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10	Federal Trade Commission						
11	UNITED STATES DISTRICT COURT DISTRICT OF NEVADA						
12	DISIRICI	OF NEVADA					
13	FEDERAL TRADE COMMISSION,	CV-S-02-0131-LRH-PAL					
14	Plaintiff,	COMPLAINT FOR INJUNCTION					
15	V.	AND OTHER EQUITABLE RELIEF					
16	NATIONAL AUDIT DEFENSE						
17	NETWORK, INC., a Nevada Corporation; TAX COACH, INC.,						
18	a Nevada Corporation doing business as TAX READY;						
19	ROBERT BENNINGTON,						
20	individually and as an officer of National Audit Defense						
21	Network, Inc., and Tax Coach, Inc.; CORT CHRISTIE,						
22	individually and as an officer of National Audit Defense						
23	Network, Inc.; and AL RODRIGUEZ, individually,						
24	Defendants.						
25							
26	Plaintiff, the Federal Trade Commission ("the FTC" or "the						
27	Commission"), for its complaint alleges:						
28							
	COMPLAINT	1					

The FTC brings this action under Sections 5(a) and 1 1. 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. 2 3 §§ 45(a) and 53(b), and the Truth in Lending Act ("TILA"), 15 U.S.C. § 1601 et seq., to obtain permanent injunctive relief, 4 5 rescission or reformation of contracts, restitution, 6 disgorgement, and other equitable relief for defendants' 7 deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and Section 226.12(e) of Regulation 8 Z, 12 C.F.R. § 226.12(e), which implements the TILA. 9 10 JURISDICTION AND VENUE 11 2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 12 13 1337(a), and 1345. Venue in the District of Nevada is proper under 15 14 3. U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c). 15 16 PLAINTIFF Plaintiff Federal Trade Commission is an independent 17 4. 18 agency of the United States Government created by statute. 15 19 U.S.C. §§ 41 et seq. The Commission enforces Section 5(a) of the 20 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive 21 acts or practices in or affecting commerce. The Commission may 22 initiate federal district court proceedings by its own attorneys 23 to enjoin violations of the FTC Act and to secure such equitable 24 relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. § 53(b). 25 26 DEFENDANTS Defendant National Audit Defense Network, Inc. 27 5. 28 ("NADN"), a Nevada corporation with its principal place of

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business at 4330 S. Valley View Blvd, Las Vegas, Nevada,
 advertises, promotes, offers for sale, and sells programs and
 services that purport to assist consumers in reducing their
 income tax liabilities. NADN transacts or has transacted
 business in the District of Nevada.

6 6. Defendant Tax Coach, Inc., which does business as Tax
7 Ready ("Tax Ready"), a Nevada corporation with its principal
8 place of business at 4310 Cameron St, Suite 11, Las Vegas,
9 Nevada, advertises, promotes, offers for sale, and sells programs
10 and services that purport to assist consumers in reducing their
11 income tax liabilities. Tax Ready transacts or has transacted
12 business in the District of Nevada.

13 7. Defendant Robert Bennington ("Bennington") is an 14 officer or director of NADN and Tax Ready. At all times material 15 to this complaint, acting alone or in concert with others, he has 16 formulated, directed, controlled, or participated in the acts and 17 practices of the corporate defendants, including the acts and 18 practices set forth in this complaint. Bennington resides and 19 transacts business in the District of Nevada.

8. Defendant Cort Christie ("Christie") is an officer or
 director of NADN. At all times material to this complaint,
 acting alone or in concert with others, he has formulated,
 directed, controlled, or participated in the acts and practices
 of corporate defendant NADN, including the acts and practices set
 forth in this complaint. Christie resides and transacts business
 in the District of Nevada.

9. Defendant Al Rodriguez ("Rodriguez") is the general
manager of NADN and Tax Ready. At all times material to this

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1 complaint, acting alone or in concert with others, he has 2 formulated, directed, controlled, or participated in the acts and 3 practices of the corporate defendants, including the acts and 4 practices set forth in this complaint. Rodriguez resides and 5 transacts business in the District of Nevada.

#### COMMERCE

7 10. At all times relevant to this complaint, defendants 8 have maintained a substantial course of business in the 9 advertising, promoting, offering for sale, and sale of various 10 tax-related programs and services, in or affecting commerce, as 11 "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. 12 § 44.

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# DEFENDANTS' BUSINESS PRACTICES

14 11. Since at least 1998, defendants have advertised, 15 promoted, offered for sale, and sold programs and services that 16 purport to assist consumers in reducing their tax liabilities, 17 and have provided tax audit services and tax preparation services 18 to consumers throughout the United States. Defendants have 19 promoted their tax-related services and programs to prospective 20 purchasers through a variety of media, including advertisements 21 on national radio talk shows.

12. In their advertisements, defendants offer a free tape or book of information that allegedly will assist consumers in filling out and saving money on their tax returns. Defendants invite consumers to call defendants' toll-free telephone number to obtain their book or tape.

27 13. Consumers who call defendants' toll-free telephone28 number are ultimately connected to defendants' salespeople.

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1 These salespeople represent to consumers that defendants provide 2 programs and services that will save consumers on their income 3 taxes. Defendants' programs cost from around \$400 to more than 4 \$1,400.

5 14. In connection with the advertising, promotion, offering 6 for sale, or sale of these programs and services, defendants 7 offer consumers an unconditional 30-day money-back guarantee. 8 Defendants represent that if consumers want to cancel the 9 purchase for any reason, they may do so within 30 days and 10 receive a full refund. Defendants also tell consumers that if 11 they are unable to achieve tax savings of \$3,000 after 12 implementing or using defendants' tax-saving strategies, they 13 will receive a full refund.

14 15. When describing these guarantees, Defendants fail to 15 disclose certain conditions. Before consumers are eligible for a 16 refund under the 30-day guarantee, they must obtain a "return 17 authorization" number from defendants. Before consumers are 18 eligible for a refund under the \$3,000 guarantee, they must have 19 attempted for one full year to implement defendants' recommended 20 tax-saving strategies, most of which require the operation of a 21 home business.

16. When consumers who meet the requirements of the guarantees contact defendants to attempt to obtain a refund, defendants fail or refuse to make such refunds, or otherwise frustrate consumers in a variety of ways from receiving refunds in a timely manner. If issued, many refunds take an inordinate amount of time to be received. Some consumers never receive a refund. Other consumers receive refunds only through the

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intercession of law enforcement agencies or consumer protection
 organizations such as the Better Business Bureau.

#### THE FEDERAL TRADE COMMISSION ACT

4 17. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
5 prohibits unfair or deceptive acts and practices in or affecting
6 commerce.

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## VIOLATIONS OF SECTION 5 OF THE FTC ACT

# COUNT I

9 18. In the course of the advertising, promotion, offering 10 for sale, or sale of their tax-saving programs and services, 11 defendants have represented, expressly or by implication, that 12 they will provide refunds to consumers who request refunds 13 pursuant to defendants' money-back guarantees.

14 19. In truth and in fact, in many instances, defendants 15 fail or refuse to provide refunds to consumers who request 16 refunds pursuant to defendants' money-back guarantees.

17 20. Therefore, defendants' representations as set forth in 18 Paragraph 18 are false and misleading and constitute deceptive 19 acts or practices in violation of Section 5(a) of the FTC Act, 15 20 U.S.C. § 45(a).

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#### COUNT II

22 21. In the course of the advertising, promotion, offering 23 for sale, or sale of their tax-saving programs and services, 24 defendants have represented, expressly or by implication, that 25 they will provide refunds in a timely manner to consumers who 26 request refunds pursuant to defendants' money-back guarantees. 27 22. In truth and in fact, in many instances, defendants

27 22. In truth and in fact, in many instances, defendants
28 fail or refuse to provide refunds in a timely manner to consumers

who request refunds pursuant to defendants' money-back
 guarantees.

3 23. Therefore, defendants' representations as set forth in
4 Paragraph 21 are false and misleading and constitute deceptive
5 acts or practices in violation of Section 5(a) of the FTC Act, 15
6 U.S.C. § 45(a).

THE TRUTH IN LENDING ACT

8 24. Section 166 of the TILA, 15 U.S.C. § 1666e, requires 9 creditors to promptly credit a consumer's credit card account 10 upon acceptance of the return of goods or forgiveness of the debt 11 for services. Section 226.12(e) of Regulation Z, which 12 implements Section 166 of the TILA, requires creditors to credit 13 a consumer's credit card account within seven business days from 14 accepting the return of property or forgiving a debt for 15 services. 12 C.F.R. § 226.12(e).

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# VIOLATION OF THE TRUTH IN LENDING ACT

## COUNT III

18 25. National Audit Defense Network, Inc., and Tax Coach, 19 Inc. d/b/a Tax Ready, are creditors as that term is defined in 20 Section 103(f) of the TILA, 15 U.S.C. § 1602(f), and Section 21 226.2(a)(17)(ii) of Regulation Z, 12 C.F.R. § 226.2(a)(17)(ii). 26. In numerous instances, defendants NADN and Tax Ready 23 fail to credit promptly consumers' credit card accounts within 24 seven business days from accepting the return of property or 25 forgiving a debt for services, and, therefore, violate Section 26 166 of the TILA, 15 U.S.C. § 1666(e), and Section 226.12(e) of 27 Regulation Z, 12 C.F.R. § 226.12(e).

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# CONSUMER INJURY

2 27. Consumers in many areas of the United States have
3 suffered substantial monetary loss as a result of defendants'
4 unlawful acts or practices. Absent injunctive relief by this
5 Court, defendants are likely to continue to injure consumers and
6 harm the public interest.

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# THIS COURT'S POWER TO GRANT RELIEF

8 28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), 9 empowers this Court to grant injunctive and other ancillary 10 relief, including consumer redress, disgorgement, and 11 restitution, to prevent and remedy any violations of any 12 provision of law enforced by the Commission.

13 29. This Court, in the exercise of its equitable 14 jurisdiction, may award other ancillary relief to remedy injury 15 caused by defendants' law violations.

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## PRAYER FOR RELIEF

WHEREFORE, plaintiff the Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

Award plaintiff such preliminary injunctive and
 ancillary relief as may be necessary to avert the likelihood of
 consumer injury during the pendency of this action and to
 preserve the possibility of effective final relief;

24 2. Permanently enjoin defendants from violating the FTC25 Act, the TILA, and Regulation Z as alleged herein;

Award such relief as the Court finds necessary to
 redress injury to consumers resulting from defendants' violations
 of the FTC Act, the TILA, and Regulation Z, including, but not

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limited to, rescission or reformation of contracts, restitution,
 the refund of monies paid, and the disgorgement of ill-gotten
 monies; and

4 4. Award plaintiff the costs of bringing this action, as
5 well as such other and additional relief as the Court may
6 determine to be just and proper.

8	Dated:	January	30,	2002	Respectfully Submitted,
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