

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civ. No. 6-12-CV-1588-ORL-28-DAB
)	
v.)	Judge John Antoon, II
)	
THE GREEN SAVERS, LLC, a Florida limited liability corporation, also d/b/a ELITE SERVICES and ADVANCED DATA SOLUTIONS,)	Magistrate Judge David A. Baker
)	
)	
PAVAC, INC., a Florida corporation, also d/b/a The Green Savers, LLC, Advanced Data Software, LLC, Advanced Data Solutions, and Elite Services,)	
)	
)	
ADVANCED DATA SOFTWARE, LLC, a Florida limited liability corporation, also d/b/a The Green Savers, LLC, and Advanced Data Solutions,)	
)	
)	
CHRISTOPHER ADAMS, individually and as a member of The Green Savers, LLC, and)	
)	
)	
VIKASH JAWALAPERSAD, individually and as a member, officer, or director of The Green Savers, LLC, Pavac, Inc., and Advanced Data Software, LLC)	
)	
Defendants.)	

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

Plaintiff, the Federal Trade Commission ("FTC"), for its First Amended Complaint

alleges:

1. The FTC brings this action under 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. §§ 6101-6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

JURISDICTION AND VENUE

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

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

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC 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 FTC also enforces the Telemarketing Act, 15 U.S.C. §§ 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

5. The FTC 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 rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), 56(a)(2)(B), 57b, 6102(c) and 6105(b).

DEFENDANTS

6. The Green Savers, LLC (“Greensavers”), also doing business as Elite Services and Advanced Data Solutions, is a Florida limited liability corporation with its principal place of business at 1124 Florida Central Parkway, Longwood, Florida. Greensavers transacts or has transacted business in this district and throughout the United States.

7. Pavac, Inc., also doing business as The Green Savers, LLC, Advanced Data Software, LLC, Advanced Data Solutions, and Elite Services, is a Florida corporation with its principal place of business at 1124 Florida Central Parkway, Longwood, Florida. Pavac, Inc. transacts or has transacted business in this district and throughout the United States.

8. Advanced Data Software, LLC, also doing business as The Green Savers, LLC, and Advanced Data Solutions, is a Florida limited liability corporation with its principal place of business at 1124 Florida Central Parkway, Longwood, Florida. Advanced Data Software, LLC transacts or has transacted business in this district and throughout the United States.

9. Christopher Adams is or was a managing member, officer, or director of Greensavers. At times material to this First Amended Complaint, acting alone or in concert

with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this First Amended Complaint. Christopher Adams resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

10. Vikash Jawalapersad is an owner, officer, director, member, or manager of Greensavers, Pavac, Inc., and Advanced Data Software, LLC. At all times material to this First Amended Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this First Amended Complaint. Vikash Jawalapersad resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

11. Defendants The Green Savers, LLC, Pavac, Inc., and Advanced Data Software, LLC (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the unlawful acts and practices alleged below. The Corporate Defendants have conducted the business practices described below through an interrelated network of companies that have common ownership, officers, managers, business functions, employees, and office locations, and that have commingled funds and operate a common scheme. Because the Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Individual Defendant Vikash Jawalapersad has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common

enterprise.

COMMERCE

12. At all times material to this First Amended 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

13. Since at least October 2010, Defendants have telemarketed credit card interest rate reduction services to consumers nationwide in the United States. In many instances, Defendants’ telemarketing calls are initiated using a telemarketing service that delivers prerecorded voice messages, known as “voice broadcasting” or “robocalling.” The prerecorded messages, which often state that they are from “Rachel” with “Card Services,” or a similarly generic business name, offer consumers the purported opportunity to secure substantially lower credit card interest rates and instruct consumers to press a number on their phone to be connected to a live representative. When consumers press the number, they are connected to a live representative who works for Defendants. Defendants also market their program via the Internet on several websites, including www.thegreensaversllc.net.

14. During telemarketing calls, Defendants often identify themselves as representatives of “Card Services” or some other generic business name. Defendants claim to have the ability to reduce substantially consumers’ credit card interest rates. In many instances, Defendants claim that they can obtain interest rates as low as 0% for consumers. Defendants also often claim that their interest rate reduction services will provide substantial

savings to consumers, typically at least \$2500, in a short period of time, and will enable consumers to pay off their debt much faster, typically three to five times faster, without increasing their monthly payments.

15. Defendants typically take information from consumers regarding their credit card accounts along with other personal information such as Social Security numbers. Defendants charge consumers typically between \$1000 to \$3000 for their services. Defendants usually charge consumers' accounts immediately following the telemarketing calls. On the call, Defendants represent that the amount of the fee will be quickly offset by savings achieved through reduced interest rates, referring to the payment as a "no out of pocket expense plan."

16. After consumers pay Defendants' fee, Defendants usually send consumers a packet of materials which includes: a "Service Agreement" that consumers are directed to sign and return; a "Debt Analysis Report" for each credit card the consumer disclosed on the telemarketing call, along with a comparison to a credit card with a 0% interest rate; a "Terms and Conditions" sheet, which, among other things, states that Defendants do not issue refunds once service has begun; and an "Invoice" for the amount the consumer already paid.

17. In some instances, Defendants initiate three-way telephone calls with the consumers and the customer service departments of consumers' existing credit card companies. These three-way telephone calls merely consist of Defendants verbally requesting (or prompting consumers to verbally request) that the credit card companies reduce the consumers' credit card interest rates. This is a task consumers could easily

perform themselves. The calls with the credit card companies typically do not result in a significant reduction in the consumer's interest rate.

18. In other instances, Defendants merely use consumers' information to apply for new credit cards with low annual percentage rates. In some instances, Defendants do not even tell consumers that they will be applying for the new credit cards on consumers' behalf. In those instances in which they do tell consumers, Defendants promise that consumers will save thousands by transferring their balances to the new cards. In some instances, Defendants even promise to transfer the balances for consumers, but they never do. Most of the time, the percentage rate obtained with the new card is only for an introductory period and would not result in a significant savings for consumers. Of course, consumers could have applied for the new credit cards and transferred the balances without paying any fee to Defendants. In any event, the three-way telephone calls or the opening of new credit cards are often the total extent of Defendants' credit card interest rate reduction services.

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

20. While telemarketing their program, Defendants, acting directly or through one or more intermediaries, have made numerous calls to telephone numbers on the National Do Not Call Registry ("Registry"), as well as to consumers who have previously asked

Defendants not to call them again. In some instances, Defendants or their telemarketers also “spoof” their calls by transmitting phony Caller Identification information so that call recipients do not know the source of the calls.

21. In numerous instances, Defendants, acting directly or through one or more intermediaries, have initiated telemarketing calls that failed to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call: the identity of the seller; that the purpose of the call is to sell goods or services; or the nature of the goods or services. In numerous instances since December 1, 2008, Defendants, acting directly or through one or more intermediaries, have initiated prerecorded telemarketing calls to consumers that failed to promptly make such disclosures, or to immediately thereafter disclose the mechanism for asserting a Do Not Call request.

22. In numerous instances on or after September 1, 2009, Defendants, acting directly or through one or more intermediaries, made outbound prerecorded calls that delivered messages to induce the sale of goods or services when the persons to whom these telephone calls were made had not expressly agreed, in writing, to authorize the seller to place prerecorded calls to such persons.

VIOLATIONS OF THE FTC ACT

23. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

24. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act. 15 U.S.C. § 45(a).

COUNT ONE

Misrepresenting Material Facts

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

A. Consumers who purchase Defendants' credit card interest rate reduction services will have their credit card interest rates reduced substantially;

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

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

26. In truth and in fact, the representations set forth in Paragraph 25 of this First Amended Complaint were false or not substantiated at the time the representations were made.

27. Therefore, Defendants' representations as set forth in Paragraph 25 of this First Amended Complaint are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THE TELEMARKETING SALES RULE

28. Congress directed the FTC to prescribe rules prohibiting abusive and

deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C.

§§ 6101-6108. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

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

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

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

32. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, any material aspect of the performance, efficacy, nature, or central characteristics of the goods or services that are the subject of a

sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

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

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

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

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

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

16 C.F.R. § 310.4(a)(5)(i).

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

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

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

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

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

40. The TSR requires that sellers and telemarketers transmit or cause to be transmitted the telephone number and, when made available by the telemarketer’s carrier, the name of the telemarketer, to any caller identification service in use by a recipient of a

telemarketing call, or transmit the customer service number of the seller on whose behalf the call is made and, when made available by the telemarketer's seller, the name of the seller. 16 C.F.R. § 310.4(a)(8).

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

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

16 C.F.R. § 310.4(d).

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

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

16 C.F.R. § 310.4(b)(1)(v)(B)(ii).

43. As amended, effective September 1, 2009, the TSR prohibits initiating a telephone call that delivers a prerecorded message to induce the purchase of any good or service unless the seller has obtained from the recipient of the call an express agreement, in writing, that evidences the willingness of the recipient of the call to receive calls that deliver

prerecorded messages by or on behalf of a specific seller. The express agreement must include the recipient's telephone number and signature, must be obtained after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the seller to place prerecorded calls to such person, and must be obtained after a clear and conspicuous disclosure that the purpose of the agreement is to authorize the seller to place prerecorded calls to such person, and must be obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service. 16 C.F.R. § 310.4(b)(1)(v)(A).

44. 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), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT TWO

Misrepresentation of Debt Relief Service in Violation of the TSR

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

- A. Consumers who purchase Defendants' credit card interest rate reduction services will have their credit card interest rates reduced substantially;

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

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

46. Defendants' acts and practices, as described in Paragraph 45 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. §§ 310.3(a)(2)(x).

COUNT THREE

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

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

48. Defendants' acts and practices, as described in Paragraph 47 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.4(a)(5)(i).

COUNT FOUR

Violating the National Do Not Call Registry

49. In numerous instances, in connection with telemarketing, Defendants have

engaged, or caused a telemarketer to engage, in initiating an outbound telephone call to a person's telephone number on the National Do Not Call Registry in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

COUNT FIVE

Failing to Honor Do Not Call Requests

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

COUNT SIX

Failing to Transmit Caller Identification

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

COUNT SEVEN

Initiating Unlawful Prerecorded Messages On or After September 1, 2009

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

COUNT EIGHT

Failing to Make Required Oral Disclosures

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

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

54. Defendants' acts and practices, as described in Paragraph 53 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. §§ 310.4(b)(1)(v)(B)(ii) and (d).

CONSUMER INJURY

55. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or 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

56. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to

grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

57. 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 resulting from Defendants' violations of the TSR, including the rescission or reformation of contracts, and the refund of money.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff FTC, pursuant to Sections 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:

A. 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, including, but not limited to, temporary and preliminary injunctions, an order freezing assets, immediate access, and the appointment of a receiver;

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

C. Award such relief as the Court finds necessary to redress injury to consumers

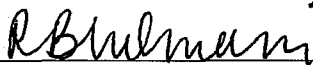
resulting from Defendants' violations of the FTC Act and the TSR, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. 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,

David C. Shonka
Acting General Counsel

Dated: November 13, 2012



ROZINA C. BHIMANI, Trial Counsel
JOANNIE T. WEI
THERESA M. MCGREW
Federal Trade Commission, Midwest Region
55 West Monroe Street, Suite 1825
Chicago, Illinois 60603
Telephone: (312) 960-5634
Facsimile: (312) 960-5600
E-mail: rbhimani@ftc.gov; jwei@ftc.gov;
tmcgrew@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION