



## **JURISDICTION AND VENUE**

2. Jurisdiction is based on 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and on 15 U.S.C. §§ 45(a)(1), 53(b), and 6822(a).

3. Venue in the Houston Division of the Southern District of Texas is proper under 28 U.S.C. § 1391(b) and 15 U.S.C. § 53(b).

## **PLAINTIFF**

4. Plaintiff FTC is an independent agency of the United States Government created by 15 U.S.C. § 41, *et seq.* The Commission is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. Plaintiff is also charged, under Section 522(a) of the GLB Act, 15 U.S.C. § 6822(a), with enforcing Section 521 of the GLB Act, 15 U.S.C. § 6821, which prohibits any person from using, directly or through others, false pretenses to obtain customer information of a financial institution from the financial institution or from the customer. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes plaintiff to initiate federal district court proceedings, in its own name by its designated attorneys, to enjoin violations of any provision of law enforced by the FTC, and to secure such equitable relief as may be appropriate in each case, including redress, restitution and disgorgement.

## **DEFENDANT**

5. Defendant Paula L. Garrett resides and conducts business in the Southern District of Texas. At all times material to this complaint, she has resided and conducted business at 8107 12<sup>th</sup> Fairway Lane, Humble, Texas, 77346. Defendant does business as Discreet Data Systems (“Discreet Data”), an unincorporated entity. Discreet Data conducts business over the telephone

and through its Web site located at <http://www.discreetdatasystems.com>. On the Web site, defendant purports to be in the information search business, including asset location. At all times material to this complaint, acting alone or in concert with others, she has formulated, directed, controlled, or participated in the acts and practices set forth in this complaint.

6. At all times material to this complaint, defendant has conducted business in this district.

### **DEFENDANT'S BUSINESS PRACTICES**

7. Since at least September 2000, defendant has advertised over the World Wide Web that she can obtain asset information, including customer information from financial institutions, and make such information available to her clients for a fee. Defendant offers on the Discreet Data Web site to sell asset information such as bank accounts, stock, bond, and mutual fund information, and safe deposit box locations. On the Web site, defendant offers "BANK ASSET LOCATES – Information provided includes: Bank name and home branch address of all institutions located, and balances."

8. To obtain customer information, defendant uses, or causes others to use, false pretenses, fraudulent statements, fraudulent or stolen documents or other misrepresentations, including posing as a customer of a financial institution, to induce officers, employees, or agents of financial institutions (and persons defendant believes to be such officers, employees, or agents) to disclose customer information. Defendant sells to her clients the customer information that she has obtained, including bank account balances and bank account activity statements.

## COMMERCE

9. At all times material herein, defendant has maintained a course of trade in or affecting commerce, as *commerce* is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

## GRAMM-LEACH-BLILEY ACT

10. Section 521 of the GLB Act, 15 U.S.C. § 6821, became effective on November 12, 1999, and has since remained in full force and effect. Section 521(a) of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6821(a), prohibits:

any person from obtaining or attempting to obtain, or causing to be disclosed or attempting to cause to be disclosed to any person, customer information of a financial institution relating to another person - (1) by making a false, fictitious, or fraudulent statement or representation to an officer, employee, or agent of a financial institution; (2) by making a false, fictitious, or fraudulent statement or representation to a customer of a financial institution; or (3) by providing any document to an officer, employee, or agent of a financial institution, knowing that the document is forged, counterfeit, lost, or stolen, was fraudulently obtained, or contains a false, fictitious, or fraudulent statement or representation.

Section 521(b) of the Gramm-Leach-Bliley Act, 15 U.S.C. § 6821(b), prohibits any person from requesting:

a person to obtain customer information of a financial institution, knowing that the person will obtain, or attempt to obtain, the information from the institution in any manner described in [Section 521(a) of the Graham-Leach-Bliley Act, 15 U.S.C. § 6821(a)].

Section 527(1) of the GLB Act, 15 U.S.C. § 6827(1), defines *customer*, with respect to a financial institution, as “any person (or authorized representative of a person) to whom the financial institution provides a product or service, including that of acting as a fiduciary.”

Section 527(2) of the GLB Act, 15 U.S.C. § 6827(2), defines *customer information of a financial institution* as “any information maintained by or for a financial institution which is derived from the relationship between the financial institution and a customer of the financial institution and is

identified with the customer.” Section 527(4)(A) of the GLB Act, 15 U.S.C. § 6827(4)(A), defines *financial institution* as “any institution engaged in the business of providing financial services to customers who maintain a credit, deposit, trust, or other financial account or relationship with the institution.”

**VIOLATIONS OF GLB ACT ARE UNFAIR OR DECEPTIVE ACTS OR PRACTICES  
IN VIOLATION OF SECTION 5(a) OF THE FTC ACT**

11. Section 522(a) of the GLB Act, 15 U.S.C. § 6822(a), empowers the Commission to enforce Section 521 of the GLB Act, 15 U.S.C. § 6821, “in the same manner and with the same power and authority as the Commission has under the Fair Debt Collection Practices Act [“FDCP Act”] to enforce compliance with such Act.” Section 814 of the FDCP Act, 15 U.S.C. § 1692l, provides that “[a]ll the functions and powers of the Commission under the [FTC Act] are available to the Commission to enforce compliance with” the FDCP Act. Section 814 of the FDCP Act also provides that a violation of the FDCP Act “shall be deemed to be an unfair or deceptive act or practice in violation of” the FTC Act.

**SECTION 5(a) OF THE FTC ACT**

12. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), renders unfair or deceptive acts or practices in or affecting commerce unlawful. Misrepresentations of material facts constitute deceptive acts or practices and are unlawful pursuant to Section 5(a) of the FTC Act. Under Section 5(n) of the FTC Act, an act or practice is unfair if it causes or is likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition. 15 U.S.C. § 45(n).

## **COUNT ONE**

### **DEFENDANT'S VIOLATIONS OF GRAMM-LEACH-BLILEY ACT**

13. In numerous instances, through others, defendant has contacted financial institutions and falsely represented to representatives of the financial institutions (or persons defendant believed to be such representatives) that defendant is a customer of the financial institutions, or has made other misrepresentations. Defendant makes these false representations to induce the persons to disclose customer information belonging to third parties.

14. Defendant's false representations to representatives of financial institutions (or persons defendant believes to be such representatives) violate Section 521(b) of the GLB Act, 15 U.S.C. § 6821(b).

## **COUNT TWO**

### **DEFENDANT'S VIOLATIONS OF SECTION 5(a) OF THE FTC ACT**

15. Paragraphs 1-14 are incorporated herein by reference.

16. Defendant's practices of misrepresenting, through others, (1) her identity, (2) her purposes, or (3) her right to receive customer information, to representatives of financial institutions (or persons defendant believes to be representatives of financial institutions), for the purpose of fraudulently obtaining consumers' financial information and subsequently selling that information, causes or is likely to cause substantial injury to consumers that is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or to competition.

17. Defendant's acts or practices, as set out above, are misleading.

18. Therefore, defendant's acts or practices, as set out above, are unfair or deceptive and

violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **CONSUMER INJURY**

19. Consumers throughout the United States have suffered, or are likely to suffer, injury as a result of defendant's ongoing unlawful acts or practices. Absent injunctive relief by this Court, defendant is likely to continue to injure consumers and harm the public interest.

### **UNJUST ENRICHMENT**

20. If defendant is permitted to retain the sums obtained as a result of her violations of the GLB Act and the FTC Act, she would be unjustly enriched and consumers will be denied just compensation.

### **THIS COURT'S POWER TO GRANT RELIEF**

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

22. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by defendant's law violations.

### **PRAYER FOR RELIEF**

WHEREFORE, plaintiff, the Federal Trade Commission, requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own

equitable powers:

a. 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;

b. Permanently enjoin defendant from violating the GLB Act and the FTC Act, as alleged herein; and

c. Award all relief that the Court finds necessary to remedy defendant's continuing violations of the GLB Act and Section 5(a) of the FTC Act, including, but not limited to, redress, and disgorgement of defendant's ill-gotten gains.

Dated: \_\_\_\_\_, 2002

Respectfully Submitted,

WILLIAM E. KOVACIC  
General Counsel

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**CHRISTOPHER W. KELLER**  
Attorney-in-Charge  
District of Columbia Bar No. 107920

Federal Trade Commission  
600 Pennsylvania Avenue, N.W.  
Washington, D.C. 20580  
(202)326-3024 (office)  
(202)326-2558 (telecopier)  
(202) 326-3159 (Keller)

JAMES E. ELLIOTT

Of Counsel  
Texas State Bar No. 06557100  
Southern District of Texas Bar No. 14

Federal Trade Commission - Southwest Region  
1999 Bryan St., Ste. 2150  
Dallas, TX 75201-6803  
(214) 953-3079 (telecopier)  
(214) 979-9373 (Elliott)

**Attorneys for Plaintiff**  
**Federal Trade Commission**