

**UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION**

COMMISSIONERS: **Deborah Platt Majoras, Chairman
Pamela Jones Harbour
Jon Leibowitz
William E. Kovacic
J. Thomas Rosch**

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| In the Matter of |) | |
| |) | |
| DARDEN RESTAURANTS, INC., |) | |
| |) | DOCKET NO. C-4189 |
| GMRI, INC., and |) | |
| |) | |
| DARDEN GC CORP., |) | |
| corporations. |) | |
| |) | |

COMPLAINT

The Federal Trade Commission, having reason to believe that Darden Restaurants, Inc., GMRI, Inc., and Darden GC Corp. (collectively, “respondents”) have violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Darden Restaurants, Inc. (“Darden”), is a Florida corporation that, through its subsidiaries, owns and operates several restaurant chains, including Olive Garden Restaurant, Red Lobster Restaurant, Smokey Bones Restaurant, and Bahama Breeze Restaurant. Darden’s principal office or place of business is located at 5900 Lake Ellenor Drive, Orlando, Florida 32809.
2. Respondent GMRI, Inc., is a Florida corporation with its principal office or place of business located at 5900 Lake Ellenor Drive, Orlando, Florida 32809.
3. Respondent Darden GC Corp. is a Colorado corporation with its principal office or place of business located at 5900 Lake Ellenor Drive, Orlando, Florida 32809.
4. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

5. Since at least 2001, respondents have advertised, offered for sale, sold, and distributed gift cards through Darden's restaurants and Web sites, and third parties. Respondents have also advertised their gift cards in television and radio advertisements.

6. Respondents' gift cards are plastic, stored-value cards, similar in size and shape to credit or debit cards, often branded with one or more of Darden's restaurant logos. Respondents' gift cards typically can be used to purchase goods or services at any of Darden's restaurant locations.

7. Respondents have represented that consumers can redeem respondents' gift cards for goods or services of an equal value to the monetary amount placed on the cards. Respondents have promoted their gift cards as "perfect for any budget – in amounts from \$5 to \$250." Respondents have sold their gift cards in specific denominations for exact amounts (*e.g.*, a \$25 Olive Garden Gift Card costs \$25, etc.), and respondents' gift cards are often branded with monetary amounts on the front of the cards. Additionally, respondents have claimed that their gift cards can be used like gift certificates, which typically are redeemable for the monetary amount specified on the certificates.

8. In numerous instances, respondents have applied a fee that depletes the value of their gift cards over time and, in some instances, renders the cards worthless. For gift cards sold prior to February 2004, after 15 consecutive months of non-use, respondents deducted a monthly fee of \$1.50 (hereinafter, "dormancy fee" or "fee") until the consumer used the card again. For gift cards sold after February 2004, respondents deducted the fee after 24 consecutive months of non-use.

9. In numerous instances, respondents have failed to disclose or failed to disclose adequately the dormancy fee by, among other practices:

- a. Disclosing the dormancy fee in small print (approximately five point font) on the back of the gift card, obscured by miscellaneous other information (*see Attachment A*);
- b. Marketing a transparent (or clear-colored) Red Lobster Gift Card with a red lobster design on the front of the card that further obscures the dormancy fee disclosure on the back (*see Attachment B*);
- c. Marketing their gift cards in Darden's restaurants and failing to direct consumers' attention to the dormancy fee disclosure on the back of their gift cards or otherwise notifying consumers of the dormancy fee. For example, respondents provide restaurant patrons with drink coasters and table tents that operate as gift card order forms. Consumers fill in the forms with the quantity and dollar amount of the gift cards they wish to purchase, and the server then adds the charge to the

consumer's restaurant bill. In numerous instances, these materials do not contain any disclosure about the card's dormancy fees (*see Attachment C*); and

- d. Marketing their gift cards on Darden's Web sites, i.e., Darden.com, Olivegarden.com, Redlobster.com, Smokeybones.com, and Bahamabreeze.com, without disclosing to consumers before purchase that a dormancy fee may apply to the card.

10. In numerous instances, consumers have not learned of the fee until they attempted to use respondents' gift cards and discovered that the cards held little or no remaining value. Some consumers have contacted respondents to request reimbursement of the amounts lost as a result of the fee, and respondents have provided some amount or form of reimbursement.

11. In the advertising and sale of Darden's gift cards, respondents have represented, expressly or by implication, that consumers have the right to redeem their gift cards for goods or services of an equal value to the monetary amount placed on the cards. Respondents have failed to disclose, or have failed to disclose adequately, that, after a specified number of consecutive months of non-use (*i.e.*, 15 or 24 consecutive months), respondents deduct a \$1.50 fee per month from the value of their gift cards until they are used again. This fact would be material to consumers in their purchase or use of respondents' gift cards. The failure to disclose this fact, in light of the representation made, was, and is, a deceptive practice.

12. The acts and practices of respondents as alleged in this complaint constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this seventh day of May, 2007, has issued this complaint against respondents.

By the Commission.

Donald S. Clark
Secretary

SEAL: