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9
10 **IN THE UNITED STATES DISTRICT COURT**
11 **FOR THE DISTRICT OF ARIZONA**

12
13 Federal Trade Commission,
14 Plaintiff,

15 vs.

16 ELH Consulting, LLC, an Arizona Limited
Liability Company, also d/b/a Proactive
17 Planning Solutions; Purchase Power Solutions,
LLC, an Arizona Limited Liability Company;
18 Allied Corporate Connection, LLC, an Arizona
Limited Liability Company; Complete
19 Financial Strategies, LLC, an Arizona Limited
Liability Company; 3Point14 Consultants,
20 LLC, a Nevada Limited Liability Company,
also d/b/a Elite Planning Group; Key Tech
21 Software Solutions, LLC, a Delaware Limited
Liability Company, also d/b/a Key One
22 Solutions;

23 Emory L. Holley IV, a/k/a Jack Holley,
individually and as the sole member of ELH
24 Consulting, LLC; Lisa Miller, individually and
as the sole member of Allied Corporate
25 Connection, LLC, Complete Financial
Strategies, LLC, and Purchase Power
26 Solutions, LLC; Rares Stelea, individually and
as the sole member of 3Point14 Consultants,
27 LLC; and Justin Journey, individually and as
the sole member of Key Tech Software
28 Solutions, LLC,

Defendants.

Civil No. CV-12-2246-PHX-FJM

**COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF**

1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

2 1. The FTC brings this action under Sections 13(b) and 19 of the
3 Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the
4 Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing
5 Act”), 15 U.S.C. §§ 6101-6108, to obtain temporary, preliminary, and permanent
6 injunctive relief, rescission or reformation of contracts, restitution, the refund of
7 monies paid, disgorgement of ill-gotten monies, and other equitable relief for
8 Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15
9 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation Rule entitled
10 “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

11 **JURISDICTION AND VENUE**

12 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
13 §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and
14 6105(b).

15 3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c),
16 and 15 U.S.C. § 53(b).

17 **PLAINTIFF**

18 4. The FTC is an independent agency of the United States Government
19 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
20 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
21 affecting commerce. The FTC also enforces the Telemarketing Act, 15 U.S.C.
22 §§ 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and
23 enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive
24 telemarketing acts or practices.

25 5. The FTC is authorized to initiate federal district court proceedings,
26 by its own attorneys, to enjoin violations of the FTC Act and the TSR and to
27 secure such equitable relief as may be appropriate in each case, including
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1 rescission or reformation of contracts, restitution, the refund of monies paid, and
2 the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A),
3 56(a)(2)(B), 57b, 6102(c) and 6105(b).

4 **DEFENDANTS**

5 6. ELH Consulting, LLC (“ELH Consulting”), is an Arizona limited
6 liability company with its mailing address at 1753 E. Broadway Rd. #525, Tempe,
7 Arizona 85282, and its offices at 2655 W. Guadalupe Rd., Ste. 9, Mesa, Arizona
8 85202. ELH Consulting has done business as Proactive Planning Solutions
9 (“Proactive”). ELH Consulting transacts or has transacted business in this district
10 and throughout the United States.

11 7. Purchase Power Solutions, LLC (“Purchase Power”), is an Arizona
12 limited liability company with its registered address at 4050 W. Ray Rd. #17-155,
13 Chandler, Arizona 85226, and its mailing address at 3116 S. Mill St. # 283, Mesa,
14 Arizona 85282. Purchase Power transacts or has transacted business in this district
15 and throughout the United States.

16 8. Allied Corporate Connection, LLC (“Allied”), is an Arizona limited
17 liability company with its mailing address at 2023 W. Guadalupe Rd. #11-217,
18 Mesa, Arizona 85202, and its offices at 2655 W. Guadalupe Rd., Ste. 9, Mesa,
19 Arizona 85202. Allied transacts or has transacted business in this district and
20 throughout the United States.

21 9. Complete Financial Strategies, LLC (“Complete”), is an Arizona
22 limited liability company with its registered address at 1730 E. Warner Rd. # 10-
23 109, Tempe, Arizona 85284. Complete transacts or has transacted business in this
24 district and throughout the United States.

25 10. 3Point14 Consultants, LLC (“3Point”), is a Nevada limited liability
26 company with its registered address at 6576 Goldensun Court, Las Vegas, Nevada
27 89108, and its mailing address at 1960 W. Ray Rd. #13-17, Chandler, Arizona
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1 85224. 3Point has done business as Elite Planning Group (“Elite”), which has its
2 mailing address at 315 W. Elliot Rd. #107-166, Tempe, Arizona 85284. 3Point
3 transacts or has transacted business in this district and throughout the United
4 States.

5 11. Key Tech Software Solutions, LLC, (“Key Tech”) is a Delaware
6 limited liability company with its registered address at 16192 Coastal Highway,
7 Lewes, Delaware 19958, and its mailing address at P.O. Box 360321, Strongsville,
8 Ohio 44136. Key Tech has done business as Key One Solutions (“Key One”),
9 which has its mailing address at 7650 S. McClintock Dr. #103-119, Tempe,
10 Arizona 85284. Key Tech transacts or has transacted business in this district and
11 throughout the United States.

12 12. Emory L. Holley IV a/k/a Jack Holley (“Holley”) is the sole member
13 of Defendant ELH Consulting and is general manager of Defendant Allied. At all
14 times material to this Complaint, acting alone or in concert with others, he has
15 formulated, directed, controlled, had the authority to control, or participated in the
16 acts and practices set forth in this Complaint. Holley resides in this district and, in
17 connection with the matters alleged herein, transacts or has transacted business in
18 this district and throughout the United States.

19 13. Lisa Miller (“Miller”) is the sole member of Defendants Allied,
20 Complete, and Purchase Power. Miller has been permanently enjoined in
21 connection with FTC v. Vector Direct Marketing, et al., CV04 0095 PHX SMM
22 (Stip. Final Order entered 06/20/04) from any violation of the TSR. At all times
23 material to this Complaint, acting alone or in concert with others, she has
24 formulated, directed, controlled, had the authority to control, or participated in the
25 acts and practices set forth in this Complaint. Miller resides in this district and, in
26 connection with the matters alleged herein, transacts or has transacted business in
27 this district and throughout the United States.

DEFENDANTS' BUSINESS PRACTICES

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2 18. The Defendants operate a tangled network of telemarketing
3 companies and telemarketing service providers that have been active under various
4 names at several locations since at least 2007. ELH Consulting, LLC; Purchase
5 Power Solutions, LLC; Allied Corporate Connection, LLC; and Complete
6 Financial Strategies, LLC; are owned and controlled by Lisa Miller and/or Emory
7 Holley. Miller and Holley through these entities both deceptively telemarket credit
8 card interest rate reduction services and provide substantial assistance to third
9 parties who deceptively telemarket such services. Defendants 3point14
10 Consultants, LLC, owned by Rares Stelea, and Key Tech Software Solutions,
11 LLC, owned by Justin Journey, are two telemarketing companies that have been or
12 are currently being assisted by Miller and Holley.

13 19. Since at least December 2007, Defendants ELH Consulting,
14 Purchase Power, Allied, Complete, Holley, and Miller have telemarketed credit
15 card interest rate reduction services to consumers nationwide in the United States.

16 20. Since at least March 2011, Defendant 3Point has telemarketed credit
17 card interest rate reduction services to consumers nationwide in the United States.

18 21. Since at least January 2012, Defendant Key Tech has telemarketed
19 credit card interest rate reduction services to consumers nationwide in the United
20 States.

21 22. In many instances, Defendants initiate telemarketing calls using a
22 telemarketing service that delivers prerecorded voice messages, known as “voice
23 broadcasting” or “robocalling.” The prerecorded messages offer consumers the
24 purported opportunity to secure substantially lower credit card interest rates and
25 instruct consumers to press a number on their phone to be connected to a live
26 representative. When consumers press the number, they are connected to a live
27 representative who works for Defendants.

1 23. Defendants also have marketed their programs via the Internet on
2 several websites, including keyonesolutionsinc.com,
3 proactiveplanningsolutions.com, theeliteplanninggroup.com, and
4 purchasepowersolutionsinc.com.

5 24. During telemarketing calls, Defendants often identify themselves as
6 representatives of "Cardholder Services" or some other generic business name.
7 Defendants claim to have the ability to reduce substantially consumers' credit card
8 interest rates. In many instances, Defendants claim that they can obtain very low
9 interest rates, typically between 4.9% and 9.9% for consumers. Defendants also
10 often claim that their interest rate reduction services will provide substantial
11 savings to consumers, typically at least \$2500, in a short period of time, and will
12 enable consumers to pay off their debt much faster, typically three to five times
13 faster, without increasing their monthly payments.

14 25. In numerous instances, Defendants guarantee that if consumers do
15 not save the promised amount of money in a short time as a result of lowered
16 credit card interest rates, consumers will receive a full refund of the cost of
17 Defendants' services.

18 26. In some instances, Defendants have guaranteed or represented a high
19 likelihood of success in obtaining for consumers a 0% or very low interest credit
20 card.

21 27. Defendants charge consumers a fee ranging from \$500 to \$999 for
22 their services. Defendants typically place this charge on consumers' credit cards
23 during or immediately following the telemarketing calls. Defendants typically
24 represent that the amount of the fee will be quickly offset by savings achieved
25 through reduced interest rates.

26 28. After consumers pay Defendants' fee, Defendants usually send
27 consumers forms to complete and return listing all of the consumers' credit card
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1 account information and other sensitive personal information such as date of birth
2 and Social Security Number.

3 29. In some instances, after consumers complete and return Defendants'
4 forms, Defendants initiate three-way telephone calls with the consumers and the
5 customer service departments of credit card companies that consumers listed on
6 the forms. These three-way telephone calls merely consist of Defendants verbally
7 requesting (or prompting consumers to verbally request) that the credit card
8 companies reduce the consumers' credit card interest rates. This is a task
9 consumers could easily perform themselves. The credit card companies typically
10 decline the request, and the call ends. These three-way telephone calls are often
11 the total extent of Defendants' credit card interest rate reduction services.

12 30. In numerous instances, Defendants fail to provide consumers with
13 the significant reductions in credit card interest rates, new lower interest rate credit
14 accounts, and minimum savings that were promised during the initial telephone
15 calls, and they typically fail to provide any reduction in consumers' credit card
16 interest rates at all. Consequently, consumers are not able to pay their credit card
17 debts faster than they could have without Defendants' service.

18 31. Despite Defendants' failure to deliver on the promises made to
19 consumers, Defendants rarely refund the fee charged to consumers for purchasing
20 Defendants' credit card interest rate reduction services.

21 32. While telemarketing their program, Defendants, acting directly or
22 through one or more intermediaries, have made numerous calls to telephone
23 numbers on the National Do Not Call Registry ("Registry"), as well as to
24 consumers who have previously asked Defendants not to call them again. In some
25 instances, Defendants or their telemarketers also "spoof" their calls by transmitting
26 phony Caller Identification information so that call recipients do not know the
27 source of the calls.

1 deceptive acts or practices prohibited by Section 5(a) of the FTC Act. 15 U.S.C.
2 § 45(a).

3 **COUNT ONE**

4 **Misrepresentations in Violation of Section 5**

5 39. In numerous instances, in connection with the advertising,
6 marketing, promotion, offering for sale, or sale of credit card interest rate
7 reduction services, Defendants have represented, directly or indirectly, expressly or
8 by implication, that:

9 A. Consumers who purchase Defendants' credit card interest rate
10 reduction services will receive a 0% or low rate credit card or have their
11 credit card interest rates reduced substantially, including to as low as 4.9%
12 to 9.9%;

13 B. Consumers who purchase Defendants' credit card interest rate
14 reduction services will save thousands of dollars in a short time as a result
15 of lowered credit card interest rates; and

16 C. Consumers who purchase Defendants' credit card interest rate
17 reduction services will be able to pay off their debts much faster, typically
18 three to five times faster, as a result of lowered credit card interest rates.

19 40. In truth and in fact, the representations set forth in Paragraph 39 of
20 this Complaint were false or not substantiated at the time the representations were
21 made.

22 41. Therefore, Defendants' representations as set forth in Paragraph 39
23 of this Complaint are false or misleading and constitute deceptive acts or practices
24 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

25 **COUNT TWO**

26 **Refund Misrepresentations**

27 42. In numerous instances, in connection with the advertising,
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1 marketing, promotion, offering for sale, or sale of credit card interest rate
2 reduction services, Defendants have represented, directly or indirectly, expressly or
3 by implication, that Defendants will provide full refunds if consumers do not save
4 thousands of dollars in a short time as a result of lowered credit card interest rates.

5 43. In truth and in fact, in numerous instances in which Defendants have
6 made the representation set forth in Paragraph 42 of this Complaint, Defendants do
7 not provide full refunds when consumers do not save thousands of dollars in a
8 short time as a result of lowered credit card interest rates.

9 44. Therefore, Defendants' representation as set forth in Paragraph 42 of
10 this Complaint is false and misleading and constitutes a deceptive act or practice in
11 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

12 **THE TELEMARKETING SALES RULE**

13 45. Congress directed the FTC to prescribe rules prohibiting abusive and
14 deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15
15 U.S.C. §§ 6101-6108. The FTC adopted the original Telemarketing Sales Rule in
16 1995, extensively amended it in 2003, and amended certain provisions thereafter.
17 16 C.F.R. Part 310.

18 46. As amended, effective September 27, 2010, and October 27, 2010,
19 the TSR addresses the telemarketing of debt relief services. The amendments
20 effective September 27, 2010, among other things, prohibit misrepresentations
21 about material aspects of debt relief services. The amendments effective October
22 27, 2010, prohibit sellers and telemarketers from charging or collecting an advance
23 fee before renegotiating, settling, reducing, or otherwise altering consumers' debts.

24 47. Defendants are "seller[s]" and/or "telemarketer[s]" engaged in
25 "telemarketing," and Defendants have initiated, or have caused telemarketers to
26 initiate, "outbound telephone call[s]" to consumers to induce the purchase of
27 goods or services, as those terms are defined in the TSR, 16 C.F.R. § 310.2(v),
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1 (aa), (cc), and (dd). Defendants also are sellers or telemarketers of “debt relief
2 service[s],” as defined by the TSR, 16 C.F.R. § 310.2(m).

3 48. Under the TSR, an “outbound telephone call” means a telephone call
4 initiated by a telemarketer to induce the purchase of goods or services or to solicit
5 a charitable contribution. 16 C.F.R. § 310.2(v).

6 49. The TSR prohibits sellers and telemarketers from misrepresenting,
7 directly or by implication, in the sale of goods or services, any material aspect of
8 the performance, efficacy, nature, or central characteristics of the goods or services
9 that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

10 50. As amended, effective September 27, 2010, the TSR prohibits sellers
11 and telemarketers from misrepresenting, directly or by implication, in the sale of
12 goods or services, any material aspect of any debt relief service. 16 C.F.R.
13 § 310.3(a)(2)(x).

14 51. The TSR prohibits sellers and telemarketers from misrepresenting,
15 directly or by implication, in the sale of goods or services, any material aspect of
16 the nature or terms of the seller’s refund, cancellation, exchange, or repurchase
17 policies. 16 C.F.R. § 310.3(a)(2)(iv).

18 52. The TSR prohibits sellers and telemarketers from requesting or
19 receiving payment of any fee or consideration in advance of obtaining a loan or
20 other extension of credit when the seller or telemarketer has guaranteed or
21 represented a high likelihood of success in obtaining or arranging a loan or other
22 extension of credit for a person. 16 C.F.R. § 310.4(a)(4).

23 53. As amended, effective October 27, 2010, the TSR prohibits sellers
24 and telemarketers from requesting or receiving payment of any fee or
25 consideration for any debt relief service until and unless:

26 A. The seller or telemarketer has renegotiated, settled, reduced,
27 or otherwise altered the terms of at least one debt pursuant to a settlement
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1 agreement, debt management plan, or other such valid contractual
2 agreement executed by the customer;

3 B. The consumer has made at least one payment pursuant to that
4 settlement agreement, debt management plan, or other valid contractual
5 agreement between the customer and the creditor or debt collector; and

6 C. To the extent that debts enrolled in a service are renegotiated,
7 settled, reduced, or otherwise altered individually, the fee or consideration
8 either (1) bears the same proportional relationship to the total fee for
9 renegotiating, settling, reducing, or altering the terms of the entire debt
10 balance as the individual debt amount bears to the entire debt amount; or (2)
11 is a percentage of the amount saved as a result of the renegotiation,
12 settlement, reduction, or alteration.

13 16 C.F.R. § 310.4(a)(5)(i).

14 54. The TSR, as amended in 2003, established a “do-not-call” registry
15 (the “National Do Not Call Registry” or “Registry”), maintained by the FTC, of
16 consumers who do not wish to receive certain types of telemarketing calls.
17 Consumers can register their telephone numbers on the Registry without charge
18 either through a toll-free telephone call or over the Internet at www.donotcall.gov.

19 55. Consumers who receive telemarketing calls to their registered
20 numbers can complain of Registry violations the same way they registered,
21 through a toll-free telephone call or over the Internet at www.donotcall.gov, or by
22 otherwise contacting law enforcement authorities.

23 56. The FTC allows sellers, telemarketers, and other permitted
24 organizations to access the Registry over the Internet at
25 www.telemarketing.donotcall.gov, to pay any required fee(s), and to download the
26 numbers not to call.

27 57. The TSR prohibits sellers and telemarketers from calling any
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1 telephone number within a given area code unless the seller on whose behalf the
2 call is made has paid the annual fee for access to the telephone numbers within that
3 area code that are included in the Registry. 16 C.F.R. § 310.8.

4 58. The TSR prohibits sellers and telemarketers from initiating an
5 outbound telephone call to telephone numbers on the Registry. 16 C.F.R.
6 § 310.4(b)(1)(iii)(B).

7 59. The TSR prohibits sellers and telemarketers from initiating an
8 outbound telephone call to any person when that person previously has stated that
9 he or she does not wish to receive an outbound telephone call made by or on behalf
10 of the seller whose goods or services are being offered. 16 C.F.R.
11 § 310.4(b)(1)(iii)(A).

12 60. The TSR requires that sellers and telemarketers transmit or cause to
13 be transmitted the telephone number and, when made available by the
14 telemarketer's carrier, the name of the telemarketer, to any caller identification
15 service in use by a recipient of a telemarketing call, or transmit the customer
16 service number of the seller on whose behalf the call is made and, when made
17 available by the telemarketer's seller, the name of the seller. 16 C.F.R.
18 § 310.4(a)(8).

19 61. The TSR requires telemarketers in an outbound telephone call to
20 disclose truthfully, promptly, and in a clear and conspicuous manner, the following
21 information:

- 22 A. The identity of the seller;
- 23 B. That the purpose of the call is to sell goods or services; and
- 24 C. The nature of the goods or services.

25 16 C.F.R. § 310.4(d).

26 62. As amended, effective December 1, 2008, the TSR prohibits a
27 telemarketer from engaging, and a seller from causing a telemarketer to engage, in
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1 initiating an outbound telephone call that delivers a prerecorded message to induce
2 the purchase of any good or service unless the message promptly discloses:

- 3 A. The identity of the seller;
- 4 B. That the purpose of the call is to sell goods or services; and
- 5 C. The nature of the goods or services.

6 16 C.F.R. § 310.4(b)(1)(v)(B)(ii).

7 63. As amended, effective September 1, 2009, the TSR prohibits
8 initiating a telephone call that delivers a prerecorded message to induce the
9 purchase of any good or service unless the seller has obtained from the recipient of
10 the call an express agreement, in writing, that evidences the willingness of the
11 recipient of the call to receive calls that deliver prerecorded messages by or on
12 behalf of a specific seller. The express agreement must include the recipient's
13 telephone number and signature, must be obtained after a clear and conspicuous
14 disclosure that the purpose of the agreement is to authorize the seller to place
15 prerecorded calls to such person, and must be obtained after a clear and
16 conspicuous disclosure that the purpose of the agreement is to authorize the seller
17 to place prerecorded calls to such person, and must be obtained without requiring,
18 directly or indirectly, that the agreement be executed as a condition of purchasing
19 any good or service. 16 C.F.R. § 310.4(b)(1)(v)(A).

20 64. Under the TSR, it is a deceptive telemarketing act or practice for a
21 person to provide substantial assistance or support to any seller or telemarketer
22 when that person knows or consciously avoids knowing that the seller or
23 telemarketer is engaged in any act or practice that violates §§ 310.3(a), (c) or (d) or
24 § 310.4. 16 C.F.R. § 310.3(b).

25 65. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C.
26 § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation
27 of the TSR constitutes an unfair or deceptive act or practice in or affecting
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1 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

3 **COUNT THREE**

4 **Misrepresentations in Violation of the TSR**

5 66. In numerous instances, in connection with the telemarketing of
6 goods and services, Defendants have misrepresented, directly or by implication,
7 material aspects of the performance, efficacy, nature, or central characteristics of
8 such goods and services, including, but not limited to, that:

9 A. Consumers who purchase Defendants' credit card interest rate
10 reduction services will receive a 0% or low rate credit card or have their
11 credit card interest rates reduced substantially, including to as low as 4.9%
12 to 9.9%;

13 B. Consumers who purchase Defendants' credit card interest rate
14 reduction services will save thousands of dollars in a short time as a result
15 of lowered credit card interest rates; and

16 C. Consumers who purchase Defendants' credit card interest rate
17 reduction services will be able to pay off their debts much faster, typically
18 three to five times faster, as a result of lowered credit card interest rates.

19 67. Defendants' acts and practices, as described in Paragraph 66 above,
20 are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R.
21 § 310.3(a)(2)(iii).

22 **COUNT FOUR**

23 **Misrepresentations of Debt Relief Services in Violation of the TSR**

24 68. In numerous instances on or after September 27, 2010, in connection
25 with the telemarketing of debt relief services, Defendants have misrepresented,
26 directly or by implication, material aspects of the debt relief services, including,
27 but not limited to, that:

1 guaranteed or represented a high likelihood of success in obtaining or arranging an
2 extension of credit for such consumers.

3 73. Defendants' acts and practices, as described in Paragraph 72 above,
4 are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R.
5 § 310.4(a)(4).

6 **COUNT SEVEN**

7 **Charging or Receiving a Fee in Advance of Providing Debt Relief Services**

8 74. In numerous instances on or after October 27, 2010, in the course of
9 telemarketing debt relief services, Defendants have requested or received payment
10 of a fee or consideration for a debt relief service before (a) they have renegotiated,
11 settled, reduced, or otherwise altered the terms of at least one debt pursuant to a
12 settlement agreement, debt management plan, or other such valid contractual
13 agreement executed by the customer; and (b) the customer has made at least one
14 payment pursuant to that agreement.

15 75. Defendants' acts and practices, as described in Paragraph 74 above,
16 are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R.
17 § 310.4(a)(5)(i).

18 **COUNT EIGHT**

19 **Violating the National Do Not Call Registry**

20 76. In numerous instances, in connection with telemarketing, Defendants
21 have engaged, or caused a telemarketer to engage, in initiating an outbound
22 telephone call to a person's telephone number on the National Do Not Call
23 Registry in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

24 **COUNT NINE**

25 **Failing to Honor Do Not Call Requests**

26 77. In numerous instances, in connection with telemarketing, Defendants
27 have engaged, or caused a telemarketer to engage, in initiating an outbound
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1 telephone call to a person who previously has stated that he or she does not wish to
2 receive an outbound telephone call made by or on behalf of Defendants, in
3 violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(A).

4 **COUNT TEN**

5 **Failing to Transmit Caller Identification**

6 78. In numerous instances, in connection with telemarketing, Defendants
7 have failed to transmit, or cause to be transmitted, the telephone number and name
8 of the telemarketer or of Defendants to any caller identification service in use by a
9 recipient of a telemarketing call, in violation of the TSR, 16 C.F.R. § 310.4(a)(8).

10 **COUNT ELEVEN**

11 **Initiating Unlawful Prerecorded Messages On or After September 1, 2009**

12 79. In numerous instances on or after September 1, 2009, Defendants
13 have made, or caused others to make, outbound telephone calls that delivered
14 prerecorded messages to induce the purchase of goods or services in violation of
15 the TSR, 16 C.F.R. § 310.4(b)(1)(v).

16 **COUNT TWELVE**

17 **Failing to Make Required Oral Disclosures**

18 80. In numerous instances, including on or after December 1, 2008, in
19 the course of telemarketing goods and services, Defendants have made, or caused
20 others to make, outbound telephone calls that deliver a prerecorded message in
21 which the telemarketer or message failed to disclose truthfully, promptly, and in a
22 clear and conspicuous manner to the person receiving the call:

- 23 A. The identity of the seller;
24 B. That the purpose of the call is to sell goods or services; and
25 C. The nature of the goods or services.

26 81. Defendants' acts and practices, as described in Paragraph 80 above,
27 are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R.

1 §§ 310.4(b)(1)(v)(B)(ii) and (d).

2 **COUNT THIRTEEN**

3 **Failing to Pay National Registry Fees**

4 82. In numerous instances, in connection with telemarketing, Defendants
5 have initiated, or caused others to initiate, an outbound telephone call to a
6 telephone number within a given area code when Defendants had not, either
7 directly or through another person, paid the required annual fee for access to the
8 telephone numbers within that area code that are included in the National Do Not
9 Call Registry, in violation of the TSR, 16 C.F.R. § 310.8.

10 **COUNT FOURTEEN**

11 **Substantial Assistance**

12 83. Defendants ELH Consulting, Purchase Power, Allied, Complete,
13 Holley, and Miller have provided substantial assistance or support including, but
14 not limited to, registering website domain names, establishing mail drops, and
15 providing fulfillment and customer service, to Defendants 3Point and Key Tech
16 and other sellers or telemarketers, when they knew or consciously avoided
17 knowing that 3Point, Key Tech, and other sellers or telemarketers were engaged in
18 acts and practices that violate §§310.3(a), (c), or (d), or §310.4 of the TSR.

19 84. Defendants ELH Consulting, Purchase Power, Allied, Complete,
20 Holley, and Miller's substantial assistance, as described in Paragraph 83 above, is
21 a deceptive telemarketing act or practice that violates the TSR, 16 C.F.R.
22 §310.3(b).

23 **CONSUMER INJURY**

24 85. Consumers have suffered and will continue to suffer substantial
25 injury as a result of Defendants' violations of the FTC Act and the TSR. In
26 addition, Defendants have been unjustly enriched as a result of their unlawful acts
27 or practices. Absent injunctive relief by this Court, Defendants are likely to
28

1 continue to injure consumers, reap unjust enrichment, and harm the public interest.

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

3 86. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
4 Court to grant injunctive and such other relief as the Court may deem appropriate
5 to halt and redress violations of any provision of law enforced by the FTC. The
6 Court, in the exercise of its equitable jurisdiction, may award ancillary relief,
7 including rescission or reformation of contracts, restitution, the refund of monies
8 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any
9 violation of any provision of law enforced by the FTC.

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

15 **PRAYER FOR RELIEF**

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

19 A. Award Plaintiff such preliminary injunctive and ancillary relief as
20 may be necessary to avert the likelihood of consumer injury during the pendency
21 of this action and to preserve the possibility of effective final relief, including, but
22 not limited to, temporary and preliminary injunctions, an order freezing assets,
23 immediate access, and the appointment of a receiver;

24 B. Enter a permanent injunction to prevent future violations of the FTC
25 Act and the TSR by Defendants;

26 C. Award such relief as the Court finds necessary to redress injury to
27 consumers resulting from Defendants' violations of the FTC Act and the TSR,
28

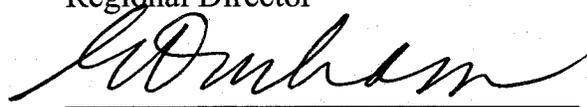
1 including, but not limited to, rescission or reformation of contracts, restitution, the
2 refund of monies paid, and the disgorgement of ill-gotten monies; and

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

5
6 Respectfully Submitted,

7 WILLARD K. TOM
8 General Counsel
9 ROBERT J. SCHROEDER
10 Regional Director

11 Dated: 10/17/12



12 ELEANOR DURHAM
13 LAURA M. SOLIS

14 Attorneys for Plaintiff
15 FEDERAL TRADE COMMISSION
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JS 44 (Rev. 09/11)

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS
 Federal Trade Commission

(b) County of Residence of First Listed Plaintiff _____
 (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)
 Eleanor Durham & Laura Solis, Federal Trade Commission
 915 Second Ave., Suite 2896
 Seattle, WA 98174, (206) 220-6350

DEFENDANTS
 ELH Consulting, LLC, et al.

County of Residence of First Listed Defendant **Maricopa County**
 (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

1 U.S. Government Plaintiff
 2 U.S. Government Defendant

3 Federal Question (U.S. Government Not a Party)
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 448 Education	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement	PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark	
		LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	
		IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee (Prisoner Petition) <input type="checkbox"/> 465 Other Immigration Actions	FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

V. ORIGIN (Place an "X" in One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
 15 U.S.C. § 45(a); 15 U.S.C. § § 6101-6108.

Brief description of cause:
 Deceptive telemarketing of credit card interest rate reduction services.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ _____

CHECK YES only if demanded in complaint:
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions):

JUDGE _____ DOCKET NUMBER _____

DATE: 10/22/2012

SIGNATURE OF ATTORNEY OF RECORD: 

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____