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UNITED STATES
DISTRICT

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CLERK US DISTRICT COURT
DISTRICT OF NEVADA

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CV-S-04-0712-RCJ-RJJ

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

3RD UNION CARD SERVICES INC.,
doing business as
PHARMACYCARDS.COM,
a Delaware Corporation; HELMCREST,
LTD., a company incorporated under the
laws of Cyprus, doing business as
Pharmacycards.com;

DAVID GRAHAM TURNER, and
STEVE PEARSON, individually and as
officers of the above companies,

Defendants.

COMPLAINT FOR
INJUNCTION
AND OTHER EQUITABLE
RELIEF

Plaintiff, the Federal Trade Commission ("the FTC" or "the Commission"), for its
complaint alleges:

1 numbers were obtained by defendants. Defendants have attempted to debit more than
2 \$10 million from consumer checking accounts in less than three months of operation.

3 11. Collectively, defendants operated this common enterprise under the
4 business name of Pharmacards.com. Depending on the business need, the individual
5 defendants, Pearson and Turner, used the corporate shells of 3rd Union Card Services
6 and HelmCrest to do business as Pharmacards.com. When a U.S. presence was
7 needed, 3rd Union was used, but when it was time for payment, the funds were wired to
8 HelmCrest's account in Cyprus.

9 12. Defendants gained access to the banking system via third-party payment
10 processors by claiming that they were engaged in a legitimate business offering
11 consumers a discount prescription benefits card. They created a website,
12 www.pharmacards.com, that touted the benefits of the supposed program. The
13 website promised that the benefits card would be accepted by most major pharmacies,
14 and included logos from legitimate retailers like WalMart and Target. These retail
15 pharmacies were not actually participating in any kind of discount prescription benefits
16 program with defendants and defendants' use of their logos was not authorized.
17 Moreover, most consumers did not receive any benefits card.

18 13. To further the illusion of legitimacy, defendants provided a toll-free
19 customer service number. This number is answered at a call center in Montreal, Quebec,
20 Canada. Defendants also claimed to have a mailing address in Vancouver, British
21 Columbia. The address that they provided was false, however, and mail sent to that
22 location is returned to the senders.

23 14. Some consumers received a direct mail solicitation from
24 Pharmacards.com, after their accounts were debited. The letter stated that because the
25 consumer had previously purchased a product or service from one of defendants'
26 "marketing partners" using their checking account, the consumer had no need to provide
27 the account number again. The letter described the purported pharmacy discount card
28 program and stated that consumers not interested need only call customer service and

1 cancel within five days of receipt of the letter. (Of course, by that time, the consumer's
2 checking account had already been debited.) Other consumers never received this letter,
3 or discarded it as junk mail.

4 15. Defendants provided consumers' checking account numbers to the third-
5 party payment processors with whom they contracted to debit consumers' checking
6 accounts. One processor debited 72,240 checking accounts for defendants, generating
7 more than \$10 million in attempted debits. More than 50,000 of those transactions were
8 cancelled or returned (a return rate of 69.51%). For the many additional consumers who
9 are unaware of the transaction or unable to have it reversed, \$139 was removed without
10 authorization from their bank account.

11
12 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

13 16. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or
14 deceptive acts or practices in or affecting commerce. An act or practice is unfair if it
15 "causes or is likely to cause substantial injury to consumers which is not reasonably
16 avoidable by consumers themselves and not outweighed by countervailing benefits to
17 consumers or to competition." 15 U.S.C. § 45(n).

18 17. In numerous instances, defendants have debited consumers' checking
19 accounts without authorization.

20 18. Defendants' practice of debiting consumers' accounts without
21 authorization causes or is likely to cause substantial injury to consumers which is not
22 reasonably avoidable by consumers themselves and not outweighed by countervailing
23 benefits to consumers or competition.


24 19. Defendants' unauthorized debiting of consumers' checking accounts, as
25 alleged in Paragraphs 17-18, constitutes an unfair act or practice in violation of Section
26 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 3. Award such relief as the Court finds necessary to redress injury to
2 consumers resulting from defendants' violations of the FTC Act, including, but not
3 limited to, rescission or reformation of contracts, restitution, the refund of monies paid,
4 and the disgorgement of ill-gotten monies; and

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

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8 Dated: May 21, 2004

Respectfully Submitted,
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