accurately and fairly reflect the income, disbursements, transactions, and use of monies by each Defendant;

D. Records of every written or oral consumer complaint or refund request received by each Defendant, including the following:

1. The consumer's name, name of business, address, telephone number, any invoices sent to the consumer, and the amounts paid by the consumer;
2. The written complaint or any written or recorded record of the oral complaint, and the date of the complaint or refund request;
3. The basis of the complaint or refund request and the nature and result of any investigation conducted as to the validity of the complaint;
4. Each response to the complaint or refund request and the date of the response;

5. An final resolution and the date of the resolution; and
6. In the event of a denial of a refund request, the reason for the denial or, if resolved, the basis for determining that a complaint has been resolved.

X. MONITORING OF BUSINESS PRACTICES

IT IS FURTHER ORDERED that, for purposes of securing compliance with this Judgment, for a period of three years from the entry of this Judgment, in connection with the corporate Defendants or any business owned or controlled in whole or in part by Defendant Dennis J. Saccurato, Defendants shall each:

A. Within five days after receipt of a written request, permit representatives of any Plaintiff access during normal business hours to any office or facility in which Defendants store or hold documents and records, to inspect and copy any such documents and records in Defendants' possession or control, including all documents and records Defendants are required by Paragraph IX to maintain;

B. Permit representatives of any Plaintiff, within five business days after receipt of a written request, to interview the officers, directors, or employees of any such business, subject to the reasonable convenience of the Defendants and the person to be interviewed, and without restraint or interference from the Defendants, at a location reasonably convenient to the person to be interviewed, the Defendants, and the Plaintiff; provided, however, that such officers, directors or employees may

have counsel present;

C. Produce documents or tapes requested by any Plaintiff within five business days of receipt of such request;

D. Permit representatives of any Plaintiff to depose any officers, directors, or employees of any such business within ten business days of receipt of such request; and

E. Permit representatives of the Bergen County, New Jersey, Office of Consumer Protection, immediate access upon demand to any premises or facilities owned, occupied, or controlled by Defendants to determine compliance with the above Judgment.

XI. DISTRIBUTION TO DESIGNATED INDIVIDUALS

IT IS FURTHER ORDERED that, for a period of three years from the date of entry of this Judgment, Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, their successors and assigns, and Dennis J. Saccurato, shall each:

A. Immediately provide a copy of this Judgment to, and obtain a signed and dated acknowledgment of receipt of the same from, each officer, director, managing agent, supervisory employee, or independent contractor, and immediately provide each non-supervisory employee the Summary of Prohibited Sales Practices set forth in Attachment C and obtain a signed and dated acknowledgement of receipt of the same from such non-supervisory employee, in any company or other business entity directly or indirectly owned, operated, or controlled by that Defendant that engages in the advertising, offering for sale, sale, or distribution of goods, and to each officer, director, and

managing agent of any company or other business entity that engages in the advertising, offering for sale, sale, or distribution of goods at which the individual Defendant is employed; and

B. Maintain, and upon reasonable notice make available to any Plaintiff's representatives, the original and dated acknowledgments of the receipts required by this Paragraph.

XII. LIFTING ASSET FREEZE AND RECEIVERSHIP

IT IS FURTHER ORDERED that, upon payment by Defendants Sparta Chem, Inc., Compu-Kleen Inc. of Elmwood Park, and Dennis J. Saccurato, of all fees and expenses of the Receiver and his professional agents and employees, receipt of which the Receiver hereby acknowledges, the asset freeze and receivership ordered by the Court on July 1, 1996, and continued by stipulation of the parties, shall be lifted on the date of entry of this Judgment. The Defendants shall indemnify and hold harmless the Receiver from all claims for acts or omissions occurring during the receivership, except for those acts or omissions resulting from wilful misconduct.

XIII. RETENTION OF JURISDICTION

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for the purpose of enabling the Plaintiffs and Defendants to apply to the Court at any time for such further orders or directives as may be necessary or appropriate for the interpretation or modification of this Judgment, for the enforcement of compliance therewith, or the punishment of violations thereof.

XIV. WAIVER OF CLAIMS

Defendants waive all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by Pub. L. No. 104-121, 110 Stat. 847, 863-64 (1996), and all rights to seek judicial review or otherwise to challenge or contest the validity of this Judgment, or the temporary orders entered in this proceeding, and further waive and release any claim they may have against the FTC, the States of New Jersey or Michigan, the County of Bergen, the receiver, or their employees, agents or representatives.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Judgment.

SO ORDERED, this 5th day of NOVEMBER, 1996, at NEWARK.




ALFRED M. WOLIN
United States District Judge
District of New Jersey


The parties listed below hereby stipulate and agree to entry of the foregoing Judgment, which shall constitute the final judgment in this action as to the undersigned.

SIGNED AND STIPULATED BY: FEDERAL TRADE COMMISSION

Dated: 11/4, 1996


ELAINE D. KOLISH
Associate Director for Enforcement


JOEL N. BREWER


ELENA I. PAOLI
Attorneys for Plaintiff
Federal Trade Commission

FAITH S. HOCHBERG
United States Attorney

by: Susan C. Caspell
SUSAN C. CASSELL
Assistant U.S. Attorney

STATE OF NEW JERSEY
PETER VERNIERO
Attorney General of New Jersey

by: Cindy K. Miller
CINDY K. MILLER
Senior Deputy Attorney General
for the State of New Jersey

MURSHELL J. BLAND
Bergen County Counsel

by: Barbara H. Parker
BARBARA H. PARKER
Assistant County Counsel
Attorney Designee for Plaintiff
State of New Jersey through its
authorized agent JOHN E. WASSBERG
Director, Bergen County Office
of Consumer Protection

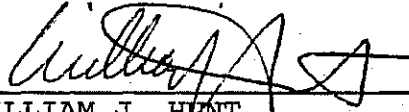
John E. Wassberg
JOHN E. WASSBERG
Director, Bergen County
Office of Consumer Protection

STATE OF MICHIGAN

FRANK J. KELLY
Attorney General
for the State of Michigan

David W. Silver for
FRED H. HOFFECKER
Assistant Attorney General
for the State of Michigan

RECEIVER

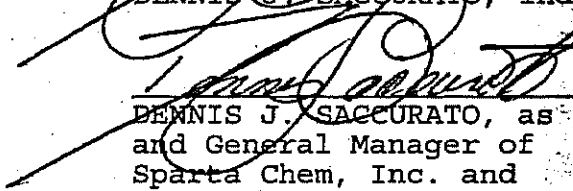


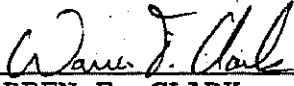
WILLIAM J. HUNT
William J. Hunt & Associates

DEFENDANTS

Dated: October 16, 1996


DENNIS J. SACCURATO, individually


DENNIS J. SACCURATO, as President
and General Manager of
Sparta Chem, Inc. and
Compu-Kleen Inc. of Elmwood Park


WARREN F. CLARK
Attorney for Defendants

Attachment A

Additional Information**DEPARTMENT OF ENERGY (DOE)**

For more information about AFVs, contact DOE's National Alternative Fuels Hotline, 1-800-423-1DOE, and ask for its free brochure.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION (NHTSA)

For more information about vehicle safety, contact NHTSA's Auto Safety Hotline, 1-800-424-9393.

The information on this label is required by the Federal Trade Commission, 16 CFR Part 309.

Figure 8

**PART 310—TELEMARKETING SALES
RULE**

Sec.

- 310.1 Scope of regulations in this part.
- 310.2 Definitions.
- 310.3 Deceptive telemarketing acts or practices.
- 310.4 Abusive telemarketing acts or practices.
- 310.5 Recordkeeping requirements.
- 310.6 Exemptions.
- 310.7 Actions by states and private persons.
- 310.8 Severability.

AUTHORITY: 15 U.S.C. 6101-6108.

SOURCE: 60 FR 43864, Aug. 23, 1995, unless otherwise noted.

§310.1 Scope of regulations in this part.

This part implements the Telemarketing and Consumer Fraud and Abuse Prevention Act, 15 U.S.C. 6101-6108.

§310.2 Definitions.

(a) *Acquirer* means a business organization, financial institution, or an agent of a business organization or financial institution that has authority from an organization that operates or licenses a credit card system to authorize merchants to accept, transmit, or process payment by credit card through the credit card system for money, goods or services, or anything else of value.

(b) *Attorney General* means the chief legal officer of a State.

(c) *Cardholder* means a person to whom a credit card is issued or who is authorized to use a credit card on behalf of or in addition to the person to whom the credit card is issued.

(d) *Commission* means the Federal Trade Commission.

(e) *Credit* means the right granted by a creditor to a debtor to defer payment

of debt or to incur debt and defer its payment.

(f) *Credit card* means any card, plate, coupon book, or other credit device existing for the purpose of obtaining money, property, labor, or services on credit.

(g) *Credit card sales draft* means any record or evidence of a credit card transaction.

(h) *Credit card system* means any method or procedure used to process credit card transactions involving credit cards issued or licensed by the operator of that system.

(i) *Customer* means any person who is or may be required to pay for goods or services offered through telemarketing.

(j) *Investment opportunity* means anything, tangible or intangible, that is offered, offered for sale, sold, or traded based wholly or in part on representations, either express or implied, about past, present, or future income, profit, or appreciation.

(k) *Material* means likely to affect a person's choice of, or conduct regarding, goods or services.

(l) *Merchant* means a person who is authorized under a written contract with an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services.

(m) *Merchant agreement* means a written contract between a merchant and an acquirer to honor or accept credit cards, or to transmit or process for payment credit card payments, for the purchase of goods or services.

(n) *Outbound telephone call* means a telephone call initiated by a telemarketer to induce the purchase of goods or services.

(o) *Person* means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

(p) *Prize* means anything offered, or purportedly offered, and given, or purportedly given, to a person by chance. For purposes of this definition, chance exists if a person is guaranteed to receive an item and, at the time of the offer or purported offer, the telemarketer does not identify the specific item that the person will receive.

(q) *Prize promotion* means:

(1) A sweepstakes or other game of chance; or

(2) An oral or written express or implied representation that a person has won, has been selected to receive, or may be eligible to receive a prize or purported prize.

(r) *Seller* means any person who, in connection with a telemarketing transaction, provides, offers to provide, or arranges for others to provide goods or services to the customer in exchange for consideration.

(s) *State* means any State of the United States, the District of Columbia, Puerto Rico, the Northern Mariana Islands, and any territory or possession of the United States.

(t) *Telemarketer* means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer.

(u) *Telemarketing* means a plan, program, or campaign which is conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call. The term does not include the solicitation of sales through the mailing of a catalog which: Contains a written description or illustration of the goods or services offered for sale; includes the business address of the seller; includes multiple pages of written material or illustrations; and has been issued not less frequently than once a year, when the person making the solicitation does not solicit customers by telephone but only receives calls initiated by customers in response to the catalog and during those calls takes orders only without further solicitation. For purposes of the previous sentence, the term "further solicitation" does not include providing the customer with information about, or attempting to sell, any other item included in the same catalog which prompted the customer's call or in a substantially similar catalog.

§ 310.3 Deceptive telemarketing acts or practices.

(a) *Prohibited deceptive telemarketing acts or practices.* It is a deceptive telemarketing act or practice and a violation of this Rule for any seller or

telemarketer to engage in the following conduct:

(1) Before a customer pays¹ for goods or services offered, failing to disclose, in a clear and conspicuous manner, the following material information:

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of the sales offer;²

(ii) All material restrictions, limitations, or conditions to purchase, receive, or use the goods or services that are the subject of the sales offer;

(iii) If the seller has a policy of not making refunds, cancellations, exchanges, or repurchases, a statement informing the customer that this is the seller's policy; or, if the seller or telemarketer makes a representation about a refund, cancellation, exchange, or repurchase policy, a statement of all material terms and conditions of such policy;

(iv) In any prize promotion, the odds of being able to receive the prize, and if the odds are not calculable in advance, the factors used in calculating the odds; that no purchase or payment is required to win a prize or to participate in a prize promotion; and the no purchase/no payment method of participating in the prize promotion with either instructions on how to participate or an address or local or toll-free telephone number to which customers may write or call for information on how to participate; and

(v) All material costs or conditions to receive or redeem a prize that is the subject of the prize promotion.

(2) Misrepresenting, directly or by implication, any of the following material information:

¹ When a seller or telemarketer uses, or directs a customer to use, a courier to transport payment, the seller or telemarketer must make the disclosures required by §310.3(a)(1) before sending a courier to pick up payment or authorization for payment, or directing a customer to have a courier pick up payment or authorization for payment.

² For offers of consumer credit products subject to the Truth in Lending Act, 15 U.S.C. 1601 *et seq.*, and Regulation Z, 12 CFR part 226, compliance with the disclosure requirements under the Truth in Lending Act, and Regulation Z, shall constitute compliance with §310.3(a)(1)(i) of this Rule.

(i) The total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer;

(ii) Any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer;

(iii) Any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer;

(iv) Any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies;

(v) Any material aspect of a prize promotion including, but not limited to, the odds of being able to receive a prize, the nature or value of a prize, or that a purchase or payment is required to win a prize or to participate in a prize promotion;

(vi) Any material aspect of an investment opportunity including, but not limited to, risk, liquidity, earnings potential, or profitability; or

(vii) A seller's or telemarketer's affiliation with, or endorsement by, any government or third-party organization;

(3) Obtaining or submitting for payment a check, draft, or other form of negotiable paper drawn on a person's checking, savings, share, or similar account, without that person's express verifiable authorization. Such authorization shall be deemed verifiable if any of the following means are employed:

(i) Express written authorization by the customer, which may include the customer's signature on the negotiable instrument; or

(ii) Express oral authorization which is tape recorded and made available upon request to the customer's bank and which evidences clearly both the customer's authorization of payment for the goods and services that are the subject of the sales offer and the customer's receipt of all of the following information:

(A) The date of the draft(s);

(B) The amount of the draft(s);

(C) The payor's name;

(D) The number of draft payments (if more than one);