

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 03-61987--CIV--Marra/Seltzer

FEDERAL TRADE COMMISSION,

Plaintiff

v.

PLATINUM UNIVERSAL, LLC, also doing  
business as UNIVERSAL CARD SERVICES  
and UNIVERSAL MASTERCARD,

PULSAR DATA, INC., also doing business  
as UNIVERSAL CARD SERVICES and  
UNIVERSAL MASTERCARD,

JEFFREY A. ULLMAN, and

STEVEN M. KETOVER,

Defendants.

FILED by *Sam* D.C.  
NOV 18 2003  
CLARENCE MAIDOX  
CLERK U.S. DIST. CT.  
S.D. OF FLA. FT. LAUD.

Stipulated Preliminary Injunction

Whereas Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), having filed its 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, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101 *et seq.*, and this Court having granted Plaintiff's motion for an *ex parte* Temporary Restraining Order pursuant to Rule 65 of the Federal Rules of Civil Procedure on November 10, 2003, and appointed a Temporary Receiver.

WHEREAS, Plaintiff and Defendants have agreed to the entry of this Stipulated Preliminary Injunction without trial or adjudication of any issue of fact or law. Although Defendants agree to the entry of this Order, Defendants expressly deny all of the allegations set forth in the Complaint other than the jurisdictional facts set forth in the Complaint and the findings of this Court set forth below., it hereby **ORDERED ADJUDGED AND DECREED** as follows:

#### FINDINGS OF FACT

1. This Court has jurisdiction of the subject matter of this case, and there is good cause to believe it has jurisdiction and venue over all parties.
2. Plaintiff asserts that there is good cause to believe that the Defendants Platinum Universal, LLC and Pulsar Data, Inc., both also doing business as Universal Card Services and Universal MasterCard, Jeffrey A. Ullman, and Steven M. Ketover have engaged and are likely to engage in acts and practices that violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310, and further asserts that the Commission is therefore likely to prevail on the merits of this action.
3. There is good cause to appoint a Monitor as set forth in Paragraph XI.
4. The entry of this Order, as set forth below, is in the public interest.
5. No security is required of any agency of the United States for issuance of a preliminary injunction. Fed. R. Civ. P. 65.
6. By this stipulation, Defendants waive their right to a Preliminary Injunction hearing before this Court.
7. This Order does not constitute and shall not be interpreted to constitute a finding of fact

or an admission by Defendants that they have engaged in violations of any law or regulations, including but not limited to the Federal Trade Commission Act and the Telemarketing Sales Rule

## ORDER

### DEFINITIONS

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

1. "Assets" means any legal or equitable interest in, right to, or claim to, any real and personal property, including, but not limited to, chattel, goods, instruments, equipment, fixtures, general intangibles, effects, leaseholds, premises, mail or other deliveries, shares of stock, lists of consumer names, inventory, checks, notes, accounts, credits, receivables, funds, and all cash, wherever located.
2. "Defendants" means Platinum Universal, LLC and Pulsar Data, Inc., both also doing business as Universal Card Services and Universal MasterCard, Jeffrey A. Ullman, and Steven M. Ketover, each of them, by whatever names each might be known, as well as their successors, assigns, officers, agents, directors, servants, employees, salespersons, independent contractors, corporations, subsidiaries, affiliates, divisions, sales entities, related entities, and 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 are engaged in the marketing of a Stored Value Card or any Credit-related goods or services and receive actual notice of this Order by personal service or otherwise, whether acting directly or through any trust, corporation, subsidiary, division, or other device.
3. "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 the information can be obtained and translated, if necessary, into reasonably usable form through detection devices. A draft or non-identical copy is a separate document within the meaning of the term.

4. "Plaintiff" means the Federal Trade Commission.
5. "Telemarketing," "telemarketer," "seller," and "material" are defined as in Section 310.2 of the Telemarketing Sales Rule, 16 C.F.R. § 310.2.
6. "Stored Value Card" means any card, including but not limited to a card accepted where MasterCard or Visa is accepted, that does not contain any extension of credit but is a prepaid card, that is funded by the consumer who must load funds in advance of use and may only be used for the amount loaded by the consumer, less any applicable fees.
7. "Credit Card" means a traditional bankcard which involves extension of credit.
8. "Credit-related goods or services" means any good 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, as "credit" is defined as in Section 310.2 of the Telemarketing Sales Rule, 16 C.F.R. § 310.2.

## CONDUCT PROHIBITIONS

### I.

**IT IS THEREFORE ORDERED** that, in connection with the advertising, promotion, offering, or sale of a Stored Value Card, or any credit-related good or service by telephone, television or radio, on or through the Internet, the World Wide Web, any web site, or otherwise

in commerce, Defendants are hereby preliminarily restrained and enjoined from misrepresenting, expressly or by implication, orally or in writing, any material fact, including, but not limited to, misrepresenting that, after paying Defendants a fee, consumers will, or are highly likely to, receive a credit card.

**II.**

**IT IS FURTHER ORDERED** that, in connection with the advertising, promotion, offering, or sale of a Stored Value Card, or any credit-related good or service by telephone, television or radio, on or through the Internet, the World Wide Web, any web site, or otherwise in commerce, Defendants are hereby preliminarily restrained and enjoined from violating any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, including, but not limited to:

A. Requesting or receiving payment of a fee in advance of consumers obtaining a credit card when Defendants have guaranteed or represented to such consumers a high likelihood of success in obtaining a credit card; and

B. Misrepresenting, directly or by implication, that after paying Defendants a fee, consumers will, or are highly likely to, receive a credit card.

### III. REQUIRED PRACTICES

IT IS FURTHER ORDERED that Defendants, in connection with the advertising, promotion, offering or sale of any Stored Value Cards by television, radio, telephone, or on or through the Internet, or otherwise in commerce, shall:

- A. Use only advertisements that clearly and conspicuously disclose to consumers:
  - 1. that the card they are offering or selling is not an extension of credit and not a credit line;
  - 2. that the card they are offering or selling is a stored value, reloadable, prepaid card;
  - 3. that the amount available for consumers to spend on the card is equal to the amount that they deposit on the card, less any applicable fees; and
  - 4. any and all other material terms of the sale or offer;

B. Use only telemarketers, telemarketing materials and promotional material, including but not limited to sales scripts, customer service scripts, and pamphlets, that, prior to obtaining the consumer's banking information, clearly and conspicuously disclose to consumers:

- 1. that the card they are offering or selling is not a credit card;
- 2. that the card they are offering or selling is a stored value, reloadable, prepaid card;
- 3. that the amount available for consumers to spend on the card is equal to the amount that they deposit on the card, less any applicable fees; and
- 4. any and all other material terms of the sale or offer;

Any such telemarketers, telemarketing transaction and telemarketing materials shall include such disclosures prior to obtaining any checking account or other payment information

(except only the bank routing number) from the consumer;

C. Use non-commissioned personnel to randomly monitor sales calls to assure compliance with the telemarketing sales materials and the provisions of this Order and to reject sales that fail to comply with the provisions of this Order;

D. Tape the verification portions of each telemarketing call to ensure that prior to obtaining the consumer's banking information, the consumer:

1. was properly informed that he/she is not purchasing or obtaining a credit card, credit line or other extension of credit,

2. was properly informed that the card Defendants are selling is a stored value, reloadable, prepaid card;

3. was properly informed that the amount available for consumers to spend on the card is equal to the amount that the consumer deposits on the card, less any applicable fees;

4. was properly informed of any and all other material terms of the sale or offer; and

5. expressly agreed to be charged using the specified bank account;

E. Engage non-commissioned personnel to review all verification recordings to confirm that the consumer understood all terms and conditions specified in Subparagraph D above, and expressly agreed to be charged using the specified bank account, and reject any sales where the consumer did not understand such terms and conditions and/or did not expressly agree to be charged; and

F. Permit any consumer who wishes to cancel to do so and promptly obtain a refund when such request is made either within twenty-eight (28) days of their receiving the package of

material sent to consumers, or promptly upon notice from the consumer that he/she did not receive any materials from Defendants and wishes to cancel.

Notwithstanding the provisions of this Paragraph, Defendants have thirty (30) days from the entry of this Order to conform any television or radio advertisements to the requirements of Subparagraph A, and sixty (60) days from the entry of this Order to begin airing of such advertisement.

#### IV. ASSET FREEZE

**IT IS FURTHER ORDERED** that:

- A. Defendant Ullman and Defendant Ketover are hereby restrained and enjoined from transferring, encumbering, selling, mortgaging the real property located at 1877 S.W. 24<sup>th</sup> Avenue, Fort Lauderdale, Florida and 3100 N. 34<sup>th</sup> Street, Hollywood, Florida;
- B. Defendant Ullman is hereby restrained and enjoined from withdrawing funds from, borrowing against, or otherwise liquidating or dissipating any IRA or other deferred compensation accounts. *Provided however*, Defendant Ullman shall be permitted to trade the securities in such accounts;
- C. Defendants are hereby restrained and enjoined from transferring, converting, encumbering, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, or otherwise disposing of \$39,000 of the funds frozen of the corporate or limited liability Defendants pursuant to the Temporary Restraining Order. Upon entry of this Order, the Monitor appointed in Paragraph XI shall open an escrow account in the Monitor's name and transfer \$39,000 from Bank of America, account number 005487541158, into such escrow account. *Provided however*, the Temporary Receiver appointed in the TRO ordered by this Court on



November 10, 2003 shall be paid by the Monitor from these frozen funds, subject to Court approval. The Temporary Receiver shall have no further responsibility with respect to the frozen funds. The remainder of the escrowed funds will be set aside pending agreement of the parties or further order of this Court.

D. Notwithstanding the previous Subparagraphs, upon entry of this Preliminary Injunction Order and the transfer of the frozen funds in Subparagraph C above, the freeze of Defendants' assets, as ordered in the Temporary Restraining Order entered by this Court on November 10, 2003, is dissolved.

#### V. RETENTION OF ASSETS AND RECORDS

##### HELD BY THIRD PARTIES

**IT IS FURTHER ORDERED** that any financial or brokerage institution, business entity, or person served with a copy of this Order, including but not limited to Xtracard Corp., Inc., that holds, controls, or maintains custody of any account or asset of any Defendant, except Defendant Ketover, or has held, controlled or maintained custody of any such account or asset at any time since January 1, 2000, shall:

A. Provide counsel for the Commission, within five (5) business days of receiving a copy of this Order, a sworn statement setting forth:

1. The identification number and description of each such account or asset titled in the name, individually or jointly, of the Defendants, or held on behalf of, or for the benefit of, any Defendant;
2. The balance of each such account, or a description of the nature and value of such asset as of the close of business on the day on which this Order is served, and, if the account or other asset has been closed or removed, the date closed or removed, the

total funds removed in order to close the account, and the name of the person or entity to whom such account or other asset was remitted; and

3. The identification of any safe deposit box that is either titled in the name, individually or jointly, of any Defendant, or otherwise subject to access by any Defendant; and

B. Upon the request of the Commission, promptly provide the Commission with copies of all records or other documentation pertaining to such account or asset of any Defendant, including but not limited to originals or copies of account applications, account statements, signature cards, checks, drafts, deposit tickets, transfers to and from the accounts, all other debit and credit instruments or slips, currency transaction reports, 1099 forms, and safe deposit box logs. Any such financial institution, account custodian, or other aforementioned entity shall arrange for Plaintiff to obtain copies of any such records which Plaintiff seeks, *provided* that such institution or custodian may charge a reasonable fee not to exceed fifteen cents (15¢) per page copied; and

## VI. ASSETS AND RECORDS LOCATED IN FOREIGN COUNTRIES

IT IS FURTHER ORDERED that the Defendants, except Defendant Ketover, shall provide counsel for the Commission and the Monitor with access to records and documents of the Defendants held by financial institutions or any other person or business outside the territory of the United States of America, if any, by identifying any and all such documents and or assets, the location of all such documents and or assets, and by signing and delivering to Plaintiff Commission the Consent to Release of Financial Records attached hereto as Attachment A within forty-eight (48) hours of service of this Order.

## VII. FINANCIAL REPORTS

**IT IS FURTHER ORDERED** that unless previously provided, Defendants shall each, within five (5) days after service of this Order, prepare and deliver to counsel for the Commission:

A. Completed financial statements on the forms attached to this Order as Attachments B and C, for each individual Defendant, for the limited liability Defendant, and for the corporate Defendant and for each business entity (whether or not incorporated) under which they conduct any business, or of which any Defendant is an owner or officer, and for each trust of which any Defendant is a trustee. The financial statements shall be accurate as of the date of entry of this Order; and

B. All current accountants' reports; all federal tax returns filed since January 1, 2000; documents indicating title to real or personal property; and other indicia of ownership that are now in any of the Defendants' actual or constructive possession.

## VIII. IDENTIFYING INFORMATION RELATING TO ACCOUNTANTS, FINANCIAL PLANNERS, INVESTMENT ADVISORS, STOCK BROKERS AND OTHERS

**IT IS FURTHER ORDERED** that the Defendants, except Defendant Ketover, within forty-eight (48) hours after service of this Order, shall provide counsel for the Commission: (1) the name, address and telephone number for each accountant, financial planner, investment advisor, stock broker or other individual, corporation or partnership whom they hired for personal advice or services, including but not limited to preparation of tax returns and investment advice, since January 1, 2000; and (2) the name, address and telephone number for each accountant, financial planner, investment advisor, stockbroker or other individual, corporation or

partnership who was hired on behalf of Defendants since January 1, 2000.

#### IX. RECORD KEEPING

**IT IS FURTHER ORDERED** that Defendants, except Defendant Ketover, are hereby restrained and enjoined from:

- A. Failing to create and maintain documents that, in reasonable detail, accurately, fairly, and completely reflect their incomes, disbursements, transactions, and use of money;
- B. Destroying, erasing, mutilating, concealing, altering, transferring, or otherwise disposing of, in any manner, directly or indirectly, any contracts, accounting data, correspondence, advertisements, computer tapes, disks, or other computerized or electronic records, books, written or printed records, handwritten notes, telephone logs, telephone scripts, receipt books, ledgers, personal and business canceled checks and check registers, bank statements, appointment books, copies of federal, state, or local business or personal income or property tax returns, and other documents or records of any kind which relate to the business practices or business or personal finances of the Defendants; and
- C. Creating, operating, or exercising any control over any business entity, including any partnership, limited partnership, joint venture, sole proprietorship, corporation, or limited liability company, without first providing counsel for the Commission with a written statement disclosing: (1) the name of the business entity; (2) the address and telephone number of the business entity; (3) the names of the business entity's officers, directors, principals, managers, managing members, and employees; and (4) a detailed description of the business entity's intended activities.

#### X. DISTRIBUTION OF ORDER BY DEFENDANTS

**IT IS FURTHER ORDERED** that Defendants, except Defendant Ketover, shall

immediately provide a copy of this Order to each affiliate, subsidiary, division, sales entity, successor, assign, officer, director, employee, independent contractor, agent, attorney, and representative of the Defendants, and shall, within seven (7) days from the date of entry of this Order, provide counsel for the Commission with a sworn statement that each Defendant has complied with this provision of the Order, which statement shall include the names and addresses of each such person or entity who received a copy of this Order.

### **XI. APPOINTMENT OF MONITOR**

**IT IS FURTHER ORDERED** that Gerald B. Wald, the former Temporary Receiver in this action, is hereby appointed as Monitor in this action with directions and authority to accomplish the following:

A. Monitor all activities, assets, and financial transactions of the Defendants, except Defendant Ketover, past, present, and future including but not limited to:

1. Reviewing all financial information pertaining to the Defendants and monitoring all future financial information, including but not limited to revenues and expenditures of the Defendants;

2. Reviewing all information pertaining to Defendants' business activities, including but not limited to all advertising, marketing, telemarketing, customer service, the making and maintaining of audio and digital recordings under this Order; and

3. Monitor Defendants and assure that they are in compliance with this Order.

B. The Monitor shall have unfettered access to all information that the Monitor deems necessary to carry out his duties pursuant to this Order, to same extent as the Defendants themselves are allowed by right, contract, or practice, including but not limited to:

1. Access to all documents pertaining to the Defendants' business activities and finances wherever located and in whomever's custody or control;
2. Access to all property or premises in possession of, owned by, or under the control of the Defendants, wherever located;
3. The right to interview any current or former employee of any Defendant;
4. The right to interview any current or former officer, independent contractor, subcontractor, advertising agency, vendor, agent, service bureau, or other entity involved in the provision of any services to or on behalf of the Defendants;
5. Monitor and observe any officer, independent contractor, subcontractor, advertising agency, vendor, agent, service bureau of the Defendants; and
6. Access to all documents of any officer, independent contractor, employee or agent of the Defendants.

C. The Monitor shall provide access to all documents or other material to which he has access pursuant to this Paragraph to any party upon request. Furthermore, the Monitor shall have the right to copy and maintain any such information.

D. Defendants are enjoined and restrained from interfering in any way with the functions and duties of the Monitor and shall take no action, directly or indirectly, to hinder or obstruct the Monitor in the conduct of his duties. Defendants are ordered and directed to assist and participate with the Monitor in carrying out her duties.

E. The Monitor shall make periodic reports, observations, and recommendations to this Court, upon reasonable notice to the parties, and seek guidance and instructions from this Court, if the Monitor deems it necessary. The Monitor shall prepare and submit a Report to this Court and to the parties, not less than 30 (thirty) days after issuance of this Order, describing the

Monitor's activities in connection with carrying out the Monitor's duties and responsibilities under this Order.

F. The Monitor shall have power to enter into such agreements in connection with the performance of his duties, including, but not limited to the retention and employment of investigators, attorneys, accountants, and technical specialists of the Monitor's choice, including, without limitation, members and employees of the Monitor's firm, to assist, advise, and represent the Monitor.

G. The Monitor and all personnel hired by the Monitor as herein authorized, including counsel to the Monitor and accountants, shall be entitled to reasonable compensation for the performance of duties pursuant to this Order and for the cost of actual out-of-pocket expenses incurred by them, to be paid by the Defendants, except Defendant Ketover, and not by the Commission or from the frozen funds in Paragraph IV.C above. The Monitor shall provide the parties with bi-weekly statements of fees and expenditures. The Monitor shall file with the Court, and serve on the parties, periodic accountings and requests for the payment of such reasonable compensation. The Monitor shall not increase the Monitor's fee rate billed without prior approval of the Court.

H. No bond shall be required in connection with the appointment of the Monitor. The Monitor, those assisting him and/or her professionals shall not be personally liable for any loss or damage incurred by reason of any act performed or omitted by any Defendants. The monitor shall be held harmless for any act or omission by any Defendant that occurs during the monitor's performance of his duties and responsibilities hereunder.

The Monitor and any party may, at any time, upon proper notice to the parties apply to this Court for further instructions for additional authority as may be needed, or to discontinue the

use of the monitor.

Notwithstanding the foregoing, the Monitor is appointed by the Court to serve only as a monitor, not as a receiver, and does not assume any rights, duties, functions or responsibilities with regard to the use, operation, management, repair, replacement, protection, or improvement of the corporate and limited liability company Defendants' real or personal property.

*Provided, however,* that nothing in this Paragraph shall be interpreted to waive any Defendant's valid claim of attorney-client privilege, subject to the Court's determination upon *in camera* inspection, upon the request of the Monitor or Plaintiff.

#### **XII. TRANSFER OF FROZEN FUNDS BY THE MONITOR**

**IT IS FURTHER ORDERED** that, upon service of a copy of this Order, Bank of America shall cooperate with the request of the Monitor to transfer the frozen funds identified in Paragraph IV.C above and in accordance with said Paragraph.

#### **XIII. TERMINATION OF RECEIVERSHIP**

**IT IS FURTHER ORDERED** that upon entry of this Order and transfer of the frozen funds pursuant to Paragraphs IV.C and XII above, the Receivership over Defendants, pursuant to this Court's Order for TRO entered on November 10, 2003, shall be terminated and the provisions of said TRO related to the appointment of the Temporary Receiver contained therein shall be dissolved.

#### **XIV. CONSUMER CREDIT REPORTS**

**IT IS FURTHER ORDERED** that the Commission may obtain credit reports concerning any Defendant, pursuant to Section 604(1) of the Fair Credit Reporting Act, 15 U.S.C. § 1681b(1), and that upon written request, any credit reporting agency from which such reports are requested shall provide them to the Commission.



**XV. STATUS OF TRO/DURATION OF PRELIMINARY INJUNCTION**

**IT IS FURTHER ORDERED** that the provisions of the Stipulated Preliminary Injunction supercede and replace this Court's Temporary Restraining Order dated November 10, 2003. The Stipulated Preliminary Injunction granted herein shall remain in effect until further order of this Court.

**XVI. USE OF ALIASES**

**IT IS FURTHER ORDERED** that Defendants are hereby enjoined from using any fictitious, false, or assumed title or name, other than their own proper name, or registered fictitious or trading name, or otherwise misrepresenting their true identities in the course of business dealings or in publicly filed documents.

**XVII. RETENTION OF JURISDICTION**


**IT IS FURTHER ORDERED** that this Court retains jurisdiction of this matter for all

purposes.

**CONSENTED AND AGREED TO BY:**

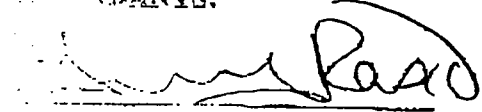
**FOR PLAINTIFF:**  
**WILLIAM H. KOVACIC**  
**FEDERAL COUNSEL**

**BARBARA ANTHONY**  
**REGIONAL DIRECTOR**  
**SOUTHEAST REGION**  
**FEDERAL TRADE COMMISSION:**

  
**BEN WEINTRAUB (Florida Bar # A5500782)**

**DATED:** November 17, 2003

**DEFENDANTS:**

  
**ERIC RASCO (Florida Bar # 0727520)**  
**ERNEST GOODMAN, PALLOT & WELLS P.A.**

**DATED:** Nov 17, 2003

**SO ORDERED**, this 18<sup>th</sup> day of November, 2003, at FT. LAUDERDALE, FL. 8:05 A.m.

  
**UNITED STATES DISTRICT JUDGE**