

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

WILLARD K. TOM
General Counsel
LEONARD L. GORDON
Regional Director
Northeast Region

KAREN DAHLBERG (kdahlberg@ftc.gov)
KELVIN D. CHEN (kchen@ftc.gov)
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004
tel: 212-607-2829/ fax: 212-607-2822

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

CONSUMER HEALTH BENEFITS
ASSOCIATION, organized as a Missouri not-for-
profit, also doing business as CHBA,

NATIONAL ASSOCIATION FOR AMERICANS,
organized as a Missouri not-for-profit, also doing
business as NAFA,

NATIONAL BENEFITS CONSULTANTS, LLC, a
Florida limited liability company, also doing business
as NBC,

NATIONAL BENEFITS SOLUTIONS, LLC, a
Florida limited liability company, also doing business
as NBS,

LOUIS LEO, individually, as a Managing Member of
NATIONAL BENEFITS SOLUTIONS, LLC, and as
the Vice President and Treasurer of CONSUMER
HEALTH BENEFITS ASSOCIATION,

**Case No. CV-10-3551
(ILG)(RLM)**

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

RON WERNER, individually, as a Managing Member of NATIONAL BENEFITS CONSULTANTS, LLC, as a Managing Member of NATIONAL BENEFITS SOLUTIONS, LLC, and as President and Managing Partner of CONSUMER HEALTH BENEFITS ASSOCIATION,

RITA WERNER, individually, and as Senior Vice President and Director of Operations of CONSUMER HEALTH BENEFITS ASSOCIATION,

WENDI TOW, individually, as a Managing Member of NATIONAL BENEFITS CONSULTANTS, LLC, and as a Managing Member of NATIONAL BENEFITS SOLUTIONS, LLC,

JOHN SCHWARTZ, individually, as a Managing Member of NATIONAL BENEFITS CONSULTANTS, LLC, and as a Managing Member of NATIONAL BENEFITS SOLUTIONS, LLC,

GUARANTEE TRUST LIFE INSURANCE COMPANY, an Illinois corporation,

VANTAGE AMERICA SOLUTIONS, INC., an Illinois corporation,

CENTURY SENIOR SERVICES, a Florida corporation,

JEFFREY BURMAN, individually, as President of VANTAGE AMERICA SOLUTIONS, INC., and as Vice President of GUARANTEE TRUST LIFE INSURANCE COMPANY, and

BARBARA TAUBE, individually, and as Vice President of GUARANTEE TRUST LIFE INSURANCE COMPANY, and

RICHARD HOLSON, III, individually, and as President of GUARANTEE TRUST LIFE INSURANCE COMPANY,

Defendants.

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 the FTC’s 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), 6102(c), and 6105(b).

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

PLAINTIFF

4. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged, among other things, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair and deceptive acts or practices in or affecting commerce. The FTC is also charged with enforcement of the Telemarketing Act. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, which prohibits deceptive and abusive telemarketing acts or practices. 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

5. Defendant Consumer Health Benefits Association (“CHBA”) is a purported Missouri not-for-profit with its principal place of business at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. Defendant CHBA previously used the website address www.ourchba.com, which is no longer operational. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant CHBA has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

6. Defendant National Association For Americans (“NAFA”) is a purported Missouri not-for-profit with its principal place of business at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. Defendant NAFA mailed materials using the return address of 1111 SW 21st Avenue, Suite 24, Fort Lauderdale, Florida 33312. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant NAFA has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

7. Defendant National Benefits Consultants, LLC (“NBC”) is a Florida limited liability company with its principal place of business at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant NBC has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

8. Defendant National Benefits Solutions, LLC (“NBS”) is a Florida limited liability company with its principal place of business at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. Defendant NBS used the website address www.getnbs.com, which is no longer operational. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant NBS has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

9. Defendant Guarantee Trust Life Insurance Company (“GTLI”) is an Illinois corporation with its principal place of business at 1275 Milwaukee Avenue, Glenview, Illinois 60025. Defendant GTLI is the parent company of Defendant Vantage America Solutions, Inc. and Defendant Century Senior Services. Defendant GTLI assisted in creating CHBA and NBC and helped fund their expenses. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant GTLI has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

10. Defendant Vantage America Solutions, Inc. (“Vantage”) is an Illinois corporation with its principal place of business at 1275 Milwaukee Avenue, Glenview, Illinois 60025. Defendant Vantage is a medical discount plan organization that contracted with various vendors and suppliers of medical services, which were then bundled together as the medical discount plan sold by Defendants. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant Vantage has marketed, distributed, or sold Defendants’ medical discount plan to consumers in this district and throughout the United States.

11. Defendant Century Senior Services (“Century”) is a Florida corporation with its principal place of business at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. Defendant Century contracted with CHBA and NBC to administer Defendants’ medical

discount plan, and provided space at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944 where Defendants' medical discount plan was telemarketed. At times material to this First Amended Complaint, acting alone or in concert with others, Defendant Century has marketed, distributed, or sold Defendants' medical discount plan to consumers in this district and throughout the United States.

12. Defendant Louis Leo is a Managing Member of Defendant NBS, as well as Vice President and Treasurer of Defendant CHBA. His principal place of business is 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. 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. Defendant Louis Leo, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

13. Defendant Ron Werner is a Managing Member of Defendants NBC and NBS, as well as President and Managing Partner of Defendant CHBA. His principal place of business was formerly 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. 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. Defendant Ron Werner, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

14. Defendant Rita Werner is Senior Vice President and Director of Operations of Defendant CHBA. Her principal place of business was formerly 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. At times material to this First Amended Complaint, acting

alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this First Amended Complaint.

Defendant Rita Werner, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

15. Defendant Wendi Tow is a Managing Member of Defendant NBC, as well as Senior Vice President of Member Services of Defendant CHBA. Her principal place of business was formerly 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. At times material to this First Amended Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this First Amended Complaint. Defendant Wendi Tow, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

16. Defendant John Schwartz is a Managing Member of Defendant NBC. His principal place of business was formerly 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944. 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. Defendant John Schwartz, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

17. Defendant Jeffrey Burman is President of Vantage and a Vice President of GTLI. His principal place of business is 1275 Milwaukee Avenue, Glenview, Illinois 60025. 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. Defendant Jeffrey Burman, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

18. Defendant Barbara Taube is a Vice President of Defendant GTLI. Her principal place of business is 1275 Milwaukee Avenue, Glenview, Illinois 60025. At times material to this First Amended Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this First Amended Complaint. Defendant Barbara Taube, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

19. Defendant Richard Holson, III, is President of Defendant GTLI. His principal place of business is 1275 Milwaukee Avenue, Glenview, Illinois 60025. 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. Defendant Richard Holson, III, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

COMMERCE

20. At all times material to this First Amended Complaint, Defendants have maintained a substantial course of trade or business in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

COMMON ENTERPRISE

21. Defendants CHBA, NAFA, NBC, NBS, GTLI, Vantage, and Century (collectively, “Corporate Defendants”) have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. Defendants have conducted the business practices described below through an interrelated network of companies that have common ownership, officers, managers, business functions, employees, office locations, and commingled funds. Because Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Individual Defendants Louis Leo, Ron Werner, Rita Werner, Wendi Tow, John Schwartz, Jeffrey Burman, Barbara Taube, and Richard Holson, III, have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Corporate Defendants that constitute the common enterprise. Accordingly, Individual Defendants Louis Leo, Ron Werner, Rita Werner, Wendi Tow, John Schwartz, Jeffrey Burman, Barbara Taube, and Richard Holson, III, are each jointly and severally liable for the acts and practices alleged below.

DEFENDANTS’ BUSINESS ACTIVITIES

Defendants Solicited Consumers by Telemarketing

22. Defendants NBC and NBS initiated outbound telephone calls, or had third parties initiate outbound telephone calls, to consumers in the United States to induce the purchase of goods or services. NBC and NBS are “telemarketers” engaged in “telemarketing,” as defined by the TSR, 16 C.F.R. § 310.2.

23. Defendants are “sellers,” as defined by the TSR, 16 C.F.R. § 310.2.

24. Since approximately 2003, Defendant NBC engaged in telemarketing by a plan, program, or campaign conducted to induce the purchase of goods or services by use of one or

more telephones and that involves more than one interstate telephone call. Since approximately 2009, Defendant NBS engaged in telemarketing by a plan, program, or campaign conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call.

Defendants Solicited Consumers Seeking Major Medical Health Insurance

25. Since approximately 2003, Defendants, acting alone or in concert with others, marketed and sold a medical discount plan in various states throughout the country to consumers seeking major medical health insurance. Major medical health insurance generally involves an arrangement between an insurance company and a consumer in which the insurance company agrees to pay a substantial portion of the healthcare expenses that the consumer might incur in exchange for payment from the consumer. Defendants' plan, in contrast, purported to provide consumers with access to various discounts on healthcare and healthcare-related services and products.

26. Defendants' representatives called consumers whose contact information Defendants had obtained from websites to which the consumers submitted requests for information on major medical health insurance plans. Consumers generally provided their contact information to this website with the expectation of obtaining information on major medical health insurance plans.

27. Defendants' representatives often did not identify the company they were representing when they contacted consumers. When consumers asked Defendants' representatives for the name of the company they were calling from, Defendants' representatives typically either refused to answer or provided a convoluted answer to the question.

28. Many of the consumers were uninsured because of pre-existing medical

conditions that excluded them from major medical health insurance coverage. Others had lost their coverage as a result of becoming unemployed. Some consumers or their family members required surgery or suffered from chronic diseases. Many consumers were uninsured or under insured simply because they could not afford comprehensive major medical health insurance.

29. At times, Defendants represented, either expressly or by implication, that their medical discount plan was major medical health insurance, when, in fact, it was not. Defendants often described the plan as “health insurance” or the equivalent of major medical health insurance to consumers. Defendants also used terms of art common in the major medical health insurance industry such as “PPO,” “deductibles,” “co-pay,” and “network.” Defendants typically failed to promptly disclose the nature of the goods or services they were selling.

30. Even in instances where consumers were told that Defendants’ plan was a medical discount plan and not actual major medical health insurance, Defendants misrepresented that the medical discount plan would provide similar coverage to major medical health insurance and therefore was the equivalent of major medical health insurance. Defendants often claimed that they worked closely with Blue Cross Blue Shield, Aetna, and United Healthcare, and that there was virtually no difference between Defendants’ plan and major medical health insurance plans.

31. Numerous consumers purchased Defendants’ plan under the impression that it was major medical health insurance or the equivalent of major medical health insurance based on the representations made by Defendants during the initial sales calls.

32. Defendants used high pressure tactics during these calls to convince consumers to purchase the plan. Defendants told some consumers that the offer was limited to a certain number of consumers in their state and that they must purchase the plan quickly, or that the offer

would only be available that day and that the price would increase thereafter. Numerous consumers asked to see written materials regarding the plan prior to enrolling in it, but the sales representatives told them that they would not mail any written materials until after the consumers purchased the plan.

33. During the initial sales call, after consumers agreed to enroll in the medical discount plan, the sales representatives told consumers that a portion of the call had to be recorded. Consumers were then coached on how to respond to the representatives' questions, and consumers were specifically instructed not to interrupt or ask questions because the representatives would be forced to start the taping process over from the beginning. Consumers who interrupted or asked questions were admonished and told that the process would be very time-consuming if they continued to do so.

34. After enrollment, when consumers received and reviewed the written medical discount plan information, many discovered that Defendants sold them a medical discount plan, not major medical health insurance. The discounts provided by the plan purportedly applied to doctor's office visits, vision exams, prescription eye wear, dental cleaning and exams, and prescription drugs, through a network of providers with whom Defendants had supposedly contracted. The written information consumers received contained multiple disclaimers stating that the plan was not health insurance. Consumers did not receive insurance policies or insurance cards indicating that they had purchased health insurance of any kind.

35. Defendants charged consumers an enrollment fee ranging from \$29 to \$279.85, plus monthly service fees ranging from \$65 to \$259, to purchase the plan. Defendants charged consumers the enrollment fee and the fee for the first month of service at the time of enrollment, which generally occurred over the telephone and before consumers ever received any written

information regarding the plan.

Defendants Falsely Represented Plan Discounts and Participating Providers

36. During initial sales calls, Defendants misrepresented that consumers would achieve significant savings on health care costs by purchasing Defendants' medical discount plan. Defendants told some consumers that the plan would enable them to save up to 85% on medical expenses and that the average savings was 68% on all medical costs. In fact, few, if any, consumers saved money through enrollment in Defendants' plan.

37. Defendants further misrepresented that their medical discount plan was widely accepted by doctors, pharmacies, and other health care facilities throughout the United States, including consumers' personal physicians. During initial telephone calls with consumers, sales representatives represented that the plan was accepted wherever Blue Cross Blue Shield insurance plans were accepted, and that consumers could use their medical discount card with any doctor that accepts insurance.

38. On multiple occasions, consumers were unable to use the medical discount plan like major medical health insurance to pay for their medical expenses or receive significant discounts or savings on goods or services. For example, one of Defendants' representatives told a New York City consumer that there were a number of "participating providers" in her area; when the consumer contacted the "participating providers" listed on CHBA's website, however, she was told that many of them did not accept the plan. When another consumer tried to use the medical discount plan to obtain discounted prescription medicine for her daughter, the consumer received a "discounted" price that was higher than the price she previously paid for the medicine without the medical discount plan.

Defendants Falsely Represented Their Cancellation and Refund Policy

39. During initial sales calls, Defendants typically misrepresented to consumers that they would be able to cancel their participation in Defendants' plan at any time. Many consumers experienced difficulty in canceling their memberships, however, because they often could not reach a live representative. Many consumers were forced to call multiple times until they reached a representative. When consumers did contact a live representative, Defendants' representatives often refused to let consumers cancel, pressuring them to think about their decision and to call back at another time. In some instances, Defendants told consumers that enrollment had been cancelled, but Defendants continued charging or debiting the monthly fee from consumers' credit cards and bank accounts.

40. Moreover, during sales calls, Defendants made various omissions regarding their "no refund" policy. Defendants' written policy was that all fees paid by consumers are non-refundable. However, during the initial sales call, Defendants were silent as to the "no refund" policy. When consumers called to cancel and were able to speak with Defendants' representatives, they were then orally informed that there was a "no refund" policy. Typically, consumers received refunds only after they complained or threatened to complain to the Better Business Bureau, State Attorney General's office, or another consumer protection agency regarding Defendants' deceptive sales practices.

Defendant CHBA's Role

41. Defendant CHBA was instrumental in creating and operating Defendants' medical discount plan, by providing a "not-for-profit" front through which sales of the plan were offered. In actuality, CHBA had no employees or funds of its own. Its directors and officers conducted minimal to no business on behalf of the organization. Instead, other defendants

created and assembled the plan and collected consumers' enrollment fees, in CHBA's name.

Defendant NAFA's Role

42. Defendant NAFA was instrumental in operating Defendants' medical discount plan. NAFA was created in 2009, as an attempt to "rebrand" Defendants' medical discount plan and distance it from numerous consumer complaints available on the Internet. NAFA was intended to inherit CHBA's role in Defendants' common enterprise. Like Defendant CHBA, Defendant NAFA was created to provide a "not-for-profit" front through which sales of the plan were offered. Like CHBA, NAFA had no employees or funds of its own. Its directors and officers similarly conducted minimal to no business on behalf of the organization. Instead, other defendants created and assembled the plan and collected consumers' enrollment fees, in NAFA's name.

Defendant NBC's Role

43. Defendant NBC was instrumental in creating and operating Defendants' medical discount plan. NBC was advertised as the exclusive marketing company for CHBA. NBC worked with Vantage to select plan components and create marketing materials. In certain agreements with Century, NBC and CHBA are jointly referred to as one entity. Two of Defendant NBC's executives sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. The same two NBC executives were also part of what Defendants internally referred to as "Team CHBA."

Defendant NBS's Role

44. Defendant NBS was instrumental in operating Defendants' medical discount plan. NBS was created in 2009, as an attempt to "rebrand" Defendants' medical

discount plan and distance it from numerous consumer complaints available on the Internet. Specifically, Defendants intended for NBS to inherit NBC's role in their common enterprise. Like Defendant NBC, Defendant NBS was to be the exclusive marketing company for NAFA. NBS was to work with Vantage to select plan components and create marketing materials. Two of Defendant NBS's executives sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. The same two NBS executives were also part of what Defendants internally referred to as "Team CHBA."

Defendant GTLI's Role

45. Defendant GTLI was instrumental in creating and operating Defendants' medical discount plan, and provided substantial assistance to Defendants in the initial stages of the scheme. Together with Vantage, GTLI prepared the founding corporate documents for CHBA and NBC; named the official directors; created NAFA and NBS; reviewed sales materials; and selected plan components. GTLI also provided the seed money for CHBA and NBC.

46. Defendant GTLI continued its involvement and substantial assistance throughout the existence of Defendants' medical discount plan by acting as administrator for Defendants' medical discount plan, which included, among other duties: collecting the consumers' enrollment fees and monthly fees; paying various Defendants; paying rent for office space for CHBA; entering into a payment processing agreement that enabled Defendants to collect credit card and debit card payments from consumers; maintaining several bank accounts on behalf of Defendants; and assisting with responding to consumer complaints regarding deceptive marketing of Defendants' medical discount plan.

47. Three of Defendant GTLI's executives sat on the *de facto* board of directors of

CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. The same three GTLI executives were also part of what Defendants internally referred to as “Team CHBA.”

48. Defendant GTLI deposited consumers’ enrollment fees and monthly fees into an account maintained by Defendant GTLI, and commingled these fees with funds unrelated to Defendants’ medical discount plan. Payments to various Defendants were reflected as debits from this commingled account.

Defendant Vantage’s Role

49. Defendant Vantage was instrumental in creating and operating Defendants’ medical discount plan, and provided substantial assistance to Defendants in the initial stages of the scheme. Together with GTLI, Vantage prepared the founding corporate documents for CHBA and NBC; named the official directors; created NAFA and NBS; reviewed sales materials; and selected plan components. Vantage also contracted with vendors to provide purported plan benefits.

50. Defendant Vantage continued its involvement and substantial assistance throughout the existence of Defendants’ medical discount plan by, among other duties: continuing to review marketing materials; assisting with responding to consumer complaints regarding deceptive marketing of Defendants’ medical discount plan; and acting as the Discount Medical Plan Organization (“DMPO”) that provided Defendants’ medical discount plan. As the DMPO that provided the plan, Defendant Vantage entered into a consent order with the Florida Office of Insurance Regulation regarding nearly a dozen violations of the Florida Insurance and Administrative Codes arising from Vantage’s involvement in Defendants’ scheme, including violations based on the failure to properly advise consumers of the no-refund policy, not

providing required refunds, and making it difficult for consumers to cancel.

51. Defendant Vantage's President sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Vantage's President was also part of what Defendants internally referred to as "Team CHBA."

Defendant Century's Role

52. Defendant Century contracted with CHBA and NBC to administer Defendants' medical discount plan and to otherwise provide substantial assistance to Defendants by, among other duties: providing office space to CHBA and NBC at 4875 Coconut Creek Parkway, Coconut Creek, Florida 33063-3944; paying rent and utilities for the office space; sharing expenses with CHBA and NBC; providing funding to hire employees and contractors for NBC; operating a call center to manage customer service calls; maintaining bank accounts; and distributing materials to new members of Defendants' medical discount plan.

Defendant Louis Leo's Role

53. Defendant Louis Leo was a Managing Member of Defendant NBS and Vice President and Treasurer of Defendant CHBA. Defendant Louis Leo orchestrated much of Corporate Defendants' business activities, including: establishing telemarketing campaigns; designing the medical discount plan; and overseeing sales practices. Defendant Louis Leo is a signatory to at least one bank account held in the name of Defendant NBC.

54. Defendant Louis Leo sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Louis Leo was also part of what Defendants internally referred to as "Team CHBA."

55. Defendant Louis Leo is jointly and severally liable for the conduct of Corporate Defendants because he had the authority to control and direct Corporate Defendants' activities; had participated in those activities; and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant Ron Werner's Role

56. Defendant Ron Werner was a Managing Member of Defendants NBC and NBS and President and Managing Partner of Defendant CHBA. Defendant Ron Werner orchestrated much of Corporate Defendants' business activities, including: establishing telemarketing campaigns; designing the medical discount plan; and overseeing sales practices. Defendant Ron Werner is a signatory to at least two bank accounts held in the name of Defendant NBC.

57. Defendant Ron Werner sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Ron Werner was also part of what Defendants internally referred to as "Team CHBA."

58. Defendant Ron Werner is jointly and severally liable for the conduct of Corporate Defendants because he had the authority to control and direct Corporate Defendants' activities; had participated in those activities; and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant Rita Werner's Role

59. Defendant Rita Werner was Senior Vice President and Director of Operations of Defendant CHBA and an employee of NBC. Defendant Rita Werner orchestrated much of CHBA and NBC's business activities, including participating in reviewing consumer complaints and overseeing cancellation and refund practices. Defendant Rita Werner is a signatory to at

least one bank account held in the name of Defendant NBC.

60. Defendant Rita Werner is jointly and severally liable for the conduct of Corporate Defendants because she had the authority to control and direct the complained of activities; had participated in those activities; and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant Wendi Tow's Role

61. Defendant Wendi Tow was Senior Vice President in charge of member services of Defendant CHBA and a Managing Member of Defendant NBC. Defendant Wendi Tow orchestrated much of CHBA and NBC's business activities, including participating in reviewing consumer complaints and overseeing cancellation and refund practices.

62. Defendant Wendi Tow is jointly and severally liable for the conduct of Corporate Defendants because she had the authority to control and direct the complained of activities, had participated in those activities, and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant John Schwartz's Role

63. Defendant John Schwartz is a Managing Member of Defendant NBC. Defendant John Schwartz orchestrated much of NBC's business activities, including training and managing NBC's sales agents who telemarketed Corporate Defendants' medical discount plan.

64. Defendant John Schwartz is jointly and severally liable for the conduct of Corporate Defendants because he had the authority to control and direct the complained of activities, participated in those activities, and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant Jeffrey Burman's Role

65. Defendant Jeffrey Burman is President of Vantage and a Vice President of GTLI. Defendant Jeffrey Burman orchestrated much of Corporate Defendants' business activities, including designing the medical discount plan and reviewing the sales scripts and marketing materials used by Defendants NBC and NBS.

66. Defendant Jeffrey Burman sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Jeffrey Burman was also part of what Defendants internally referred to as "Team CHBA."

67. Defendant Jeffrey Burman is jointly and severally liable for the conduct of Corporate Defendants because he had the authority to control and direct Corporate Defendants' activities, participated in those activities, and had knowledge of Corporate Defendants' misrepresentations and other misconduct.

Defendant Barbara Taube's Role

68. Defendant Barbara Taube is a Vice President and Chief Financial Officer of GTLI. Defendant Barbara Taube orchestrated much of Corporate Defendants' business activities, including collecting consumers' payments for the medical discount plan, determining how to distribute the funds among Defendants, and determining whether to refund consumers who requested cancellations and refunds as a result of Defendants' misrepresentations regarding their medical discount plan.

69. Defendant Barbara Taube sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Barbara Taube was

also part of what Defendants internally referred to as “Team CHBA.”

70. Defendant Barbara Taube is jointly and severally liable for the conduct of Corporate Defendants because she had the authority to control and direct Corporate Defendants’ activities, participated in those activities, and had knowledge of Corporate Defendants’ misrepresentations and other misconduct.

Defendant Richard Holson, III’s, Role

71. Defendant Richard Holson, III, is President of GTLI. Defendant Richard Holson, III, orchestrated much of Corporate Defendants’ business activities, including overseeing the sale and administration of the medical discount plan.

72. Defendant Richard Holson, III, sat on the *de facto* board of directors of CHBA, in which the board discussed sales strategies and membership goals, as well as litigation brought by the Illinois Attorney General regarding deceptive sales practices. Defendant Richard Holson, III, was also part of what Defendants internally referred to as “Team CHBA.”

73. Defendant Richard Holson, III, is jointly and severally liable for the conduct of Corporate Defendants because he had the authority to control and direct Corporate Defendants’ activities, participated in those activities, and had knowledge of Corporate Defendants’ misrepresentations and other misconduct.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

75. Misrepresentations or deceptive omissions of material fact likely to mislead consumers acting reasonably under the circumstances constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I

Making Misrepresentations of Material Fact

76. In numerous instances, in connection with the marketing of Defendants' medical discount plan, Defendants represented, directly or indirectly, expressly or by implication, that:

- a. Defendants' plan is a major medical health insurance plan or is the equivalent of a major medical health insurance plan;
- b. Defendants' plan enables consumers to achieve significant savings on health care costs;
- c. Defendants' plan is widely accepted by doctors and other medical providers throughout the United States; and
- d. Consumers may readily cancel their participation in Defendants' plan at any time.

77. In truth and in fact:

- a. Defendants' plan was not a major medical health insurance plan or the equivalent of a major medical health insurance plan;
- b. Defendants' plan did not enable consumers to achieve significant savings on health care costs;
- c. Defendants' plan was not widely accepted by doctors and other medical providers throughout the United States; and
- d. In numerous instances, consumers were unable to readily cancel their participation in Defendants' plan.

78. Therefore, the representations set forth in Paragraph 76 are false and misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. §

45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

79. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act. The FTC adopted the original TSR in 1995, extensively amended it in 2003, and amended certain provisions thereafter.

16 C.F.R. Part 310.

80. The TSR prohibits sellers and telemarketers from failing to disclose truthfully, in a clear and conspicuous manner before a customer pays for goods or services offered, a statement informing the customer of any policy of not making refunds or cancellations.

16 C.F.R. § 310.3(a)(1)(iii).

81. The TSR further prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, any material restriction, limitation, or condition to purchase, receive, or use goods or services that are the subject of a sales offer, and 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)(ii) and (a)(2)(iii).

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

83. The TSR also 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 certain provisions of the TSR, including 16 C.F.R. §§ 310.3(a) and (d). 16 C.F.R. § 310.3(b).

84. 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(u).

85. The TSR requires telemarketers in an outbound telephone call to disclose truthfully, promptly, and in a clear and conspicuous manner the following, among other things:

- a. The identity of the seller; and
- b. The nature of the goods or services.

16 C.F.R. § 310.4(d)(1) and (3).

86. 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

Misrepresenting Material Information

87. In numerous instances, in the course of telemarketing a medical discount plan, Defendants misrepresented, directly or by implication, that:

- a. Defendants' plan is a major medical health insurance plan or is the equivalent of a major medical health insurance plan;
- b. Defendants' plan enables consumers to achieve significant savings on health care costs; and
- c. Defendants' plan is widely accepted by doctors and other medical providers throughout the United States.

88. Defendants' acts and practices, as described in Paragraph 87 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. §§ 310.3(a)(2)(ii) and (a)(2)(iii).

COUNT III

Misrepresenting Material Information Regarding the Cancellation Policy

89. In numerous instances, in the course of telemarketing a medical discount plan, Defendants misrepresented, directly or by implication, that consumers could readily cancel their participation in Defendants' plan at any time.

90. Defendants' acts and practices, as described in Paragraph 89 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(iv).

COUNT IV

Failing to Disclose the "No Refund" Policy

91. In numerous instances, in the course of telemarketing a medical discount plan, Defendants failed to disclose truthfully, in a clear and conspicuous manner before consumers paid for the medical discount plan offered, a statement informing consumers of Defendants' policy of not making refunds.

92. Defendants' acts and practices, as described in Paragraph 91 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(1)(iii).

COUNT V

Failing to Make Required Oral Disclosures

93. In numerous instances, in the course of telemarketing a medical discount plan, Defendants made, or caused a telemarketer to make, outbound telephone calls in which the telemarketer failed to disclose promptly and in a clear and conspicuous manner to the person receiving the call:

- a. The identity of the seller; or
- b. The nature of the goods or services.

94. Defendants' acts and practices, as described in Paragraph 93, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.4(d).

COUNT VI

Assisting and Facilitating Violations of the TSR

95. In numerous instances, Defendants GTLI, Vantage, Century, Jeffrey Burman, Barbara Taube, and Richard Holson, III, provided substantial assistance or support, including, but not limited to, preparing the founding corporate documents for CHBA and NBC, naming the official directors, providing the seed money for CHBA and NBC, creating NAFA and NBS, reviewing sales materials, selecting plan components, contracting with vendors to provide purported plan benefits, sitting on the *de facto* board of directors for CHBA, and entering contracts and creating bank accounts on behalf of CHBA and NBC, as described in Paragraphs 45 through 52 and 65 through 73, to sellers or telemarketers whom they knew or consciously avoided knowing:

- a. misrepresented, directly or by implication, that:
 - i. Defendants' plan is a major medical health insurance plan or is the equivalent of a major medical health insurance plan;
 - ii. Defendants' plan enables consumers to achieve significant savings on health care costs; and
 - iii. Defendants' plan is widely accepted by doctors and other medical providers throughout the United States;
- b. misrepresented, directly or by implication, that consumers could readily cancel their participation in Defendants' plan at any time;
- c. failed to disclose truthfully, in a clear and conspicuous manner before

consumers paid for the medical discount plan offered, a statement informing consumers of Defendants' policy of not making refunds; and/or

d. failed to disclose promptly and in a clear and conspicuous manner to the person receiving the call:

- i. The identity of the seller; or
- ii. The nature of the goods or services.

96. Defendants GTLI, Vantage, Century, Jeffrey Burman, Barbara Taube, and Richard Holson, III's, acts and practices, as described in Paragraph 95, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(b).

CONSUMER INJURY

97. Consumers have suffered substantial injury as a result of Defendants' violations of the FTC Act and 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

98. 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.

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

money.

PRAYER FOR RELIEF

Therefore, 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. Enter judgment against Defendants and in favor of Plaintiff FTC for each violation alleged in this First Amended Complaint;
- B. Award Plaintiff FTC 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, a preliminary injunction and expedited discovery;
- C. Enter a permanent injunction to prevent future violations of the FTC Act and TSR by Defendants;
- D. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and 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

E. Award Plaintiff FTC 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,

WILLARD K. TOM
General Counsel

LEONARD L. GORDON
Regional Director
Northeast Region

Dated: October 13, 2011

_____/s/_____
Karen Dahlberg (kdahlberg@ftc.gov)
Kelvin D. Chen (kchen@ftc.gov)
Federal Trade Commission
Northeast Region
One Bowling Green, Suite 318
New York, NY 10004
tel: 212-607-2829/fax: 212-607-2822