

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

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FEDERAL TRADE COMMISSION and )

PEOPLE OF THE STATE OF ILLINOIS, )

Plaintiffs, )

v. )

Civ. No. 01C 8790

1<sup>st</sup> FINANCIAL SOLUTIONS, INC.; AMERICAN )

Judge Holderman

BENEFITS CLUB, INC.; ROCKWELL )

HOLDINGS, INC.; AFFINITY MARKETING & )

Magistrate Judge Denlow

SALES, INC.; AFFINITY MARKETING & SALES, LLC, )

CROWN DISTRIBUTORS, INC.; )

LEADER SALES COMPANY, INC.; MERCHANT )

SERVICES, INC; MERCURY CONSULTING )

SERVICES; MILLENNIUM SALES, INC.; )

NORTH AMERICAN MARKETING GROUP, INC.; )

REGAL PRODUCTS SALES & DISTRIBUTING )

COMPANY; ROCKWELL MARKETING, INC.; and )

THE FLETCHER GROUP, INC., )

Illinois corporations; )

JOHN F. BOONE, individually and as an officer of )

Affinity Marketing & Sales, Inc., Crown Distributors, Inc., )

Merchant Services, Inc., Millennium Sales, Inc., North )

American Marketing Group, Inc., Rockwell Holdings, Inc., )

Rockwell Marketing, Inc.; and The Fletcher Group, Inc., )

MICHAEL COOPER, )

individually; and )

ROBERT C. MORGAN, )

individually, )

Defendants. )

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**STIPULATED ORDER FOR PERMANENT INJUNCTION WITH CONSUMER  
REDRESS AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC” or “the Commission”) and the State of Illinois, by and through James E. Ryan, Attorney General of Illinois (“State of Illinois”), filed their complaint for a permanent injunction and other relief in this matter 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 and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101, *et seq.*, the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“Telemarketing Rule”), 16 C.F.R. Part 310, the Illinois Consumer Fraud and Deceptive Business Practices Act (“Consumer Fraud Act”), 815 ILCS 505/1, *et seq.*, and the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.*

The Commission, the State of Illinois, and Defendants, having been represented by counsel and acting by and through such counsel, have consented to the entry of this Stipulated Order for Permanent Injunction With Consumer Redress and Other Equitable Relief (“Stipulated Order”) without a trial or adjudication of any issue of law or fact herein. Defendants deny any wrongdoing or liability. This Stipulated Order is for settlement purposes only and does not constitute and shall not be interpreted to constitute an admission by Defendants that they have engaged in violations of any law or regulation, including but not limited to the FTC Act, the ILCS, the Telemarketing Act, the FTC’s Telemarketing Rules, the Illinois Consumer Fraud Act, or the Illinois Credit Services Organizations Act, or that the facts alleged in the complaint, other than the jurisdictional facts, are true. This Stipulated Order shall not be used against the Defendants in any proceeding, with the exception of any proceeding to enforce this Stipulated Order.

NOW, THEREFORE, the Commission, the State of Illinois, and Defendants, having requested the Court to enter this Stipulated Order, and the Court having considered the Stipulated Order reached among the parties and for other cause appearing, it is **ORDERED, ADJUDGED, AND DECREED** as follows:

### **FINDINGS**

1. This is an action by the Commission instituted under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Rule, 16 C.F.R. Part 310, and an action by the State of Illinois instituted under the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, the FTC's Telemarketing Rule, 16 C.F.R. Part 310, the Illinois Consumer Fraud Act, 815 ILCS 505/1, *et seq.*, and the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.* Pursuant to these statutes and regulations, the Commission and the State of Illinois have the authority to seek the relief contained herein.

2. Plaintiffs' complaint states a claim upon which relief may be granted against Defendants under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b) & 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, the FTC's Telemarketing Rule, 16 C.F.R. Part 310, the Illinois Consumer Fraud Act, 815 ILCS 505/1, *et seq.*, and the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.*

3. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Northern District of Illinois is proper.

4. The alleged activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44, and Section 1(f) of the Illinois Consumer Fraud Act, 815 ILCS

505/1(f).

5. Defendants, without admitting the allegations set forth in Plaintiffs' complaint, agree to entry of this Stipulated Order.

6. The parties shall each bear their own costs and attorneys' fees incurred in this action and have waived all claims under the Equal Access to Justice Act, 28 U.S.C. § 2412, and all rights to seek judicial review, or otherwise to challenge the validity of this Stipulated Order.

7. Entry of this Stipulated Order is in the public interest.

## **ORDER**

### **DEFINITIONS**

For purposes of this Stipulated Order, the following definitions shall apply:

1. **“Plaintiffs”** means the Federal Trade Commission and the State of Illinois, or either of them.

2. **“Defendants”** means 1<sup>st</sup> Financial Solutions, Inc., American Benefits Club, Inc., Rockwell Holdings, Inc., Affinity Marketing & Sales, Inc., Affinity Marketing & Sales, LLC, Crown Distributors, Inc., Leader Sales Company, Inc., Merchant Services, Inc., Mercury Consulting Services, Millennium Sales, Inc., North American Marketing Group, Inc., Regal Products Sales & Distributing Company, Rockwell Marketing, Inc., The Fletcher Group, Inc., John F. Boone, Michael Cooper, Robert C. Morgan, and each of them, by whatever names each might be known.

3. **“Receivership Defendants”** means 1<sup>st</sup> Financial Solutions, Inc., American Benefits Club, Inc., Rockwell Holdings, Inc., Affinity Marketing & Sales, Inc., Affinity Marketing & Sales, LLC, Crown Distributors, Inc., Leader Sales Company, Inc., Merchant Services, Inc., Mercury

Consulting Services, Millennium Sales, Inc., North American Marketing Group, Inc., Regal Products Sales & Distributing Company, Rockwell Marketing, Inc., The Fletcher Group, Inc., and any affiliates, subsidiaries, divisions, sales entities, successors, or assigns.

4. **“Receiver”** means Gregg E. Szilagyi, Esq., of Ungaretti & Harris, 3500 Three First National Plaza, Chicago, Illinois 60602.

5. **“Assets”** means all real and personal property of any Defendant, or held for the benefit of any Defendant, including but not limited to “goods,” “instruments,” “equipment,” “fixtures,” “general intangibles,” “inventory,” “checks,” or “notes,” (as these terms are defined in the Uniform Commercial Code), lines of credit and all cash, wherever located.

6. **“Customer”** means any person who has paid or may be required to pay for goods or services.

7. **“Document”** is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

8. **“Person”** means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

9. **“Material”** means likely to affect a person’s choice of, or conduct regarding, goods or services.

10. **“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. *See* 16 C.F.R. § 310.2(u).

11. **“Assisting others”** means: (1) performing customer service functions including, but not limited to, receiving or responding to consumer complaints, receiving identifying and financial information from consumers, and communicating with consumers about extensions of credit; (2) developing, providing or arranging for the development or provision of sales scripts or any other marketing material; (3) providing names of, or arranging for the provision of names of, potential customers; or (4) performing marketing services of any kind.

12. **“Credit-related product, program, or service”** means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any extension of credit or credit device, including, but not limited to credit cards, loans, or financing, or as a method to consolidate or liquidate debts.

## I

### **BAN ON SALE OF CREDIT-RELATED PRODUCT, PROGRAM, OR SERVICE**

**IT IS THEREFORE ORDERED** that Defendants are permanently restrained and enjoined from engaging or participating, or assisting others engaged or participating, whether directly or indirectly, in concert with others, or through any business entity or other device, in the advertising, marketing, sale, or offering for sale of any credit-related product, program, or service.

## II

### **PERFORMANCE BOND FOR TELEMARKETING**

**IT IS FURTHER ORDERED** that Defendants, individually and collectively, whether

directly, in concert with others, or through any business entity or other device, are hereby permanently restrained and enjoined from engaging or participating in, or assisting others engaged or participating in, the offering for sale or selling of any product, program, or service to the general public by means of telemarketing, unless at least two weeks prior to such activities, such Defendant obtains a performance bond in the principal sum of one million dollars (\$1,000,000.00).

A. The performance bond required by this Section shall be conditioned upon the bonded Defendant's compliance with Section 5 of the FTC Act, 15 U.S.C. § 45, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, the FTC's Telemarketing Rule, 16 C.F.R. Part 310, the Illinois Consumer Fraud Act, 815 ILCS 505/1, *et seq.*, the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.*, and the provisions of this Stipulated Order. The bond shall be deemed continuous and remain in full force and effect so long as the bonded Defendant continues to offer for sale or sell any product, program, or service to the general public by means of telemarketing, directly or indirectly, and for at least three years thereafter. The bond shall cite this Stipulated Order as the subject matter of the bond, and shall provide surety thereunder against financial loss resulting from whole or partial failure of performance due, in whole or in part, to any violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, the FTC's Telemarketing Rule, 16 C.F.R. Part 310, the Illinois Consumer Fraud Act, 815 ILCS 505/1, *et seq.*, the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.*, or the provisions of this Stipulated Order;

B. The performance bond required by this Section shall be an insurance agreement providing surety for financial loss issued by a surety company that is admitted to do business in each of the states in which the bonded Defendant is doing business and that holds a Federal Certificate of

Authority as Acceptable Surety on Federal Bond and Reinsuring. The performance bond shall be executed in favor of both: (1) the Federal Trade Commission and the State of Illinois for the benefit of any person injured as a result of any false or misleading representation made while engaged in the offering for sale or selling of any product, program, or service to the general public by means of telemarketing; and (2) any customer so injured;

C. The performance bond required by this Section is in addition to, and not in lieu of, any other bond required by any applicable federal, state, or local law;

D. At least ten (10) days prior to the commencement of any activity for which a performance bond is required under this Section, the bonded Defendant shall provide a copy of the bond to the Director of the FTC's Midwest Region in Chicago and to the State of Illinois' Chief of the Consumer Fraud Bureau in Chicago at the addresses specified in Section XI, *infra*.

E. Each bonded Defendant, each bonded Defendant's agents, or any persons acting in concert or participation with him/her or under his/her authority, supervision, or control shall not disclose the existence of the performance bond to any customer or prospective customer of any product, program, or service without simultaneously disclosing the following: "THE BOND IS REQUIRED BY ORDER OF THE U.S. DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS IN SETTLEMENT OF CHARGES THAT 1<sup>ST</sup> FINANCIAL SOLUTIONS, INC., AMERICAN BENEFITS CLUB, INC., ROCKWELL HOLDINGS, INC., AFFINITY MARKETING & SALES, INC., AFFINITY MARKETING & SALES, LLC, CROWN DISTRIBUTORS, INC., LEADER SALES COMPANY, INC., MERCHANT SERVICES, INC., MERCURY CONSULTING SERVICES, MILLENNIUM SALES, INC., NORTH AMERICAN



MARKETING GROUP, INC., REGAL PRODUCTS SALES & DISTRIBUTING COMPANY, ROCKWELL MARKETING, INC., THE FLETCHER GROUP, INC., JOHN F. BOONE, MICHAEL COOPER, AND ROBERT C. MORGAN ENGAGED IN A PATTERN AND PRACTICE OF MAKING FALSE AND MISLEADING REPRESENTATIONS IN CONNECTION WITH THE ADVERTISING, PROMOTION, AND SALE OF CREDIT-RELATED PRODUCTS, PROGRAMS, OR SERVICES.” The required disclosure shall be set forth in a clear and conspicuous manner, separated from all other text, in 100% black ink against a light background, in print at least as large as the main text of the sales material or document, and enclosed in a box containing only the required disclosure. The disclosure, if required, shall appear in all sales material, all publications, and on the front side of all documents sent to customers to acknowledge orders or the receipt of funds;

F. The Commission and the State of Illinois, or either of them, may execute against the performance bond if they demonstrate to the Court by a preponderance of the evidence that, after the effective date of this Stipulated Order, any bonded Defendant, individually or through any other person or entity: (1) made a false or misleading representation, directly or by implication, in the course of engaging in the advertising, marketing, promoting, offering for sale, or sale of any product, program, or service to the general public by means of telemarketing, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, the FTC’s Telemarketing Rule, 16 C.F.R. Part 310, the Illinois Consumer Fraud Act, 815 ILCS 505/1, *et seq.*, or the Illinois Credit Services Organizations Act, 815 ILCS 605/1, *et seq.*; or (2) violated the terms of this Stipulated Order; and

G. Proceedings instituted under this Section 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 Plaintiffs may initiate to enforce this Stipulated Order.

### III

#### PROHIBITED BUSINESS ACTIVITIES

**IT IS FURTHER ORDERED** that, in connection with the advertising, marketing, promoting, offering for sale, or sale of any product, program, or service, Defendants, their successors, assigns, officers, agents, servants, employees, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporate or other device, are hereby permanently restrained and enjoined from:

A. Misrepresenting, either orally or in writing, directly or by implication:

1. that Defendants will provide consumers with, or arrange for consumers to receive, a major credit card, such as a Visa or MasterCard;

2. that Defendants will provide consumers with any credit-related product, program, or service; and

3. any material fact prior to purchase of any product, program, or service;

B. Violating the Telemarketing Rule, 16 C.F.R. Part 310, *et seq.*, including, but not limited to:

1. Violating Section 310.3(a)(2) of the Telemarketing Rule, 16 C.F.R. § 310.3(a)(2), by misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer. 16

C.F.R. 310.3(a)(2)(iii);

2. Violating Section 310.3(a)(4) of the Telemarketing Rule, 16 C.F.R.

§ 310.4(a)(4), by making false or misleading statements to induce a person to pay for goods or services;

3. Violating Section 310.4(a)(4) of the Telemarketing Rule, 16 C.F.R.

§ 310.4(a)(4), by requesting or receiving payment of any fee or consideration in advance of obtaining or arranging an extension of credit when they have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit; and

4. Violating Section 310.4(b)(1)(ii) of the Telemarketing Rule, 16 C.F.R.

§ 310.4(b)(1)(ii), by initiating outbound telephone calls to persons who have stated that they do not wish to receive an outbound telephone call made by or on behalf of Defendants;

C. Failing to:

1. establish and implement written procedures to comply with Section

310.4(b)(1)(ii) of the Telemarketing Rule, 16 C.F.R. § 310.4(b)(1)(ii);

2. train Defendants' personnel in the procedures established to comply with

Section 310.4(b)(1)(ii) of the Telemarketing Rule, 16 C.F.R. § 310.4(b)(1)(ii); and

3. maintain and record lists of persons who may not be contacted, in compliance

with Section 310.4(b)(1)(ii) of the Telemarketing Rule, 16 C.F.R. § 310.4(b)(1)(ii);

D. Violating Section 2 of the Illinois Consumer Fraud Act by engaging in the following acts or practices:

1. Failing to disclose all fees and costs associated with obtaining any credit-related

product, program, or service being offered by Defendants;

2. Representing, directly or by implication, that consumers will receive a major credit card with a \$2500 credit limit, when in fact consumers may receive a debit or stored-value card;

3. Representing, directly or by implication, that consumers will receive a major credit card and then failing to provide such cards;

4. Representing, directly or by implication, that consumers will receive a refund of their money, and then failing to provide such refunds;

5. Representing, directly or by implication, that there is no annual fee associated with any credit-related product, program, or service offered by Defendants;

6. Debiting consumers' bank accounts and then failing to provide the goods and/or services contracted for; and

7. Debiting consumers' bank accounts in amounts greater than consumers authorized;

E. Violating the Illinois Credit Services Organizations Act by engaging in the following acts or practices:

1. Charging an advance fee or other valuable consideration without having the requisite \$100,000 surety bond as required by the Credit Services Organizations Act;

2. Failing to post a copy of the \$100,000 surety bond with the Illinois Secretary of State, Index Division;

3. Failing to provide consumers with a contract which meets all of the requirements of Section 7 of the Credit Services Organizations Act;

4. Failing to provide consumers with a disclosure statement before the execution of a contract which meets the requirements of Section 6 of the Credit Services Organizations Act;

5. Failing to register as a “credit services organization” with the Illinois Secretary of State, Index Division, as required by Section 9 of the Credit Services Organizations Act; and

6. Misrepresenting, directly or by implication, the amount or type of credit that a consumer can receive as a result of the performance of Defendants’ services, or the amount of credit improvement that a consumer can expect to receive as a result of Defendants’ services, in violation of Section 5(4) of the Credit Services Organizations Act;

F. Engaging in any business which constitutes a “credit services organization,” as defined in Section 3(d) of the Credit Services Organizations Act, in or from the State of Illinois; and

G. Engaging in the business of assisting consumers in obtaining loans or extensions of credit in or from the State of Illinois.

#### IV

#### **CONSUMER REDRESS**

**IT IS FURTHER ORDERED** that:

A. The Receiver shall pay Plaintiffs as provided in Section VII, *infra*. Payment shall be made to the Commission via wire transfer in accordance with directions provided by the Commission.

B. All funds paid pursuant to this Section shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the

Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendants shall have no right to challenge the Commission's choice of remedies under this Section. Plaintiffs and Defendants acknowledge and agree that this judgment for equitable monetary relief is solely remedial in nature and is not a fine, penalty, punitive assessment, or forfeiture;

C. In the event of any default on any obligation to make payment under this Section, interest, computed pursuant to 28 U.S.C. § 1961(a), shall accrue from the date of default to the date of payment, and shall immediately become due and payable;

D. Defendants are hereby required, in accordance with 31 U.S.C. § 7701, to furnish to Plaintiffs their respective taxpayer identifying numbers (social security numbers or employer identification numbers), which shall be used for purposes of collecting and reporting on any delinquent amount arising out of such persons' relationship with the government; and

E. For purposes of any subsequent proceedings to enforce payments required by this Section or Section II, *infra*, including but not limited to a non-dischargeability complaint filed in a bankruptcy proceeding, Defendants waive any right to contest any allegations in Plaintiffs' complaint.

## V

### **RIGHT TO REOPEN**

**IT IS FURTHER ORDERED** that within five (5) business days after the date of entry of this Stipulated Order, Defendants shall each submit to Plaintiffs a truthful sworn statement (in the form shown on **Appendix A** to this Stipulated Order) that shall reaffirm and attest to the truthfulness,

accuracy, and completeness of their respective financial statements submitted to Plaintiffs and the Receiver during the course of this litigation. Plaintiffs' agreement to this Stipulated Order is expressly premised upon the financial condition of Defendants, as represented in those financial statements, which contain material information upon which Plaintiffs relied in negotiating and agreeing upon this Stipulated Order.

If, upon motion of the Commission and the State of Illinois, or either of them, the Court finds that any Defendant failed to file the sworn statement required by this Section, or that any Defendant failed to disclose any material asset, materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the financial statement, the Commission may either: (1) request that the judgment herein be reopened for the purpose of requiring additional monetary consumer redress or obtaining other equitable relief up to seventeen million dollars (\$17,000,000), the total amount of consumer injury in this matter; or (2) seek to obtain other equitable relief.

*Provided, however,* that in all other respects, this judgment shall remain in full force and effect, unless otherwise ordered by the Court; and *provided further,* that proceedings instituted under this Section are in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law, including but not limited to contempt proceedings, or any other proceedings that the Commission, the United States, or the State of Illinois might initiate to enforce this Stipulated Order.

## VI

### CUSTOMER LISTS

**IT IS FURTHER ORDERED** that Defendants, their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, all other persons or entities directly or indirectly under their control or under common control with them, and all other persons or entities in active concert or participation with them who receive actual notice of this Stipulated Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to or received any credit-related product, program, or service from any Defendant, or whose identifying information was obtained for the purpose of soliciting them to pay money to or receive services from any Defendant at any time prior to the date this Stipulated Order is entered, in connection with the sale or rendition of the products, programs, or services referenced in the complaint.

*Provided, however,* that Defendants, their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, attorneys, corporations, subsidiaries, affiliates, all other persons or entities directly or indirectly under their control or under common control with them, and all other persons or entities in active concert or participation with them who receive actual notice of this Stipulated Order by personal service or otherwise, whether acting directly or through any corporation, subsidiary, division, or other device, may provide such information to a law



enforcement agency either voluntarily, or as required by any law, regulation, or court order.

## VII

### RECEIVERSHIP

**IT IS FURTHER ORDERED** that:

A. The appointment of Gregg E. Szilagyi as Receiver for the Receivership Defendants, pursuant to the Stipulated Preliminary Injunction entered by this Court on November 29, 2001, is hereby continued as modified by this Order and Gregg E. Szilagyi is hereby appointed Receiver for the Receivership Defendants;

B. The Receiver shall liquidate the assets of the Receivership Defendants remaining in his possession, custody, or control. Upon completing the liquidation of these assets, the Receiver shall submit his final report and his final application for fees and expenses, and, upon approval of the same, shall pay:

1. The amounts allowed by the Court pursuant to his final application for fees and expenses, including but not limited to, professional fees and auctioneers' fees;
2. Such other claims against the assets of the Receivership Defendants as set forth by court order or as listed herein; and
3. Any remaining funds to the Plaintiffs for the fund established pursuant to Part IV of this Stipulated Permanent Injunction.

C. Upon the filing of the Receiver's final report, the Court's approval of the same, and the Receiver's fulfillment of his payment obligations under this Section, the receivership over the Receivership Defendants shall be terminated, and the provisions of the Stipulated Preliminary Injunction

and this Stipulated Order for Permanent Injunction relating to the appointment of the Receiver shall be dissolved. The Receivership Defendants, John F. Boone, Michael Cooper, and Robert C. Morgan shall indemnify and hold harmless the Receiver for any claim made against the Receiver arising out of the Receiver's activities pursuant to this Stipulated Order or previous orders of this Court.

## VIII

### **DISSOLUTION OF ASSET FREEZE**

**IT IS FURTHER ORDERED** that:

A. The freeze against the assets of the individual Defendants pursuant to Section III of the Stipulated Preliminary Injunction shall be lifted to the extent necessary for said Defendants to make the payment to the Commission required by Section IV of this Stipulated Order, and upon compliance with that Section, shall be lifted permanently; and

B. The freeze against the assets of the Receivership Defendants pursuant to Section III of the Stipulated Preliminary Injunction shall remain in effect until such time as the Receiver receives payment of all Court-approved fees and expenses of the Receiver and the receivership is terminated pursuant to Section VII, *supra*.

## IX

### **ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that within five (5) business days after receipt by each Defendant of this Stipulated Order as entered by the Court, each Defendant shall submit to both the Commission and the State of Illinois a truthful sworn statement, in the form shown on **Appendix B**, that shall acknowledge receipt of this Stipulated Order.

## X

### **PLAINTIFFS' AUTHORITY TO MONITOR COMPLIANCE**

**IT IS FURTHER ORDERED** that Plaintiffs are authorized to monitor Defendants' compliance with this Order by all lawful means, including but not limited to the following means:

- A. Plaintiffs are authorized, without further leave of court, to obtain discovery from any person in the manner provided by Chapter V of the Federal Rules of Civil Procedure, Fed. R. Civ. P. 26 - 37, including the use of compulsory process pursuant to Fed. R. Civ. P. 45, for the purpose of monitoring and investigating any Defendant's compliance with any provision of this Order;
- B. Plaintiffs are authorized to use representatives posing as consumers and suppliers to any Defendant, Defendant's employees, or any other entity managed or controlled in whole or in part by Defendant Boone, Cooper, or Morgan, without the necessity of identification or prior notice; and
- C. Nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to investigate whether any Defendant has violated any provision of this Order or Section 5 of the FTC Act, 15 U.S.C. § 45.

## XI

## COMPLIANCE REPORTING BY DEFENDANT

**IT IS FURTHER ORDERED** that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of five (5) years from the date of entry of this Order, Defendants shall notify the Plaintiffs of the following:

1. Any changes in Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
2. Any changes in Defendant Boone, Cooper, or Morgan's employment status (including self-employment) within ten (10) days of such change. Such notice shall include the name and address of each business that Defendant is affiliated with or employed by, a statement of the nature of the business, and a statement of Defendant's duties and responsibilities in connection with the business or employment; and
3. Any proposed change in the structure of any corporate Defendant, or any proposed change in the structure of any business entity owned or controlled by Defendant Boone, Cooper, or Morgan, 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 Order, thirty (30) days prior to the effective date of any proposed change;

B. One hundred eighty (180) days after the date of entry of this Order, Defendants shall provide a written report to the Plaintiffs, sworn to under penalty of perjury, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include but not be limited to:

1. For Defendants Boone, Cooper, and Morgan, Defendant's then current residence address and telephone number;
  2. For Defendants Boone, Cooper, and Morgan, Defendant's then current employment, business addresses and telephone numbers, a description of the business activities of each such employer, and Defendant's title and responsibilities for each employer;
  3. A copy of each acknowledgment of receipt of this Order obtained by Defendants pursuant to Section XIII, *infra*;
  4. A statement describing the manner in which Defendants have complied and are complying with the provisions of Sections I, III, IV, and VI, *supra*; and
  5. A statement indicating whether any performance bond has been obtained by Defendants pursuant to Section II, *supra*, and attaching a copy of any such bond so obtained;
- C. Upon written request by a representative of either Plaintiff, Defendant s shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order;

D. For the purposes of this Order, Defendants shall, unless otherwise directed by Plaintiffs' authorized representatives, mail all written notifications to the Commission to:

Regional Director for Midwest Region  
Federal Trade Commission  
55 East Monroe Street, Suite 1860  
Chicago, Illinois 60603  
Re: FTC and People of the State of Illinois v. 1<sup>st</sup> Financial Solutions, Inc., et al.

and to the State of Illinois at:

Charles G. Fergus, Chief

Consumer Fraud Bureau  
100 W. Randolph St.--12th floor  
Chicago, Illinois 60601  
Re: FTC and People of the State of Illinois v. 1<sup>st</sup> Financial Solutions, Inc., et al.;

E. For the purposes of this Section, “employment” includes the performance of services as an employee, consultant, or independent contractor, and “employers” include any individual or entity for whom Defendant Boone, Cooper, or Morgan performs services as an employee, consultant, or independent contractor; and

F. For purposes of the compliance reporting required by this Section, the Commission is authorized to communicate directly with Defendants.

## **XII**

### **MONITORING COMPLIANCE OF SALES PERSONNEL**

**IF IS FURTHER ORDERED** that Defendants Boone, Cooper, and Morgan, in connection with any business where (1) Defendant Boone, Cooper, or Morgan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in telemarketing, or assisting others engaged in telemarketing, are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Sections I, III, and VI of this Stipulated Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2)

establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take corrective action with respect to any sales person whom Defendant determines is not complying with this Order, which may include training, disciplining, and/or terminating such sales person.

### **XIII**

#### **DISTRIBUTION OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, Defendants shall:

A. Provide a copy of this Order to, and obtain a signed and dated acknowledgment of receipt of same from, each officer or director, each individual serving in a management capacity, all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, immediately upon employing or retaining any such persons, for any business where (1) Defendant Boone, Cooper, or Morgan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in telemarketing, or assisting others engaged in telemarketing; and

B. Maintain for a period of three (3) years after creation, and upon reasonable notice,

make available to representatives of the Plaintiffs, the original signed and dated acknowledgments of the receipt of copies of this Order, as required in Subsection A of this Section.

#### **XIV**

##### **ACCESS TO BUSINESS PREMISES**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order, for the purpose of further determining compliance with this Order, Defendants shall permit representatives of the Plaintiffs, within three (3) business days of receipt of written notice from the Plaintiffs:

A. Access during normal business hours to any office, or facility storing documents, of any business where (1) Defendant Boone, Cooper, or Morgan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in telemarketing, or assisting others engaged in telemarketing. In providing such access, Defendants shall permit representatives of the Plaintiffs to inspect and copy all documents relevant to any matter contained in this Order, and shall permit Plaintiffs' representatives to remove documents relevant to any matter contained in this Order for a period not to exceed five (5) business days so that the documents may be inspected, inventoried, and copied; and

B. To interview the officers, directors, and employees, including all personnel involved in responding to consumer complaints or inquiries, and all sales personnel, whether designated as employees, consultants, independent contractors or otherwise, of any business to which Subsection A of this Section applies, concerning matters relating to compliance with the terms of this Order. The person interviewed may have counsel present.



*Provided* that, upon application of either Plaintiff and for good cause shown, the Court may enter an *ex parte* order granting immediate access to Defendants' business premises for the purposes of inspecting and copying all documents relevant to any matter contained in this Order.

## **XV**

### **RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, for any business where (1) Defendant Boone, Cooper, or Morgan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in telemarketing, or assisting others engaged in telemarketing, Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaint and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials.

**XVI**

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that the Court shall retain jurisdiction of this matter for all purposes.

The Commission, the State of Illinois, and Defendants hereby stipulate and agree to entry of the foregoing Stipulated Order, which shall constitute a final judgment in this action.

SIGNED AND STIPULATED BY:

FEDERAL TRADE COMMISSION

Dated: \_\_\_\_\_

\_\_\_\_\_  
JOHN C. HALLERUD  
KATHERINE ROMANO SCHNACK  
55 East Monroe, Suite 1860  
Chicago, Illinois 60603  
(312) 960-5634 (telephone)  
(312) 960-5600 (facsimile)  
Attorneys for Plaintiff Federal Trade Commission

STATE OF ILLINOIS

Dated: \_\_\_\_\_

\_\_\_\_\_  
CHARLES G. FERGUS, Chief  
JANICE M. PARKER, Assistant Attorney General  
GREG GRZESKIEWICZ, Assistant Attorney General  
Attorney General of Illinois  
Consumer Fraud Bureau  
100 West Randolph Street, 12th Floor  
Chicago, Illinois 60601  
Attorneys for Plaintiff State of Illinois

Dated: \_\_\_\_\_

\_\_\_\_\_  
GREGG E. SZILAGYI  
Ungaretti & Harris  
3500 Three First National Plaza  
Chicago, Illinois 60602  
(312) 977-4400 (telephone)  
(312) 977-4405 (facsimile)  
Court-Appointed Receiver

1<sup>ST</sup> FINANCIAL SOLUTIONS, INC., AMERICAN  
BENEFITS CLUB, INC., ROCKWELL HOLDINGS, INC.,  
AFFINITY MARKETING & SALES, INC., AFFINITY  
MARKETING & SALES, LLC, CROWN DISTRIBUTORS,  
INC., LEADER SALES COMPANY, INC., MERCHANT  
SERVICES, INC., MERCURY CONSULTING  
SERVICES, MILLENNIUM SALES, INC., NORTH  
AMERICAN MARKETING GROUP, INC., REGAL  
PRODUCTS SALES & DISTRIBUTING COMPANY,  
ROCKWELL MARKETING, INC., and THE FLETCHER  
GROUP, INC.

Dated: \_\_\_\_\_

\_\_\_\_\_  
JOHN F. BOONE, as an officer of Defendant Corporations

Dated: \_\_\_\_\_

\_\_\_\_\_  
MARTY J. SCHWARTZ  
Three First National Plaza  
Suite 3700  
Chicago, Illinois 60606

(312) 558-4293 (phone)  
(312) 558-7750 (facsimile)  
Attorney for Defendant Corporations

Dated: \_\_\_\_\_  
JOHN F. BOONE, individually

Dated: \_\_\_\_\_  
MICHAEL COOPER, individually

Dated: \_\_\_\_\_  
ROBERT C. MORGAN, individually

Dated: \_\_\_\_\_  
MARTY J. SCHWARTZ  
Attorney for Individual Defendants Boone, Cooper, and  
Morgan

**IT IS SO ORDERED.**

Dated: \_\_\_\_\_  
HONORABLE MORTON DENLOW  
United States Magistrate Judge

**APPENDIX A**

to Federal Trade Commission, et al. v. 1<sup>st</sup> Financial Solutions, Inc., et al.,  
Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

---

FEDERAL TRADE COMMISSION and )  
PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Plaintiffs, )  
 )  
v. ) Civ. No. 01C 8790  
 )  
1<sup>st</sup> FINANCIAL SOLUTIONS, INC.; AMERICAN ) Judge Holderman  
BENEFITS CLUB, INC.; ROCKWELL )  
HOLDINGS, INC.; AFFINITY MARKETING & ) Magistrate Judge Denlow  
SALES, INC.; AFFINITY MARKETING & SALES, LLC, )  
CROWN DISTRIBUTORS, INC.; )  
LEADER SALES COMPANY, INC.; MERCHANT )  
SERVICES, INC; MERCURY CONSULTING )  
SERVICES; MILLENNIUM SALES, INC.; )  
NORTH AMERICAN MARKETING GROUP, INC.; )  
REGAL PRODUCTS SALES & DISTRIBUTING )  
COMPANY; ROCKWELL MARKETING, INC.; and )  
THE FLETCHER GROUP, INC., )  
Illinois corporations; )  
 )  
JOHN F. BOONE, individually and as an officer of )  
Affinity Marketing & Sales, Inc., Crown Distributors, Inc., )  
Merchant Services, Inc., Millennium Sales, Inc., North )  
American Marketing Group, Inc., Rockwell Holdings, Inc., )  
Rockwell Marketing, Inc.; and The Fletcher Group, Inc., )  
 )  
MICHAEL COOPER, )  
individually; and )  
 )  
ROBERT C. MORGAN, )  
individually, )  
Defendants. )

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I, \_\_\_\_\_, hereby state that the information contained in the Financial Statement of Defendant \_\_\_\_\_ and related papers provided to the Federal Trade Commission on \_\_\_\_\_ [and as amended on \_\_\_\_\_, if applicable] was [were] true, accurate, and complete at such time.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: \_\_\_\_\_

**APPENDIX B**

to Federal Trade Commission, et al. v. 1<sup>st</sup> Financial Solutions, Inc., et al.,  
Stipulated Order for Permanent Injunction with Consumer Redress and Other Equitable Relief

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

---

FEDERAL TRADE COMMISSION and )  
PEOPLE OF THE STATE OF ILLINOIS, )  
 )  
Plaintiffs, )  
 )  
v. ) Civ. No. 01C 8790  
 )  
1<sup>st</sup> FINANCIAL SOLUTIONS, INC.; AMERICAN ) Judge Holderman  
BENEFITS CLUB, INC.; ROCKWELL )  
HOLDINGS, INC.; AFFINITY MARKETING & ) Magistrate Judge Denlow  
SALES, INC.; AFFINITY MARKETING & SALES, LLC, )  
CROWN DISTRIBUTORS, INC.; )  
LEADER SALES COMPANY, INC.; MERCHANT )  
SERVICES, INC; MERCURY CONSULTING )  
SERVICES; MILLENNIUM SALES, INC.; )  
NORTH AMERICAN MARKETING GROUP, INC.; )  
REGAL PRODUCTS SALES & DISTRIBUTING )  
COMPANY; ROCKWELL MARKETING, INC.; and )  
THE FLETCHER GROUP, INC., )  
Illinois corporations; )  
 )  
JOHN F. BOONE, individually and as an officer of )  
Affinity Marketing & Sales, Inc., Crown Distributors, Inc., )  
Merchant Services, Inc., Millennium Sales, Inc., North )  
American Marketing Group, Inc., Rockwell Holdings, Inc., )  
Rockwell Marketing, Inc.; and The Fletcher Group, Inc., )  
 )  
MICHAEL COOPER, )  
individually; and )  
 )  
ROBERT C. MORGAN, )  
individually, )  
Defendants. )

---

[Name of Defendant], being duly sworn, hereby states and affirms as follows:

1. My name is \_\_\_\_\_. My current residence address is \_\_\_\_\_  
\_\_\_\_\_. I am a citizen of the United States and am over the age of eighteen. I have personal knowledge of the facts set forth in this Affidavit.

2. I am a defendant in Federal Trade Commission, et al. v. 1<sup>st</sup> Financial Solutions, Inc., et al., (United States District Court for the Northern District of Illinois).

3. On \_\_\_\_\_, I received a copy of the Stipulated Order for Permanent Injunction With Consumer Redress and Other Equitable Relief, which was signed by the Honorable James F. Holderman, and entered by the Court on \_\_\_\_\_. A true and correct copy of the Order I received is appended to this Affidavit.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on [date], at [city and state].

\_\_\_\_\_  
[Full name of Defendant]

State of \_\_\_\_\_  
County of \_\_\_\_\_

Subscribed and sworn to before me  
this \_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_  
Notary Public  
My Commission Expires:



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