

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. \_\_\_\_\_

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

MONETA MANAGEMENT, LLC, a Florida  
corporation,

MONETA MANAGEMENT, INC., a Florida  
corporation, and

MICHAEL TODD GREENE, individually and as an  
officer or director of Moneta Management, LLC and  
Moneta Management, Inc.,

Defendants.

**COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF**

Plaintiff, the Federal Trade Commission (“FTC”), for its 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), 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101–6108, which authorize the FTC to seek, and the Court to order, permanent injunctive relief, monetary relief, and other 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 Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

**SUMMARY OF THE CASE**

2. This is an action by the FTC against Defendant Michael Todd Greene and his companies for helping a criminal student loan debt relief scheme obtain merchant accounts that

raked in tens of millions of dollars from tens of thousands of consumers. The fraudulent scheme—to which ringleader Brandon Frere pled guilty—targeted financially struggling recipients of federal student loans and used deceptive telemarketing scripts to lure them into paying for phony debt relief services (“the Frere Scam”).

3. From 2013 to 2018, Defendants acted in concert with Frere and his companies to deceptively obtain merchant accounts to further the Frere Scam. Defendants applied for and obtained merchant accounts for Frere’s companies by providing false information to payment processors, misrepresenting the nature of the merchants’ business activity, concealing their true owner, and hiding their fraudulent activity.

4. Defendants knew, should have known, or consciously avoided knowing that the information they provided payment processors was false and that the Frere Scam was defrauding consumers. Even in the face of account application rejections and account terminations by processors, excessive unauthorized return and chargeback rates, and consumer complaints alleging deceptive practices on the Frere companies’ Better Business Bureau (BBB) profiles, Defendants continued to work in concert with Frere and his companies to fraudulently obtain and maintain merchant accounts for the Frere Scam.

5. Defendants not only prepared and submitted false and deceptive merchant applications; they also sought to ensure the Frere Scam could maintain its merchant accounts by designing a scheme to conceal the Frere Scam’s fraudulent activity from payment processors by artificially suppressing its unauthorized return rates.

**JURISDICTION AND VENUE**

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

7. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

**PLAINTIFF**

8. The FTC is an independent agency of the United States Government created by the FTC Act, which authorizes the FTC to commence this district court civil action by its own attorneys. 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 TSR, 16 C.F.R. § 310.

**DEFENDANTS**

9. Moneta Management, LLC is a Florida limited liability corporation with its principal place of business at 601 Heritage Drive, Suite 468, Jupiter, FL 33458. Moneta Management, LLC transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, Moneta acted as a sales agent and referred merchants to payment processors and acquiring banks for underwriting approval and payment processing services.

10. Moneta Management, Inc. is a Florida corporation with its principal place of business at 601 Heritage Drive, Suite 468, Jupiter, FL 33458. Moneta Management, Inc. transacts or has transacted business in this District and throughout the United States. At all times relevant to this Complaint, Moneta acted as a sales agent and referred merchants to payment processors and acquiring banks for payment processing services.

11. Michael Todd Greene owns and manages Moneta Management, LLC and Moneta Management, Inc. Greene is the CEO and sole owner of Moneta, a closely held business with no employees other than Greene himself. At all times relevant to this 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 of Moneta Management, LLC and Moneta Management, Inc., including the acts and practices set forth in this Complaint. Greene 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.

### **COMMON ENTERPRISE**

12. Moneta Management, LLC and Moneta Management, Inc. (collectively, “Moneta”) have operated as a common enterprise while engaging in the unfair and deceptive acts and practices and other violations of law alleged below. Both entities conducted the business practices described below through interrelated companies that have common ownership, officers, managers, business functions, office locations, and commingled funds. Because each entity has operated as a common enterprise, each of them is liable for the acts and practices alleged below.

### **COMMERCE**

13. 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.

### **THE FRERE SCAM**

14. The Frere Scam was operated by Brandon Frere and his three companies— American Financial Benefits Center, Inc. (“AFBC”), Financial Education Benefits Center, Inc. (“FEBC”), and Ameritech Financial, Inc. (“Ameritech”).

15. The Frere Scam deceptively telemarketed a student loan debt relief program to borrowers who wished to apply for federal loan forgiveness and reduced-payment programs through the United States Department of Education.

16. To lure consumers into purchasing their services, the Frere Scam misrepresented that consumers were qualified for, or were approved to receive, loan forgiveness or other programs that would permanently lower or eliminate their federal student loan payments or balances.

17. The Frere Scam illegally charged each consumer an advance fee of \$600 to \$800 for debt relief services. In numerous instances, the consumer was not properly enrolled in the promised federal loan assistance program. In some instances, the consumer's loan balance accrued interest rather than diminished.

18. Consumers also paid an initial enrollment fee of between \$100 and \$1,200, followed by ongoing monthly membership fees of between \$49 and \$99 per month. The Frere Scam misrepresented to consumers that these fees would be applied towards their monthly loan payments. In fact, the Frere Scam applied these fees towards a membership in a hidden "financial education" program that had little to no value.

19. From 2014 to 2018, consumers paid tens of millions of dollars to the Frere Scam's merchant accounts obtained by Defendants.

20. On February 7, 2018, the FTC filed an action against Frere and his companies, alleging that they operated a deceptive student loan relief scheme in violation of the FTC Act and the TSR. The FTC alleged that Frere and his companies violated the FTC Act by misrepresenting that (a) consumers' monthly payments would be applied toward consumers' student loans, and (b) consumers were qualified for, or were approved to receive, loan

forgiveness or other programs that would permanently lower or eliminate their loan payments or balances. *See* 15 U.S.C. § 45(a). The FTC further alleged that Frere and his companies violated the TSR by collecting fees for debt relief services before providing those services (*see* 16 C.F.R. § 310.4(a)(5)(i)), and by misrepresenting material aspects of their debt relief services (*see* 16 C.F.R. § 310.3(a)(2)(x)).<sup>1</sup> Frere admitted the alleged violations and accepted a \$62 million judgment in a stipulated order with the FTC.

21. On December 5, 2018, the U.S. Attorney’s Office for the Northern District of California filed a criminal complaint against Frere for operating the telemarketing scheme.<sup>2</sup> On December 20, 2019, Frere pled guilty to charges of wire fraud in violation of 18 U.S.C. § 1343 and money laundering in violation of 18 U.S.C. § 1956(a)(2).<sup>3</sup>

22. From 2013 to 2018, Defendants applied for and obtained merchant accounts for the Frere Scam by knowingly and repeatedly providing false information to payment processors about the three companies. By misrepresenting the nature of the companies’ business activity, concealing their true owner, and hiding their fraudulent activity, Defendants helped the Frere Scam harm consumers and evade industry scrutiny and detection by law enforcement for at least five years.

### **DEFENDANTS’ PAYMENT PROCESSING BUSINESS**

23. Defendants are in the business of helping companies obtain merchant accounts with banks (referred to as “merchant banks” or “acquiring banks”) that are members of the credit card networks (*i.e.*, Visa and Mastercard) and the Automated Clearing House (“ACH”) Network. Credit card networks enable payments through credit and debit cards. The ACH Network enables electronic transfers, or ACH payments, between accounts at different banks.

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<sup>1</sup> *FTC v. Am. Fin. Benefits Center*, No. 4:18-cv-00806 (N.D. Cal. 2018), ECF No. 1.

<sup>2</sup> *United States v. Frere*, No. 3:19-cr-00493-SI (N.D. Cal. 2019), ECF No. 1.

<sup>3</sup> *Id.*, ECF No. 59.

24. By obtaining merchant accounts with members of the credit card networks, merchants are able to accept credit card payments from consumers. By obtaining merchant accounts with members of the ACH Network, merchants are able to accept ACH payments from consumers.

25. The National Automated Clearing House Association (“NACHA”) is a not-for-profit trade association that develops and enforces rules for the ACH Network (“NACHA Rules”) and monitors returned ACH transactions.

26. NACHA and the credit card networks require participants in their networks to comply with detailed rules. These rules require screening and underwriting merchants to ensure that they are legitimate bona fide businesses not engaged in fraudulent or illegal practices.

27. Various entities act as intermediaries between merchants and acquiring banks. These entities include payment processors, independent sales organizations (“ISOs”) and sales agents.

28. Merchant banks contract with payment processors to solicit and monitor merchant accounts, among other things. Payment processors, in turn, hire ISOs and sales agents to solicit new merchant accounts on behalf of the processors. ISOs, in turn, sometimes hire sales agents to help them solicit new merchant accounts on behalf of payment processors.

29. Sales agents refer potential merchants to payment processors and/or ISOs. Sales agents also prepare and submit merchant applications to payment processors and/or ISOs on behalf of merchants.

30. Two primary indicators of fraudulent or deceptive conduct are unauthorized returns and chargebacks. Unauthorized returns are ACH transactions that consumers return and identify as “unauthorized.” Chargebacks occur when customers contact their credit card issuing

bank to dispute a charge appearing on their credit card account statement. High unauthorized return and chargeback rates frequently result when merchants charge consumers without their authorization or obtain consumer authorization by making deceptive representations or omissions about the product or service sold.

31. NACHA and the credit card networks have established certain thresholds for unauthorized return and chargeback rates. When a merchant's rates surpass these thresholds, the credit card network, acquiring banks and payment processors typically increase scrutiny of the merchant's processing account. Ultimately, banks and processors may terminate the account.

32. At all times relevant to this complaint, Moneta operated as a sales agent. Moneta earned a portion of the processing fees that payment processors and/or ISOs earned from the merchant accounts that they obtained through Moneta. Thus, the more transaction volume Moneta's merchants generated, the more money Moneta earned.

33. As a sales agent, Moneta contractually agreed with payment processors and ISOs to verify information provided by a merchant-applicant, the legality of its business, and its compliance with various underwriting and/or credit requirements. Moneta also agreed to comply with NACHA and credit card association rules.

34. In its contracts with payment processors that governed the referral of Frere's merchant accounts, Moneta agreed that:

- A. "none of the Referred Clients will offer for sale illegal services or products";
- B. Moneta would take "all reasonable action to insure that merchant is a proper business and intends to conduct a bona fide, legitimate and lawful business operation to include but not limited to inspecting merchant's premises, inspecting

merchants products and verifying presence of ample inventory and resources, reviewing merchant’s website and asking questions or making other observations and conclusions to gain a reasonable level of certainty that merchant will meet [the processor’s]’s qualifications for the provision of payment services”; and

C. “[m]erchants who do not meet the established credit policy of [the payment processor], both written and in practical application shall not be solicited by” Moneta.

35. Moneta also promised not to submit false information about merchant-applicants.

For example:

A. Moneta agreed to “not knowingly submit an application wherein information is false, misrepresented or which material, relevant facts are intentionally withheld” and to “not collude with merchant to disguise, misrepresent or hide facts or information which would deem merchant as unqualified for payment services or otherwise aid or abet any efforts on merchant’s behalf to damage or defraud [the processor] or merchant’s customers . . . .”

B. Moneta also agreed to “act honestly and in good faith in all dealings” and not to “engage in any illegal, fraudulent or deceptive acts or practices in the course of performing [its] duties” as a sales agent. It further agreed to refrain from “misrepresentation of information . . . including . . . falsifying, altering, or otherwise changing information including but not limited to: . . . ownership” and “presenting merchant accounts that are known to be fraudulent in nature.”

36. Despite card network and NACHA rules and in violation of their own contracts, Defendants knowingly submitted merchant applications with false or deceptive information. They also designed a scheme to conceal the Frere Scam's fraudulent activity from the networks, banks, and processors by artificially suppressing its unauthorized return rates.

**DEFENDANTS' UNFAIR AND DECEPTIVE BUSINESS PRACTICES**

**A. Defendants Knowingly Provided Payment Processors False Information to Obtain Merchant Accounts for the Frere Scam.**

37. From 2015 to 2018, Defendants knowingly submitted false information to payment processors to obtain merchant accounts for the Frere Scam. In doing so, Defendants enabled the Frere Scam to circumvent industry underwriting safeguards, avoid account terminations, and defraud consumers for years without detection by industry players or law enforcement. Defendants thus engaged in concerted wrongdoing with Frere and his companies, knowingly connecting themselves with Frere and his companies and facilitating their fraud on consumers.

i. Defendants Concealed from Payment Processors that the Frere Scam Offered Prohibited Debt Relief Services.

38. Defendants falsely denied to payment processors that Frere's companies offered prohibited debt relief services.

39. For example, in September 2015, when a processor threatened to terminate one of the Frere Scam's merchant accounts because the merchant offered prohibited student loan debt relief services, Greene falsely denied to the processor that the account offered such services. Greene knew this representation was false. Thirteen days earlier, Greene and a Moneta manager had received an email from Frere attaching the merchant's Document Preparation and Service Agreement. The agreement stated that the merchant "provides processing and support

services to assist consumers who are applying for Federal Student Loan Consolidation Services, and/or other repayment plan programs available through the Department of Education,” or DOE.

40. Greene acknowledged that he had used deception to attempt to circumvent the processor’s prohibitions. In a May 2016 email to Frere, he wrote, “I have a long time partner of mine . . . that just confirmed that he cut a special deal with a bank that WILL take your business type without any need for subterfuge” this time.

41. In November 2016, when a payment processor denied one of the Frere Scam’s merchant applications because the merchant offered prohibited debt relief services, Greene asked the processor to reconsider, falsely denying that the merchant offered such services. Greene knew this assertion was false. A few weeks later, Greene emailed Frere with advice on how to prepare an updated application for the processor’s reconsideration, noting that the merchant’s services agreement, submitted as part of the application, “mention[ed] student loans all throughout the document.” Greene advised Frere that “that language should . . . be eliminated,” so the merchant could obtain the account.

ii. Defendants Concealed from Payment Processors that Frere was the Principal Owner of His Companies.

42. From November 2014 to May 2017, Moneta prepared and submitted at least four merchant applications falsely stating that Frere’s brother, Justin Frere, was principal owner of the Frere Scam’s merchant applicants.

43. Defendants knew that Frere, not his brother, was the principal owner of each company, and assisted Frere in preparing merchant applications in Justin’s name. For example:

A. In November 2014, a Moneta manager advised Frere to obtain Justin Frere’s signature for a merchant application for the Frere Scam. She advised Frere that “Justin’s signature on the application must match his signature on his

[driver's] license. Believe it or not, some underwriters actually compare signatures.”

B. Later in May 2015, Greene received AFBC's tax forms, which showed that his brother owned only 2.5% of AFBC. In an email to Greene, Frere even flagged in bold, italics, and underlined text, “***DON'T Forget... These tax returns show Justin only owning 2.5% on a K1.... Just FYI.***” That same month, Moneta received AFBC's balance sheet, which showed shareholder payments to Frere and not to his brother.

C. Moneta's own submissions to processors included bank statements showing that Frere, not his brother, was the signatory on the Frere companies' bank accounts.

D. Moneta's own submissions to processors included the Frere companies' incorporating documents, which listed Frere, not his brother, as incorporator.

44. Because of the Frere companies' common ownership—purportedly by Justin Frere—processors evaluating applications for one Frere company began considering any pre-existing accounts with the other Frere companies. The group consideration began posing risks for FEBC, the most profitable of the three companies. AFBC, the oldest of the three companies, was beginning to generate high unauthorized return and chargeback rates. Meanwhile, AFBC's and Ameritech's more overt connections to debt relief activity were causing processors to reject those two entities' applications or terminate their existing accounts.

45. AFBC's and Ameritech's high unauthorized return and chargeback rates as well as their application rejections and account terminations began to compromise FEBC's new merchant applications. In November 2016, for example, one processor rejected a merchant

application from FEBC, pointing to “the high unauthorized return rate on Justin Frere’s other similar business, American Financial Benefits Center.” The processor further noted that it “had understood [FEBC] to be a location under Ameritech,” which it had concluded engaged in prohibited loan modification activity. As Greene explained in an email to Frere, that processor “was not separating the [Ameritech] app from FEBC[.]”

46. Thus, starting in May 2017, Moneta attempted to salvage FEBC’s merchant applications by cleansing FEBC from its association with AFBC and Ameritech. Moneta did so by changing the identity of FEBC’s puppet principal owner from Justin Frere to Charles Gangnath, one of Frere’s employees, in numerous applications prepared and submitted over the next two months.

47. In June 2017, Greene emailed Frere, asking for FEBC’s 2016 tax returns to provide processors. Frere replied, “Tax returns are not going to look good (my name all over them). . . . Any idea[.]s?” In his response email, Greene nevertheless asked Gangnath to falsify the FEBC applications by signing as principal owner.

48. Defendants further advised Gangnath how to submit content related to those applications without revealing FEBC’s connection to Frere’s other two companies. Specifically, when Gangnath sent a Moneta manager an email from his Ameritech email address with materials for a FEBC merchant application, the Moneta manager warned him to “make sure to email only from your FEBC email - we do not want any connection to AmeriTech Financial.”

**B. Greene Designed a Scheme to Dilute the Scam’s Unauthorized Return Rates to Avoid Merchant Account Terminations.**

49. Defendants not only prepared and submitted false and deceptive merchant applications; they also sought to ensure the Frere Scam could maintain its merchant accounts by designing a scheme to artificially suppress its unauthorized return rates.

50. In September 2015, NACHA changed its unauthorized return rate threshold from 1% to 0.5%. That same month, Greene and Frere began to discuss ways to reduce AFBC's unauthorized return rates. Greene designed a scheme to artificially suppress those rates and proffered it to Frere by telephone.

51. During the telephone call, Greene instructed Frere to create a "dummy" reseller company, which AFBC would charge for the purported right to resell AFBC's services. Greene explained that, because Frere would control the dummy reseller, which he referred to as Frere's "proxy," Frere could charge as many fake resale charges as he wanted, ensure that all of these charges were accepted, and guarantee that none was tagged as unauthorized. By creating these "friendly transactions," Frere could increase the total number of transactions and reduce, or dilute, the merchant's unauthorized return rates.

52. As Greene explained it to Frere, "You and I didn't talk about this, but. . . if you just have transaction after transaction after transaction that is super clean, that is never unauthorized. . . then guess what. . . you're clean" from high unauthorized return rates.

53. Throughout the call, Greene emphasized that the dummy reseller entity must have no connection to "anything that could be connected to you. . . [or] your brother Justin." Greene insisted, "Your lawyer, he's got to write that language so where it looks real." He also cautioned that the fake resale agreement would need to look "superb" and "super tight." Frere replied, "Todd, I got tons of lawyers. They'll write whatever I need them to write."

54. After Greene explained the details, Frere summarized Greene's plan, saying AFBC could "just tap that same account [*i.e.*, AFBC could charge the dummy reseller's account] like say 100 times a month." Greene replied, "a thousand times a month if you want to because you've got a f\*\*\*ing killer deal with them!"—meaning the terms of the fake resale agreement

could state whatever Frere wanted them to state, and Frere could charge the fake reseller as many times as he wanted.

55. Frere noted, “the key then is to understand on a monthly basis” what the unauthorized return ratio is and “obviously do . . . as many transactions as necessary to keep that number down.” Greene responded, “right.” Frere asked, “What do you think is the maximum number of transactions we could run . . . I guess it doesn’t really matter because once it’s below one half of one percent, nobody’s ever going to look at it.” Greene responded, “right.”

56. Frere concluded, “there’s nothing really to be done here other than . . . set up a dummy corporation and [create] an account.” Green responded, “No shit!” Frere exclaimed, “This is a piece of cake! Good job.”

57. Frere then asked, “Did you come up with this Todd?” Greene replied, “I did. I was thinking about you bro.”

**C. Defendants Ignored Evidence that the Frere Scam Was Defrauding Consumers and Violating the TSR.**

58. Along with submitting fraudulent merchant applications and advising Frere to dilute unauthorized return rates, Defendants additionally knew, should have known, or consciously avoided knowing that the Frere Scam was defrauding consumers and violating the TSR.

59. In August 2015, Defendants submitted a Frere Scam merchant application, including a telemarketing “Enrollment Sales Script,” to a processor. The script stated that the merchant would begin charging consumers “today”—*i.e.*, the day of enrollment, before any debt relief services were provided. The script, in short, provided for an advance fee that violated the TSR. *See* 16 C.F.R. § 310.4(a)(5)(i).

60. In September 2015, Defendants received two emails, both including a “Document Preparation and Service Agreement” between one of the Frere merchants and its consumers. Consistent with the telemarketing script, the agreement required consumers to make an advance fee before being “approved for a Federal Student Loan Consolidation or any other repayment plan program available to client through the DOE”—again in violation of the TSR. *See* 16 C.F.R. § 310.4(a)(5)(i). Defendants submitted the agreement to at least one processor that same month.

61. Throughout the relevant period, Defendants learned that several payment processors denied the Frere Scam’s merchant applications or terminated their accounts because of their debt relief activity and/or high unauthorized return and chargeback ratios. For example:

A. In July 2015 and September 2015, Greene was notified that two processors had terminated AFBC’s merchant accounts because it offered prohibited debt relief services.

B. In September 2015, Greene received an email in which a processor warned that AFBC’s account was “incurring excessive returns, and/or chargebacks.”

C. In November 2016, Greene was notified that a processor had rejected FEBC’s merchant application because of AFBC’s “high unauthorized return rate.”

D. In November 2016, a Moneta manager received an email from a processor, denying Ameritech’s merchant application because it offered prohibited debt relief services.

E. In April 2017, Greene learned that a processor had rejected FEBC’s merchant application because it offered prohibited debt relief services. In April 2017, a Moneta manager forwarded Frere and copied Greene on a message from

one processor, stating, “this merchant is on our risk monitoring program due to their high chargeback ratios.” That same month, the processor again emailed Greene, writing “[u]nfortunately, the time has come to end our relationship with . . . [Frere’s] three boarded accounts . . . Due to the ongoing excessive returns, their account has been on payout hold for quite some time. . . . [T]his account should have been terminated a while back, but we agreed to an extension due to Brandon’s commitment to improve business practices,” but “the account performance [is] still significantly poor.”

62. In May 2016, a payment processor warned Moneta’s Relationship Manager that it “reviewed the [AFBC] website and s[aw] multiple potential UDAAP issues,” *i.e.*, issues related to unfair, deceptive, or abusive acts or practices.

63. From 2016 to 2018, the Frere companies’ publicly available BBB profiles included numerous complaints from consumers accusing the Frere companies of misrepresenting material aspects of their debt relief services. Many consumers, for example, complained that the Frere companies fraudulently kept payments they had promised to apply toward the consumers’ student loans. Defendants knew that payment processors commonly use BBB profiles to assess whether a merchant applicant is a legitimate business providing a bona fide service to consumers and, in April 2017, Greene emailed Frere a link to FEBC’s BBB profile, explaining it had caused a processor to reject FEBC’s merchant application.

64. Despite all of these indications that the Frere Scam was defrauding consumers and violating the TSR, Defendants did not terminate their relationship with Frere. Instead, Defendants continued to prepare and submit merchant applications on behalf of the Frere Scam

through June 2017. Defendants also continued to provide support to Frere with account maintenance and new potential applications through March 2018.

65. Based on the facts and violations of law alleged in this Complaint, the FTC has reason to believe that Defendants are violating or are about to violate laws enforced by the Commission because, among other things:

- a. Defendants engaged in their unlawful acts and practices repeatedly from 2015 to 2018;
- b. Defendants engaged in their unlawful acts and practices willfully and knowingly;
- c. Defendants continued their unlawful acts or practices despite knowledge of numerous complaints from consumers as well as denials and terminations by payment processors;
- d. Defendants stopped substantially assisting Frere and his companies only after the FTC sued them and Frere was arrested; and
- e. Until entry of the proposed order, Defendants remain in the payment processing business and maintain the means, ability, and incentive to continue their unlawful conduct.

#### **VIOLATIONS OF THE FTC ACT**

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

67. Acts or practices are unfair under Section 5 of the FTC Act if they cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

**Count I**  
**Unfair Payment Processing Practices**

68. In numerous instances, Defendants have:

A. Provided payment processors false or deceptive information to obtain and maintain merchant accounts for the Frere Scam; and

B. Ignored evidence that the Frere Scam’s merchant accounts were being used for illegal activity.

69. Defendants’ actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition.

70. Therefore, Defendants’ acts or practices as set forth in Paragraph 68 constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. § 45(a), (n).

**VIOLATIONS OF THE TELEMARKETING SALES RULE**

71. In 1994, 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 TSR in 1995, extensively amended it in 2003, and amended certain sections thereafter.

72. The TSR prohibits a person from providing 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 act or practice that violates Section 310.3(c). 16 C.F.R. § 310.3(b).

73. During the relevant period, Frere and his companies were “seller[s]” or “telemarketer[s]” engaged in “telemarketing” as defined by the TSR, 16 C.F.R. §§ 310.2(dd), (ff), (gg). A “seller” means any person who, in connection with a telemarketing transaction,

provides, offers to provide, or arranges for others to provide goods or services to a customer in exchange for consideration. 16 C.F.R. § 310.2(dd). A “telemarketer” means any person who, in connection with telemarketing, initiates or receives telephone calls to or from a customer or donor. 16 C.F.R. § 310.2(ff). “Telemarketing” means a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call. 16 C.F.R. § 310.2(gg).

74. During the relevant period, Frere and his companies were sellers or telemarketers of “debt relief service[s],” as defined by the TSR, 16 C.F.R. § 310.2(o). A “debt relief service” means “any program or service represented, directly or by implication, to renegotiate, settle, or in any way alter the terms of payment or other terms of the debt between a person and one or more unsecured creditors or debt collectors, including, but not limited to, a reduction in the balance, interest rate, or fees owed by a person to an unsecured creditor or debt collector.” 16 C.F.R. § 310.2(o).

75. The TSR prohibits sellers and telemarketers from “[m]isrepresenting, directly or by implication, in the sale of goods or services” any “material aspect of any debt relief service, including, but not limited to, the amount of money or the percentage of the debt amount that a customer may save by using such service . . . .” 16 C.F.R. § 310.3(a)(2)(x).

76. The TSR prohibits sellers and telemarketers from “[r]equesting 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; [and]

B. The customer 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 . . . .”

16 C.F.R. § 310.4(a)(5)(i).

77. The TSR prohibits any “person” from “provid[ing] 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 act or practice that violates §§ 310.3(a), (c) or (d), or § 310.4” of the TSR. 16 C.F.R. § 310.3(b).

78. 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).

**Count II**  
**Assisting and Facilitating Violations of the TSR**

79. In numerous instances, Defendants provided substantial assistance or support to sellers or telemarketers who Defendants knew, or consciously avoided knowing:

- a. Induced consumers to pay for goods and services through the use of false or misleading statements, including but not limited to, false or misleading statements in connection with the telemarketing of debt relief services, in violation of Section 310.3(a)(2)(x) of the TSR, 16 C.F.R. § 310.3(a)(2)(x); and
- b. Charged an advance fee for debt relief services, in violation of Section 310.3(a)(5)(i) of the TSR, 16 C.F.R. § 310.4(a)(5)(i).

80. Defendants' acts or practices constitute deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(b).

**CONSUMER INJURY**

81. Consumers are suffering, have suffered, and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the TSR. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

**PRAYER FOR RELIEF**

Wherefore, the FTC requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act and the TSR by Defendants;
- B. Award monetary and other relief within the Court's power to grant; and
- C. Award any additional relief as the Court determines to be just and proper.

Respectfully submitted,

REILLY DOLAN  
Acting General Counsel

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