



**JURISDICTION AND VENUE**

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, as well as 15 U.S.C. §§ 45(a), 53(b), 57b, and 6105(b).

3. Venue in the United States District Court for the Southern District of Illinois is proper under 28 U.S.C. § 1391(b) and (c), as well as under 15 U.S.C. § 53(b).

**THE PARTIES**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58, as amended. The Commission enforces 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. The Commission also enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive or abusive telemarketing acts or practices. The Commission is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the TSR and to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. §§ 53(b), 57b, 6102(c), and 6105(b).

5. Defendant Practical Marketing, Inc. is incorporated in Florida, and its principal place of business is at 23116A Sandalfoot Plaza Drive, Boca Raton, Florida 33428. Practical Marketing, Inc. transacts or has transacted business in the Southern District of Illinois and throughout the United States.

6. Defendant Robert M. DeSalvo is an officer and director of the corporate defendant. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this Complaint. He transacts or has

transacted business in the Southern District of Illinois and throughout the United States.

7. Defendant Valerie DeSalvo is an officer and director of the corporate defendant. At all times relevant to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this Complaint. She transacts or has transacted business in the Southern District of Illinois and throughout the United States.

### **COMMERCE**

8. At all times relevant to this complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS’ BUSINESS PRACTICES**

9. Since at least 2000, Defendants have acted as list brokers, selling various lists of consumer names, addresses, telephone numbers, and other information, to telemarketers.

10. Defendants sell lists to telemarketers that are commonly referred to as “full data leads.” Defendants sell full data leads that include consumers’ bank account and routing information, credit card numbers, credit card security codes, and credit card expiration dates. The full data leads that Defendants sell to telemarketers include unencrypted consumer account numbers. Defendants obtain this information from various sources, including lists of consumers who purchase products or services on the Internet by check.

11. Defendants do not obtain consumers’ authorization prior to selling their financial information.

12. On numerous occasions, Defendants have sold lists containing consumers’

information to telemarketers of advance-fee credit cards. Telemarketers are prohibited by the TSR from requesting or receiving payment in advance of obtaining an extension of credit when the telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit.

13. Defendants know that these telemarketers are engaged in the promotion and sale of advance-fee credit products because, *inter alia*, prior to selling or renting them lists of prospective customers, Defendants obtain copies of telemarketing scripts that on their face request an advance-fee for a credit product, in violation of the TSR.

#### **THE TELEMARKETING SALES RULE**

14. In the Telemarketing Act, 15 U.S.C. §§ 6101-6108, Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices. On August 16, 1995, the Commission promulgated the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310. The TSR became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a Statement of Basis and Purpose and the final amended TSR. 68 Fed. Reg. 4580, 4669. The amended TSR became effective on March 31, 2003.

15. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), violations of the TSR constitute deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

16. It is a violation of the TSR for any person to provide "substantial assistance or support" to any seller or telemarketer when that person "knows or consciously avoids knowing" that the seller or telemarketer is engaged in any practice that violates Section 310.4 of the Rule.

16 C.F.R. § 310.3(b).

17. The TSR prohibits any seller or telemarketer from, “[r]equesting or receiving payment of any fee or consideration in advance of obtaining a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit for a person.” 16 C.F.R. § 310.4(a)(4).

18. The TSR also prohibits any seller or telemarketer from, “[d]isclosing or receiving, for consideration, unencrypted consumer account numbers for use in telemarketing.” 16 C.F.R. § 310.4(a)(5).

### **COUNT I**

19. On numerous occasions, Defendants have sold lists of consumer information, including full data leads with unencrypted account information, to telemarketers who:

- A. falsely represent that after paying an advance fee, consumers are guaranteed or highly likely to receive a credit card or obtain a loan in violation of Section 310.4(a)(4) of the TSR; and
- B. disclose or receive, for consideration, unencrypted consumer account numbers for use in telemarketing in violation of Section 310.4(a)(5) of the TSR.

20. By providing substantial assistance and support to telemarketers, while knowing or consciously avoiding knowing that the telemarketers are engaged in the illicit practices described in Paragraph 19, Defendants have violated Section 310.3(b) of the TSR.

### **CONSUMER INJURY**

21. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of Defendants’ unlawful acts or practices. In addition,

Defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

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

22. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the Commission.

23. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from Defendants' violations of the TSR, including the rescission or reformation of contracts, and the refund of monies.

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

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Federal Trade Commission, pursuant to Section 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and the Court's own equitable powers, requests that the Court:

1. 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;
2. Enter a permanent injunction to prevent future violations of the FTC Act and the

TSR by Defendants;

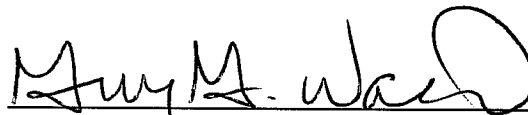
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the TSR, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

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

Respectfully Submitted,

WILLIAM BLUMENTHAL  
General Counsel

DATED: September 28, 2007



GUY G. WARD  
Federal Trade Commission  
55 West Monroe Street, Suite 1825  
Chicago, Illinois 60603  
(312) 960-5634  
FAX (312) 960-5600