

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

FEDERAL TRADE COMMISSION, and

STATE OF FLORIDA, OFFICE OF THE
ATTORNEY GENERAL, DEPARTMENT OF
LEGAL AFFAIRS,

Plaintiffs,

vs.

ALL US MARKETING LLC, f/k/a Payless
Solutions, LLC, a Florida corporation, *et al.*,

Defendants.

Case No 6: 15CV1016-ORL-28GJK

[FILED UNDER SEAL]

**MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF
PLAINTIFFS' *EX PARTE* MOTION FOR A TEMPORARY RESTRAINING ORDER
WITH ASSET FREEZE, APPOINTMENT OF A RECEIVER,
OTHER EQUITABLE RELIEF, AND ORDER TO SHOW CAUSE WHY A
PRELIMINARY INJUNCTION SHOULD NOT ISSUE**

TABLE OF CONTENTS

I.	INTRODUCTION.....	1
II.	DEFENDANTS’ DECEPTIVE BUSINESS PRACTICES	3
	A. Defendants’ Interest Rate Reduction Scam.....	3
	1. Robocalls and Sales Pitch.....	3
	2. Failure to Reduce Consumers’ Credit Card Interest Rates.....	9
	3. Unauthorized Charges.....	12
	4. Merchant Accounts and Chargebacks.....	13
	B. Defendants’ Other Telemarketing Schemes.....	14
	1. Medical Alert Systems	14
	2. Debt Elimination	15
	C. Prior Law Enforcement Actions Have Not Deterred Defendants	18
III.	DEFENDANTS	19
IV.	ARGUMENT.....	24
	A. The Court Has the Authority to Grant the Requested Relief.....	24
	B. Plaintiffs Meet the Standard for Issuance of a Temporary Restraining Order	25
	1. Plaintiffs are Likely to Succeed on the Merits.....	26
	a. Deceptive Sales Practices in Violation of the FTC Act and the FDUTPA.....	26
	b. Unfair Billing Practices in Violation of the FTC Act.....	27
	c. Deceptive and Abusive Telemarketing Practices in Violation of the TSR	27
	2. The Balance of Equities Strongly Favors Injunctive Relief.....	28

TABLE OF CONTENTS

C.	The Individual Defendants are Liable for the Practices of the Corporate Defendants	29
D.	The Scope of the Proposed TRO is Necessary and Appropriate.....	31
	1. Asset Freeze	32
	2. Temporary Receiver	32
	3. Immediate Access and Limited Expedited Discovery.....	33
E.	The Temporary Restraining Order Should Be Issued <i>Ex Parte</i>.....	33
V.	CONCLUSION	34

I. INTRODUCTION

The Federal Trade Commission (“FTC”) and State of Florida ask that this Court immediately halt a telemarketing scam deluging consumers with robocalls and false promises of debt relief. The FTC has brought numerous law enforcement actions against telemarketers engaged in virtually identical conduct, often involving the infamous “Rachel from cardholder services” messages.¹ As in these cases, Defendants pitch a service that they claim will reduce consumers’ credit card interest rates to as low as zero percent, save consumers thousands of dollars, and enable them to pay off their debts much faster. Defendants induce consumers to disclose their credit card numbers and other sensitive personal information by pretending to be representatives of their banks. Defendants use this information to charge immediately as much as \$4,999 to consumers’ credit cards, an illegal advance fee that Defendants often conceal from consumers.

Defendants do not and cannot achieve the results that they promise to consumers. At most, some consumers receive a financial education package of highly questionable value that they never agreed to purchase. Others discover that their personal information has been used without their knowledge or consent to apply for a credit card with a low introductory interest rate. For the vast majority of victims, however, Defendants do not

¹ See, e.g., *FTC v. Innovative Wealth Builders, Inc.*, No. 8:13-CV-00123-VMC-EAJ (M.D. Fla. Jan. 14, 2013); *FTC v. National Card Monitor LLC*, No. CV-12-2521-PHX-JAT (D. Ariz. Nov. 27, 2012); *FTC v. A+ Financial Center, LLC*, No. 12-CV-14373 (S.D. Fla. Oct. 23, 2012); *FTC v. The Green Savers, LLC*, No. 12-CV-1588 (M.D. Fla. Oct. 22, 2012); *FTC v. ELH Consulting, LLC*, No. CV-12-2246-PHX-FJM (D. Ariz. Oct. 22, 2014); *FTC v. Ambrosia Web Design LLC*, No. 2248-PHX-FJM (D. Ariz. Oct. 22, 2012); *FTC v. WV Universal Management, LLC*, No. 12-CV-1618 (M.D. Fla. Oct. 29, 2012); *FTC v. Direct Financial Management Inc.*, No. 10C-7149 (N.D. Ill. Nov. 8, 2010); *FTC v. 2145183 Ontario Inc., also d/b/a Dynamic Financial Resolutions Inc.*, No. 09C-7423 (N.D. Ill. Nov. 30, 2009); *FTC v. JPM Accelerated Services Inc.*, No. 6:09-CV-2021-ORL-28-KRS (M.D. Fla. Nov. 30, 2009); *FTC v. Economic Relief Technologies, LLC*, No. 09-CV-3347 (N.D. Ga. Nov. 30, 2009).

appear to take even the most cursory steps to provide a legitimate service. Regardless, it is categorically illegal for telemarketers to collect any fees from consumers in advance of providing debt relief services.

In a practice virtually indistinguishable from theft, Defendants also regularly charge the credit cards of consumers with whom they have had no prior contact. This conduct is particularly egregious both because of the amount of these charges, which are often several thousand dollars, and because of Defendants' systematic targeting of elderly consumers.

Defendants' use of prerecorded telemarketing solicitations, or "robocalls," to contact potential victims is itself a separate form of abuse inflicted on consumers. Defendants blast robocalls to consumers whose numbers are listed on the National Do Not Call Registry, many of whom have specifically asked not to receive such calls. Consumers have filed tens of thousands complaints regarding these illegal practices.

Defendants go to great lengths to conceal their misconduct from consumers and law enforcement, operating through a maze of ever-changing call centers, shell companies, payment processors, aliases, and intermediaries. Within the past two years, Florida regulators have twice cited one of the Defendants for unlicensed telemarketing and recently sanctioned another defendant for similar violations. In response to these incidents and others like them, Defendants have simply moved to new locations while continuing to engage in the same or similar conduct. Most recently, Defendants have begun selling a so-called "debt elimination program" that they characterize as "very close" to their credit card interest rate reduction scam. If anything, this new scam poses

an even graver threat to consumers, who pay illegal advance fees as high as \$50,000 to Defendants.

The FTC and Florida bring this motion *ex parte* to freeze Defendants' assets and immediately halt their fraudulent conduct, which has caused millions of dollars in consumer injury. The relief sought by Plaintiffs is supported by overwhelming evidence, including sworn statements of five former employees. Defendants' pattern of deceit, combined with their attempts to conceal their identity and location, suggest that they would hide or dissipate assets if they received notice of this action. The requested relief is necessary to preserve the Court's ability to provide effective final relief to Defendants' victims.

II. DEFENDANTS' DECEPTIVE BUSINESS PRACTICES

A. Defendants' Interest Rate Reduction Scam

1. Robocalls and Sales Pitch

Consumers' first contact with Defendants is typically an unsolicited robocall warning recipients that this is the "the last chance to lower your credit card interest rates."² Defendants send these calls to consumers without regard to whether they are on the National Do Not Call Registry or have previously asked not to be called again.³ Consumers who press a designated key on their phone are transferred to a boiler room

² PX 1, Declaration of FTC Investigator Joseph Einikis ("Einikis Dec.") ¶¶ 136-139; PX 13, Declaration of Scott Craver ("Craver Dec.") ¶ 2; PX 14, Declaration of Sheila Duty ("Duty Dec.") ¶ 2.

³ PX 1, Einikis Dec. ¶ 138 (over 30,000 Do Not Call and robocall complaints filed by consumers against just four of Defendants' telephone numbers).

where an employee known as a “fronter” immediately begins reading from a sales script.⁴ Fronters first screen out the vast majority of callers who transfer solely to complain about Defendants’ illegal robocalls.⁵ Next, fronters identify those consumers who seem interested in Defendants’ offer and begin persuading them to reveal their credit card account information.⁶

Defendants’ pitch starts by informing consumers that their “good payment history”⁷ qualifies them for a special program guaranteed to reduce their credit card

⁴ Plaintiffs have obtained sworn declarations from five of Defendants’ former employees (*see* PX 7-11). These employees are also referred to as “openers.” *See, e.g.*, PX 7, Declaration of Valerie Domke (“Domke Dec.”) ¶ 8. They are trained to “control” the conversation with leading questions designed to extract information from consumers while adhering to misleading “rebuttals” when responding to any questions. *Id.* Att. A at 3 (employee “training script”) (“**Always remember...He/she whom is asking the questions, is in control of the conversation! *YOU ALWAYS WANT TO BE IN CONTROL!!!!**”).

⁵ *Id.* ¶ 10 (complaints accounted for 90% of calls answered); PX 8, Declaration of Tara Henderson (“Henderson Dec.”) ¶ 7 (99%); PX 9, Declaration of Miavanni Hogan (“Hogan Dec.”) ¶ 8 (95%); PX 10, Declaration of Raymond Roberts (“Roberts Dec.”) ¶ 5 (80-90%); PX 11, Declaration of Shontae Rowells (“Rowells Dec.”) ¶ 7 (90%). Fronters are trained to immediately hang up on such callers. *Id.*; PX 7, Domke Dec. ¶ 10; PX 9, Hogan Dec. ¶ 8.

⁶ PX 7, Domke Dec. ¶ 11; PX 8, Henderson Dec. ¶ 9; PX 9, Hogan Dec. ¶ 9; PX 10, Roberts Dec. ¶¶ 7-8; PX 11, Rowells Dec. ¶ 11.

⁷ PX 16, Declaration of Kimberly Molumby (“Molumby Dec.”) ¶ 3, and PX 17, Declaration of Rosa Pagan (“Pagan Dec.”) ¶ 3. *See also* PX 14, Duty Dec. ¶ 2 (“good credit history”); PX 7, Domke Dec. Att. A at 1 (employee script) (“...you have been put up for review for making you[r] payments on time for 6 months or longer which automatically makes you eligible for the rate and enters you into our system in the qualifications department...”); PX 8, Henderson Dec. Att. A at 2 (employee script) (“You were referred here by your lenders due to your excellent payment history. When you make your payments on time for six months or more you are entitled to qualify for a lower rate on your credit cards.”); PX 2, Declaration of Senior Investigator Mirasasha Velez (“Velez Dec.”), Att. A at 1 (employee script) (“The reason for my call is due to your current credit rating through Experian, you’ve been put up for review to receive lower interest rates on all of your accounts”).

interest rates to as low as zero percent⁸ and to save them thousands of dollars.⁹

Defendants claim that they can attain these results because of their “established relationship and reputation” with hundreds of banks.¹⁰ This relationship, according to Defendants, creates the “leverage” needed to negotiate results that consumers cannot achieve on their own.¹¹

To disguise themselves and promote the fiction that they offer a legitimate service, Defendants pretend to be affiliated with consumers’ credit card issuers. In their robocall messages and sales scripts, Defendants claim to be representatives of “credit card services,” “card member services,” or other generic company names commonly

⁸ PX 1, Einikis Dec. ¶ 65 (Defendant Marbel Rodriguez advised employee to tell consumers that Defendants can reduce interest rates to “as low as 0% . . . Don’t quote a number but make them feel good”); PX 2, Velez Dec. Att. D at 4 (employee script) (“...our goal is to get your rates down to as close to a 0% as possible...you can expect to see your interest rates cut approximately in half...”), Att. E at 2 (employee script) (“...this call is your official notification that you are now eligible to lower all your credit card interest rates to as low as 4.9%”), Att. L at 3 (employee script) (“our financial program will...cut your interest rate in half”); PX 14, Duty Dec. ¶ 3 (zero percent); PX 15, Declaration of Annette Faccio (“Faccio Dec.”) ¶¶ 2-3 (cut in half to 6.99%); PX 16, Molumby Dec. ¶ 3 (lowered from current rate to “near 0%”); PX 17, Pagan Dec. ¶ 3 (promised reduction from 24% to 0%).

⁹ PX 1, Einikis Dec. ¶ 140, Att. WW; PX 2, Velez Dec. Att. A at 4 (employee script) (promised lifetime savings of over \$19,145), Att. L at 2 (employee script) (minimum savings of \$2,500), Att. Y at 2 (“Based on what you owe we are able to save you a GUARANTEED MINIMUM of at least \$2500.00, in interest and finance charges over the course of paying off your debt”); PX 14, Duty Dec. ¶ 2 (consumer promised thousands of dollars in savings); PX 16, Molumby Dec. ¶ 3 (same); PX 18, Declaration of Anne M. Robinson (“Robinson Dec.”) ¶ 3 (same).

¹⁰ PX 7, Domke Dec. ¶ 6, Att. A at 3 (employee script) (“...we service all 551 nationwide banks and lenders...”); PX 8, Henderson Dec. Att. A at 2 (employee script) (“WE SERVICE all 551 nationwide banks and lending institutions...”).

¹¹ *Id.* ¶ 6 (Defendants employ staff of 125 experienced financial consultants who work with over 550 lenders); PX 4, Declaration of Detective Kristy (“Bryan Dec.”) Att. B at 11 (“rebuttal” script) (“Understand that our company has a longstanding relationship with all 551 nationwide banks and lending institutions and employees [sic] over a hundred financial advisors skilled in the art of negotiations”).

associated with credit card issuers.¹² Often, the deception is more overt. When, for example, consumers explicitly ask if they are speaking to a representative of their credit card company, Defendants' script instructs frontiers to respond: "We are consumer card services; we service all 551 nationwide banks and lending institutions on their Visa, MasterCard, American Express and Discover accounts."¹³ Building on this ruse, frontiers claim that credit card companies refer consumers with "excellent payment history" to Defendants.¹⁴ In other instances, Defendants simply claim outright to be employed by consumers' credit card issuers.¹⁵

Defendants' stock responses to questions about the cost of their service, though often contradictory, share a common denominator – they all create the false impression

¹² PX 1, Einikis Dec. ¶¶ 138-139 (thousands of complaints filed by consumers regarding Defendants' sales calls that purport to be from "credit card services," "account services," and "cardmember services."); PX 2, Velez Dec. Att. BB at 1 (employee script) ("Thank you for holding, this is (your name) with account services"); PX 7, Domke Dec. Att. A at 1 (employee script) ("...my name is ____ with card member services"); PX 9, Hogan Dec. ¶ 5 (managers instructed employee to say that she represented "cardmember services" and not to disclose company's location); PX 10, Roberts Dec. ¶ 8 (script instructed employees to state that they represented "card services"); PX 15, Faccio Dec. ¶ 2 ("Credit Card Services"); PX 16, Molumby Dec. ¶ 2 ("card member services").

¹³ PX 8, Henderson Dec. Att. A at 2 (employee script); PX 7, Domke Dec. Att. A at 2 ("rebuttal" script) ("I appreciate how you feel, however, it is your bank that is asking for the last 4 [of your social security number] to insure that you are the actual card holder"); PX 8, Henderson Dec. Att. A at 3 ("rebuttal" script) (...all I am doing is verifying with one of your lenders that you are the primary on one of the accounts for your protection...").

¹⁴ *Id.* ("You were referred here by your lenders due to your excellent payment history"). *See also* PX 7, Domke Dec. ¶ 4, Att. A at 1 (employee "training script") ("The reason why you are receiving this msg is because you have been put up for review for making you[r] payments on time for 6 months or longer which automatically makes you eligible for the rate reduction and enters you into our system in the qualifications department for all VISA, MC, DISCOVER, and AMEX card holders"); PX 8, Henderson Dec. ¶ 8 ("If someone asked how Payless obtained their information, I was instructed to claim that it was automatically entered into our system by the consumer's credit card company because they qualified for our low interest rate program").

¹⁵ PX 13, Craver Dec. ¶ 4; PX 14, Duty Dec. ¶ 3; PX 18, Robinson Dec. ¶ 2.

that it is free.¹⁶ For example, one of Defendants' scripts directs employees to assure consumers that "there will be NO out of pocket expense to you."¹⁷ In another script, Defendants claim that "[w]e make our money from the interest and finance charges we save you from your credit card company, so there's no out of pocket expense to you."¹⁸ Other consumers are promised that the normal fee has been waived and that any charges appearing on their credit cards will eventually be reversed.¹⁹

Defendants pressure consumers into disclosing an abundance of highly sensitive personal information that frontiers record on paper "deal sheets."²⁰ This information includes consumers' full credit card numbers, first and last names, the last four digits of their social security numbers, their home addresses, telephone numbers, dates of birth, and their mothers' maiden names. Completed deal sheets are valuable commodities easily misappropriated by Defendants and their employees.²¹ Indeed, police recently arrested Defendant Alex Serna for using stolen credit card information at an Orlando

¹⁶ PX 15, Faccio Dec. ¶¶ 3-5 (despite assurance that service was free, consumer later discovered charges of \$699 on two credit cards disclosed to Defendants); PX 16, Molumby Dec. ¶¶ 3-6 (fronter initially claimed that consumer would incur no out of pocket expenses, but "supervisor" attempted unsuccessfully to persuade consumer to agree to \$1,500 charge); PX 17, Pagan Dec. ¶¶ 3-4 (same); PX 18, Robinson Dec. ¶¶ 3-7 (consumer charged \$2,996, despite assurance that service was free and despite not authorizing Defendants to charge her credit card).

¹⁷ PX 8, Henderson Dec. Att. A at 3. *See also* PX 9, Hogan Dec. ¶ 6 (fronter script mentioned nothing about fees or payment); PX 10, Roberts Dec. ¶ 7 ("...managers instructed me to assure consumers that they would incur no out of pocket expenses...").

¹⁸ PX 7, Domke Dec. ¶ 5, Att. A at 3.

¹⁹ PX 14, Duty Dec. ¶ 3.

²⁰ PX 7, Domke Dec. ¶ 3; PX 8, Henderson Dec. ¶ 5; PX 9, Hogan Dec. ¶ 9; PX 10, Roberts Dec. ¶ 7.

²¹ *See, e.g.*, Section II.B.2, *infra* (Defendants run their debt elimination scheme using deal sheets purchased from other telemarketers and leftover from their own previous campaigns); notes 67 and 88, *infra* (Defendants' former employees used deal sheets taken from one of Defendants' call centers to purchase over \$100,000 in goods and services, which they then resold on Craigslist); and PX 7, Domke Dec. ¶ 14 (Defendant Gary Rodriguez prevented former employee from shredding unused deal sheets containing consumers' credit card account information, stating he would use them later to "make back some of the costs" of running the business).

shopping mall.²² After taking Serna into custody, police found a deal sheet in his wallet containing the name, date of birth, and social security number of a 72-year old consumer, as well as the full account information for three of the consumer's credit cards.²³

Defendants assure consumers that information collected by fronters will merely be used to “verify”²⁴ consumers' identities and confirm that they “qualify” for Defendants' services.²⁵ In reality, fronters use the information first to ensure that they have obtained a valid credit card and, if so, determine the card's available credit.²⁶ Consumers with sufficient available credit are deemed “qualified.”²⁷

²² PX 1, Einikis Dec. ¶¶ 29-30, Att. S.

²³ When interviewed by detectives, the consumer stated that he had provided the information on Serna's deal sheet to an interest rate reduction telemarketer in 2014, that no services had been provided, and that he did not know Serna. *Id.*

²⁴ PX 7, Domke Dec. Att. A at 2 (“rebuttal” script) (“I appreciate how you feel, however, it is your bank that is asking for the last 4 [of your social security number] to insure that you are the actual card holder”); PX 8, Henderson Dec., Att. A at 3 (“rebuttal” script) (“...all I am doing is verifying with one of your lenders that you are the primary on one of the accounts for your protection...”).

²⁵ PX 7, Domke Dec. ¶ 11; PX 8, Henderson Dec. ¶¶ 5, 9; PX 9, Hogan Dec. ¶¶ 6, 9; PX 10, Roberts Dec. ¶¶ 4, 7; PX 14, Duty Dec. ¶ 4; PX 16, Molumby Dec. ¶ 4; PX 17, Pagan Dec. ¶ 3; PX 18, Robinson Dec. ¶ 5. Defendants train their employees to pretend that they already know this information by offering the first digit of a consumer's credit card, a simple ploy that anyone familiar with credit card numbering conventions can perform. American Express credit cards begin with the number 3, Visa with 4, and MasterCard with 5. *See* PX 2, Velez Dec. Att. A at 2; PX 7, Domke Dec. Att. A at 3; PX 8, Henderson Dec. Att. A at 1; PX 9, Hogan Dec. ¶ 3. Defendants also provide their employees with a cheat sheet identifying the customer service numbers of several credit card companies, the first four digits associated with cards issued by these companies, as well as additional information needed to access account holder information. *See* PX 4, Bryan Dec. Att. A at 2, Att. B at 3.

²⁶ PX 7, Domke Dec. ¶ 11; PX 8, Henderson Dec. ¶ 9; PX 9, Hogan Dec. ¶ 9; PX 10, Roberts Dec. ¶ 7.

²⁷ PX 7, Domke Dec. ¶ 11 (\$400 minimum in available credit to qualify); PX 8, Henderson Dec., Att. A at 3 (“rebuttals” script instructs employees to “pull” a second credit card if the first card has less than \$995 in available credit); PX 9, Hogan Dec. ¶ 9; PX 10, Roberts Dec. ¶ 7 (\$600 minimum). After qualifying a consumer, fronters turn the call over to a “closer,” who gathers any additional information needed to charge consumer's card. *Id.*

After obtaining consumers' credit card account information, Defendants immediately charge a fee as high as \$4,999,²⁸ often leaving as little as \$100 in available credit.²⁹ Defendants request and obtain this fee in advance of, and, as explained below, without ever providing any services.³⁰

2. Failure to Reduce Consumers' Credit Card Interest Rates

Defendants never attain the results promised to consumers because they make no meaningful effort to do so, and because the results are, in fact, unattainable. Defendants' sole objective is to obtain as much money from as many consumers as possible while providing nothing of value in return. Both the amount of these charges, which are often several thousand dollars, and Defendants' practice of targeting older consumers make this conduct particularly egregious.³¹

²⁸ Charges processed through Defendants' various merchant accounts have averaged between \$1,090 and \$2,195. PX 1, Einikis Dec. ¶¶ 114, 125, 129. Individual charges processed through one account ranged from \$99 to \$4,999. *Id.* ¶ 129. These amounts are consistent with testimony in declarations from Defendants' former employees, *see* PX 8, Henderson Dec. ¶ 9 (\$999 to \$3,500), PX 9, Roberts Dec. ¶ 8 (Defendants charged hundreds of dollars to consumers' cards, as much a card's credit limit would allow), as well as Defendants' victims. *See* PX 12, Declaration of Stewart Abramson ("Abramson Dec.") ¶ 4 (\$3,499), PX 14, Duty Dec. ¶ 5 (\$3,499), PX 15, Faccio Dec. ¶ 5 (\$699 charged to two of consumer's cards); PX 16, Molumby Dec. ¶ 7 (\$3,499), PX 17, Pagan Dec. ¶ 5 (\$1,498), PX 18, Robinson Dec. ¶ 7 (\$2,996).

²⁹ PX 1, Einikis ¶ 67 ("...each card has to be left with \$100 after charge").

³⁰ PX 8, Henderson Dec. ¶ 9; PX 14, Duty Dec. ¶ 5; PX 15, Faccio Dec. ¶ 5; PX 17, Pagan Dec. ¶ 5. Many of Defendants' scripts, including those submitted to state regulators, clearly show that Defendants request payment during their initial sales calls with consumers. *See, e.g.*, PX 2, Velez Dec., Att. A at 3 ("Now, I see you provided the representative with the Visa/MC for the one time fee of \$(Fee), is that correct? And we do have your permission to charge the \$___ to that account today, is that correct?"), and Att. L at 4 ("We accept Visa/MasterCard ... for the one time processing fee of \$798").

³¹ *See, e.g.*, PX 1, Einikis Dec. ¶ 65 (Defendant Marbel Rodriguez joking with employees about selling to consumer over 90-years old), ¶ 67 (sale to woman described by Defendants' employee as "literally a little brain dead"), ¶ 67 (sales to consumers born before 1935), ¶ 130 (complaints regarding sales to consumers over 90-years old); PX 8, Henderson Dec. ¶ 8 ("Most of the consumers who showed an interest in Payless's service were elderly and appeared to be quite vulnerable"); PX 11, Rowells Dec. ¶ 16 (consumers were elderly and seemed "confused, highly impressionable, and otherwise vulnerable"); PX 19, Roquemore Dec. ¶ 5 (89-year old consumer threatened with lawsuit for disputing Defendants' unauthorized credit card charge).

Defendants' blanket promises to save consumers thousands of dollars by reducing their interest rates to as low as zero percent are inherently fraudulent. At the time they make these guarantees, Defendants possess little to no information about consumers.³² By contrast, credit card issuers possess detailed credit profiles of consumers and engage in a sophisticated analysis of several factors relating to those profiles when evaluating interest rate reduction requests.³³ Without an understanding of these factors, Defendants cannot predict, much less guarantee, whether a creditor would agree to lower a cardholder's interest rate.³⁴

After paying Defendants' fee, consumers see no change in their credit card interest rates or any evidence that Defendants have attempted to lower those rates.³⁵ Some consumers receive the "PayMeFirstNow" financial education program, a product available for \$50 or less on eBay.³⁶ Other consumers discover that someone has, without their knowledge or consent, applied for a credit card on their behalf.³⁷

³² As noted above in Section II.A.1, *supra*, Defendants generate leads by inundating consumers with unsolicited robocalls. The employees who answer these calls know nothing about these consumers. *See, e.g.*, PX 8, Henderson Dec. ¶ 6 (fronter assigned to a desk with a phone but no computer). At most, after finishing the "qualification" process, Defendants know the basic terms of consumers' existing credit cards.

³³ These factors include, the consumer's credit bureau and internal behavior score; utility, rent, or telephone payment history; the length of time the consumer has been a customer; and the recentness, severity, or prevalence of payment delinquencies or over limit transactions on the credit card, other loans, or overdrafts, as well as many, many other factors." PX 6, Wilhelm Dec. ¶ 21. Needless to say, there is no evidence that Defendants have access to this information.

³⁴ "In my experience, up front blanket representations and claims by a third party that guarantees a specific interest rate reduction, such as to as low as 0% or 7% ...a minimum interest savings amount (e.g., \$2,500 or more)...would be impossible to deliver without a case-by-case assessment by the creditor." *Id.* ¶ 26.

³⁵ PX 1, Einikis Dec. Atts. MM, QQ and TT; PX 14, Duty Dec. ¶ 6; PX 16, Molumby Dec. ¶ 8.

³⁶ PX 1, Einikis Dec. ¶¶ 68-69. Defendants charged as much as \$4,999 for this product. *See id.* ¶¶ 129-130.

³⁷ PX 17, Pagan Dec. ¶ 7.

Even if Defendants actually attempted to negotiate lower rates with credit card companies, they cannot do anything that consumers could not accomplish themselves for free. If anything, financial institutions would view the involvement of a third party like Defendants “in a negative light.”³⁸ Consumers can request interest rate reductions without Defendants’ assistance. Such requests are evaluated based “on the full range of a consumer’s economic, financial, credit, and personal circumstances.”³⁹ At most, a consumer “not experiencing financial difficulty and making on-time payments” could expect a one to three-percentage reduction and would not be charged a fee for this reduction.⁴⁰ Defendants, on the other hand, do not have any affiliation or “leverage” with consumers’ credit card companies.⁴¹ They do not employ “over a hundred financial advisors skilled in the art of negotiations.”⁴² Indeed, former employees uniformly testify that Defendants did nothing to reduce consumers’ interest rates.⁴³ “The entire enterprise,” as described by one employee, “appeared to be nothing more than a pretext for obtaining consumers’ credit card information and then using this information to fraudulently charge hundreds of dollars to their cards.”⁴⁴

³⁸ PX 6, Wilhelm ¶ 69 (“Most [financial institutions] would refuse to knowingly work with the third party, and instead agree only to work directly with the consumer.”).

³⁹ *Id.* ¶ 70.

⁴⁰ *Id.* ¶ 71.

⁴¹ *Id.*

⁴² PX 4, Bryan Dec. Att. B at 11 (“rebuttal” script response in answer to the question, “Why can’t I do this on my own?”).

⁴³ PX 7, Domke Dec. ¶ 6; PX 8, Henderson Dec. ¶ 10; PX 9, Hogan Dec. ¶ 14; PX 10, Roberts Dec. ¶ 8.

⁴⁴ *Id.*

Consumers seeking refunds encounter a customer service nightmare of lies, indifference, and abuse.⁴⁵ Many of these practices are highlighted by the experience of Anne Robinson, an 89-year old widow charged nearly \$3,000 by Defendants. Although Ms. Robinson hung up on Defendants' telemarketer without agreeing to purchase anything, an employee later claimed to possess a recording of her authorizing the charge.⁴⁶ Defendants refused to play this recording for Ms. Robinson's daughter unless she provided a non-existent "confirmation number."⁴⁷ Another employee threatened that Defendants would take Ms. Robinson to court if she disputed the charge with her bank.⁴⁸

3. Unauthorized Charges

Defendants regularly charge thousands of dollars to consumers' credit cards without authorization. In some instances, consumers discover these charges shortly after providing Defendants with their credit card account information.⁴⁹ Consumers typically disclose this information after Defendants convince them that it is needed merely to "qualify" for Defendants' service, not to authorize payment for the service.⁵⁰

⁴⁵ See, e.g., PX 12, Abramson Dec. ¶¶ 6-7; PX 15, Faccio Dec. ¶ 6 (consumer called Defendants' customer service numbers 20 times over several days, and left several messages, but never managed to speak with anyone).

⁴⁶ PX 18, Robinson Dec. ¶¶ 5-7; PX 19, Roquemore Dec. ¶¶ 4-5.

⁴⁷ *Id.* ¶ 5.

⁴⁸ *Id.*

⁴⁹ PX 14, Duty Dec. ¶¶ 4-5 (\$3,499); PX 15, Faccio Dec. ¶ 5 (\$1,398); PX 16, Molumby Dec. ¶ 7 (\$3,499); PX 17, Pagan Dec. ¶¶ 4-5 (\$1,498); PX 18, Robinson, Dec. ¶¶ 5-7 (\$2,996).

⁵⁰ *Id.*

In other instances, Defendants charge the credit cards of consumers with whom Defendants have had no prior contact.⁵¹ These consumers did not receive a telephone solicitation from Defendants and were therefore never in any position to provide the authorization necessary for Defendants to charge their credit cards.

4. Merchant Accounts and Chargebacks

Defendants have generated astonishingly high credit card chargeback rates. Chargebacks are initiated when a cardholder files a dispute with a card-issuing bank asserting that a transaction is either unauthorized or not recognized. High chargeback rates, *i.e.*, the frequency of chargebacks relative to total charges, are a “red flag” for merchant fraud.⁵² Credit card networks begin imposing remedial measures, including account termination, on merchants with chargeback rates greater than one percent.⁵³ By contrast, the chargeback rates for Defendants’ merchant accounts are some fifty-eight to seventy times this threshold.⁵⁴

⁵¹ PX 1, Einikis Dec. ¶ 115; PX 12, Abramson Dec. ¶ 4 (\$3,499). Although it is unclear where Defendants obtain the information necessary to charge these credit cards, they possess an alarmingly large quantity of sensitive consumer data purchased from other telemarketers as well as “recycled” from their own prior ventures. *See*, discussion of Defendants’ “debt elimination” scheme at Section II.B.2 *infra*. *See also* PX 7, Domke Dec. ¶ 14 (Defendant Gary Rodriguez prevented former employee from shredding unused “deal sheets” containing consumers’ credit card account information, stating he would use them later to “make back some of the costs” of running the business).

⁵² PX 6, Wilhelm Dec. ¶ 83. *See also* *FTC v. Grant Connect, LLC*, 2009 U.S. Dist. LEXIS 94201, at *19, *25-26 (D. Nev. Sept. 22, 2009); *FTC v. QT, Inc.*, 448 F. Supp. 2d 908, 936 (N.D. Ill. 2006), *aff’d*, 512 F.3d 858 (7th Cir. 2008) (court considered defendants’ refund rate of at least 25% in granting judgment for FTC in deceptive advertising case); *FTC v. Global Mktg. Group, Inc.*, 594 F. Supp. 2d 1281, 1289 (M.D. Fla. 2008) (high return rates for defendants’ products are evidence of actual knowledge of illegal activity).

⁵³ PX 6, Wilhelm Dec. ¶¶ 84-93 (chargeback rates often understate number of consumers charged without authorization).

⁵⁴ PX 1, Einikis Dec. ¶ 114 (70.6%), ¶ 125 (58%), and ¶ 129 (68.9%). One of Defendants’ accounts generated a 100% chargeback ratio before being shut down. *Id.* ¶ 123. These chargeback rates are even more outrageous when compared to industry averages, which range from a low of 0.01 percent to a high of 0.20 percent. PX 6, Wilhelm Dec. ¶¶ 84-85.

Defendants conceal their fraudulent activity from payment processors to preserve their ability to charge consumers' credit cards. They lie on account applications, claiming to be in businesses such as public relations, software, and even automobile sales.⁵⁵ When Defendants are unable to obtain payment processing themselves, they operate through merchant accounts maintained by third parties.⁵⁶ For example, Defendants recruited an Arizona couple to open an account purportedly for "granite sales and installation."⁵⁷ Defendants processed \$633,833 through this account in a three-week period before the bank shut it down for fraud. Over 70% of these transactions were reversed due to chargebacks.⁵⁸

B. Defendants' Other Telemarketing Schemes

The rampant fraud associated with their merchant accounts has made it increasingly difficult for Defendants to secure payment processing. This difficulty has forced Defendants into other ventures, which, as noted below, share the distinguishing characteristics of their interest rate reduction scam -- namely, making deceptive sales pitches to elderly consumers and consumers in difficult financial straits.

1. Medical Alert Systems

Between October 2014 and March 2015, Defendants pitched a "medical alert system" to elderly consumers using robocalls and aggressive sales tactics that closely

⁵⁵ PX 1, Einikis Dec. ¶ 121 ("used car dealer"), ¶ 124 ("car dealership"), ¶ 130 ("financial planning"), ¶ 132 ("management, consulting, and public relations service"), and ¶ 133 ("educational financial software"). When opposing chargebacks related to one account, Defendants claimed that they had provided "Personal Training and use of our gym facilities" to the consumers who disputed these transactions. *Id.* at ¶ 130, Att. UU at 7-14.

⁵⁶ *Id.* ¶¶ 106-120.

⁵⁷ *Id.* ¶¶ 110-16, Att. PP at 1.

⁵⁸ *Id.* ¶ 114.

resembled the conduct of another Orlando-based telemarketing fraud recently shut down by the FTC and Florida.⁵⁹ Doing business as “Senior Life Support,” Defendants informed consumers that they had been “selected” to receive a free monitoring device valued at over \$400 and “trusted by...more than 65,000 healthcare professionals.”⁶⁰ Defendants promised that consumers who accepted this offer would also receive a \$50 restaurant “gift card” each month as well as “\$3000 dollars in grocery discount coupons.”⁶¹ To obtain their “free” device, consumers were required to pay a monthly monitoring fee of between \$29.99 and \$34.99, and had to provide Defendants’ telemarketers with a method of payment to cover this fee.⁶²

2. Debt Elimination

Defendants’ latest telemarketing venture is, in their own words, “very close” to their interest rate reduction scam.⁶³ According to Defendants, they market a “debt elimination” service capable of erasing virtually all of a consumer’s debt.⁶⁴ Moreover,

⁵⁹ PX 1, Einikis Dec. ¶¶ 50-52; PX 2, Velez Dec. ¶¶ 14-15. *See FTC and State of Florida v. Worldwide Info Services, Inc.*, 6:14-CV-8-ORL-28DAB (M.D. Fla. Jan. 6, 2014).

⁶⁰ PX 11, Rowells Dec. ¶¶ 3-4, Att. A at 1 (employee script); PX 20, Declaration of Chad Shelmidine (“Shelmidine Dec.”) ¶¶ 2-4 (consumer received robocall from Defendant Royal Holdings of America pitching medical alert device).

⁶¹ PX 11, Rowells Dec. ¶ 9, Att. A at 2, 4.

⁶² *Id.* ¶ 9. Fronters wrote consumers’ contact and payment information on paper deal sheets. *Id.* ¶ 11, Att. B.

⁶³ PX 1, Einikis Dec. ¶ 34 (Defendant Gary Rodriguez characterizes debt elimination as “the same – almost – very close to L.I.”), and ¶ 43 (Defendant Jonathan Paulino describes debt elimination as “similar to L.I., it’s the same thing”). “L.I.” is an abbreviation of “low interest” or “lower interest,” telemarketing industry shorthand for credit card interest rate reduction services. PX 2, Velez Dec. ¶ 9.

⁶⁴ As of the filing of this lawsuit, Plaintiffs are still in the process of gathering evidence concerning Defendants’ debt elimination scheme and are not yet in a position to incorporate allegations regarding it in their complaint. Most of what Plaintiffs know about this enterprise is based on statements made by Defendants Gary Rodriguez and Jonathan Paulino to confidential sources covertly recorded by the U.S. Postal Inspection Service. Transcripts of these recordings are attached to the Declaration of FTC Investigator Joseph Einikis. *See* PX 1, Einikis Dec. Atts. U-Y.

they claim that consumers will incur no net costs because even the fees charged for the service are “eliminated.” As explained by Defendant Jonathan Paulino:

We pitch it like LI ... The card [that] gets charged the 50k [\$50,000] goes into the [debt elimination] program.... After they make the first three months payment, they don't have to pay the card no more ... so that card gets enrolled in the program and it comes out as a no out of pocket expense because you're not going to pay that 50k [\$50,000]. They are going to eliminate that debt that they already charged.⁶⁵

Notwithstanding the utter improbability of this claim,⁶⁶ the fee is a clear violation of the Telemarketing Sales Rule's prohibition against charging or requesting a fee in advance of providing debt relief services. See Section IV.B.1.c., *infra*.

A debt elimination script recovered from a former employee outlines a sales pitch and “qualification” process that mirrors the way in which Defendants close interest rate reduction sales.⁶⁷ This script begins by informing consumers that they are “eligible” to have their debt “completely eliminated” and will incur “no out of pocket expense.”⁶⁸ Consumers are then asked to “verify” their full credit card account numbers, their billing zip code, and the last four digits of their social security numbers.⁶⁹ The script is

⁶⁵ *Id.* ¶ 42. Similarly, Defendant Gary Rodriguez claimed that the fees charged to consumers' credit cards will be eliminated along with all of consumers' additional debt. *Id.* ¶ 34, Att. U at 7 (the “law firm” is “making sure those cards go from whatever balance they had to a zero balance”).

⁶⁶ PX 6, Wilhelm Dec. ¶¶ 78-82.

⁶⁷ PX 4, Bryan Dec. Att. A at 6-15. The Orange County Sheriff's Office (“OCSO”) seized these scripts and other records when executing a search warrant on the home of Moses Bounds. PX 4, Bryan Dec. ¶¶ 6-12; PX 5, Declaration of Postal Inspector Brian Eastman (“Eastman Dec.”) ¶¶ 2-4. Bounds worked at one of Defendants' call centers located in Orlando, Florida at the time the scripts were recovered. PX 3, Declaration of Deputy Sheriff Lesley Baker, Jr. (“Baker Dec.”) ¶¶ 2-5 (OCSO undercover officers followed Bounds from his home to 1624 Premier Row in Orlando, location of one of Defendants' boiler rooms); PX 4, Bryan Dec. ¶¶ 2-6.

⁶⁸ PX 4, Bryan Dec. Att. A at 6. According to the script, consumers qualify for debt elimination because of “unfair practices” and “federal law violations” engaged in by their “lenders.” *Id.*

⁶⁹ *Id.*

accompanied by pages of “rebuttals” similar to those used by Defendants’ interest rate reduction frontiers, including the following response for “not interested” consumers:

If you got a call from your own bank today to forgive all of your credit card debt – you would probably not turn it down....Because that’s the same thing [we are] talking about here. We work with every major bank in the country and can eliminate your debt in ways that the general public doesn’t know about.⁷⁰

Defendants’ debt elimination and interest rate reduction schemes differ from each other in two important respects: fees and lead generation. Instead of hundreds or thousands of dollars, the fees charged by Defendants for their debt elimination program run as high as tens of thousands of dollars.⁷¹ Second, Defendants recruit debt elimination “clients” through the use of “paper leads” rather than robocalls. In the words of Defendant Jonathan Paulino, Defendants “recycle” consumer data accumulated from ten years of telemarketing and buy additional data from other interest rate reduction telemarketers:

I’ve been recycling my old leads because I’ve been doing it for like 10 years. So me, Gary [Rodriguez] and Chris have so much data that we [have] just been recycling that data... . We also grab some leads from other rooms that do like vacations...old leads that people don’t want....or another LI room that [does not want the leads because] the customer is already about a year old.... We say, send me the whole folder for whatever amount.⁷²

⁷⁰ *Id.* at 14.

⁷¹ According to Defendants, these fees are charged to consumers’ credit cards through a merchant account maintained by the “law firm” responsible for carrying out the debt elimination service. PX 1, Einikis Dec. ¶¶ 34, 42-44. Defendants earn a commission of 30-40% for each sale. They claim that these transactions are virtually immune to chargebacks because Defendants obtain consumers’ notarized signatures on contracts, which can be used to oppose fraud disputes filed by consumers. *Id.* Defendants earn an average of \$4,000 per deal, which, based on their commission structure, equates to an average of \$10,000 per charge. *Id.* ¶ 42.

⁷² *Id.*

Put another way, Defendants target their previous victims as well as consumers defrauded by other telemarketers.

C. Prior Law Enforcement Actions Have Not Deterred Defendants

Defendants have a lengthy and well-documented history of telemarketing fraud. When cited, fined, or investigated by law enforcement, Defendants simply move to a different location and operate under the cover of a new corporate shell.

In February 2013, the Florida Department of Agriculture and Consumer Services (“FDACS”), which regulates commercial telephone sales in Florida, shut down an unlicensed telemarketing room run by defendant Gary Rodriguez.⁷³ Scripts and deal sheets recovered from the location unequivocally show that Rodriguez had been selling fraudulent interest rate reduction services.⁷⁴ The FDACS issued a cease and desist order, imposed a \$31,000 fine, and arrested eight salespeople, some of whom Defendants have continued to employ.⁷⁵ In May 2014, Rodriguez opened a call center in Jacksonville, Florida, and then quickly closed it after an employee filed a complaint with local police.⁷⁶ In February 2015, believing that state regulators had discovered the location of another boiler room, Rodriguez hastily directed an associate to claim ownership of the room.⁷⁷

⁷³ Rodriguez operated this boiler room through Engineering Development Enterprise LLC, a dissolved Florida corporation that he formed in 2012. PX 1, Einikis Dec. ¶¶ 15, 73; PX 2, Velez Dec. ¶¶ 11-13.

⁷⁴ Among other deceptive statements, the “fronter” script opens with the following claim: “The reason for my call is due to your current credit rating through Experian, you’ve been put up for review to receive lower interest rates on all of your accounts.” PX 2, Velez Dec., Att. A at 1.

⁷⁵ *Id.* ¶ 11, 13; PX 1, Einikis Dec. Att. LL at 1.

⁷⁶ Rodriguez operated this location through PBMS LLC, a dissolved Florida corporation. PX 1, Einikis Dec. ¶ 16; PX 2, Velez Dec. ¶ 40, Att. AA; PX 7, Domke Dec. ¶¶ 7-8, 12 (Rodriguez interviewed, hired, and trained employees as well as closed deals).

⁷⁷ PX 2, Velez Dec. ¶¶ 14-15; PX 1, Einikis Dec. ¶¶ 33, 50-53.

Most recently, the FDACS sanctioned Defendant Global Marketing Enterprises and refused to renew its telemarketing license. FDACS found, for the second time in less than three months, that Global Marketing and its owner, Defendant Fariborz Fard, had allowed its license to be used by an unlicensed third party.⁷⁸

III. DEFENDANTS

Defendants are six interrelated corporations operating as a common enterprise and the seven individuals who own, direct, and manage the enterprise, as well as share in its profits. Defendants operate primarily from this district, and all the individuals reside here.

Gary Rodriguez is the ringleader of Defendants' enterprise. He is the managing member of corporate defendant **Your #1 Savings LLC**.⁷⁹ Former employees have identified him as the manager or owner of at least four of Defendants' boiler rooms.⁸⁰ Rodriguez has opened eleven bank accounts on behalf of Your #1 Savings.⁸¹ These accounts received several hundred thousand dollars in proceeds of Defendants' scam and were used to pay employees.⁸² Rodriguez has also opened, or caused others to open,

⁷⁸ *Id.* ¶¶ 28, 30. The first incident involved an interest rate reduction call center run by Onesto Rivera, the cousin of Defendants Gary and Marbel Rodriguez. *Id.* ¶ 28. An FTC investigator observed Gary Rodriguez at this location in February 2015. *See* PX 1, Einikis ¶ 57.

⁷⁹ PX 1, Einikis Dec. ¶ 12 (Rodriguez incorporated Your #1 Savings in August 2011).

⁸⁰ PX 7, Domke Dec. ¶¶ 7-8, 12; PX 9, Hogan Dec. ¶ 10; PX 11, Rowells Dec. ¶ 14. On March 5, 2015, an undercover federal agent and confidential informant met Rodriguez at one of these rooms. The agent covertly filmed Rodriguez admitting that he operated a call center from this location that sold medical alert systems. He further acknowledged that his ability to continue telemarketing credit card interest rate reduction deals has been constrained because he had "burned" too many payment processors. PX 1, Einikis Dec. ¶¶ 50-53. *Id.* ¶ 37. Rodriguez claimed to have circumvented this problem by launching his debt elimination venture, described at Section II.B.2, *supra*.

⁸¹ *Id.* ¶¶ 71-73.

⁸² *Id.* ¶¶ 74-76.

merchant accounts used to process payments from Defendants' victims.⁸³ These accounts collectively processed \$2 million in credit card charges.⁸⁴

Marbel Rodriguez is the brother of defendant Gary Rodriguez and the managing member of corporate defendant **Global One Financial Services LLC** ("Global One").⁸⁵ He opened four bank accounts on behalf of Global One that received several hundred thousand dollars in proceeds from Defendants' scam.⁸⁶ Defendants used these accounts to pay employees and rent for one of their call centers.⁸⁷ Rodriguez has played an active role in the management of Defendants' boiler rooms, as illustrated in part by instant messaging "chat logs" obtained during Plaintiffs' investigation.⁸⁸ These communications show him in regular contact with employees, providing advice, encouragement, and assistance.⁸⁹

⁸³ PX 1, Einikis Dec. ¶¶ 110, 130, 131.

⁸⁴ *Id.* ¶ 114, 129, 131.

⁸⁵ *Id.* ¶¶ 11, 40, 44 (Rodriguez incorporated Global One Financial Services in April 2013).

⁸⁶ *Id.* ¶¶ 77-81.

⁸⁷ *Id.* ¶¶ 48-49, 104-05. Rodriguez was also the registered agent and officer of two dissolved entities that are each the subject of numerous credit card interest rate reduction complaints. *Id.* ¶¶ 17-18, 140, Att. WW. Bank accounts in the name of these entities received nearly \$2 million in deposits from merchant processors. *Id.* ¶¶ 78-79. In January 2012, Rodriguez opened a merchant account on behalf of one of these entities that was quickly shut down for excessive chargebacks. *Id.* ¶ 134.

⁸⁸ *Id.* ¶ 59-67. Plaintiffs obtained these records from a search warrant executed on the home of Anthony Lindsay by the Winter Garden Police Department in Winter Garden, Florida. *Id.*; PX 4, Bryan Dec. ¶¶ 7-12; PX 5, Eastman Dec. ¶¶ 2-4. Lindsay and Moses Bounds, *see* note 67 *infra*, worked at one of Defendants' Orlando boiler rooms. *See* PX 1, Einikis Dec. ¶ 60; PX 3, Baker Dec. ¶¶ 2-5. Lindsay and Bounds procured credit card numbers from this room and other call centers. They then used this information to purchase tens of thousands of dollars in merchandise and theme park tickets, which they then resold on Craigslist. *See* PX 4, Bryan Dec. ¶¶ 2-12.

⁸⁹ PX 1, Einikis Dec. ¶ 65. Rodriguez instructed one employee to claim that Defendants can reduce consumers' interest rates to as low as zero percent. "Don't quote a number," Rodriguez counseled, "but make them feel good." *Id.* Att. EE at 1. Rodriguez's messages also show his awareness and approval of Defendants' fraudulent conduct. When informed that a consumer had backed out of a sale and planned to immediately cancel all of his credit cards, Rodriguez responded: "I bet. I would [have] ALSO!" *Id.*

Carmen Williams is the registered agent and managing member of corporate defendant **Ovadaa LLC**.⁹⁰ Williams has opened at least fourteen bank accounts and two merchant processing accounts on behalf of Ovadaa used by Defendants to facilitate their scheme.⁹¹ When the FDACS shut down Defendant Gary Rodriguez's unlicensed call center in February 2013, officials found Williams on site and cited her for telemarketing without a license.⁹² Williams has also filed numerous documents with the FDACS in connection with the telemarketing licenses used by Defendants.⁹³ In December 2013 and again in April 2014, Williams identified herself as the manager of four different call centers associated with one license.⁹⁴

Jonathan Paulino is the registered agent and president of corporate defendant **Royal Holdings of America LLC**, as well as the sole signatory on its corporate bank accounts.⁹⁵ In 2014, Paulino received over \$60,000 from the corporate defendants.⁹⁶ A former employee identified Paulino from an Orlando call center where she worked as an interest rate reduction fronter for Defendants.⁹⁷

⁹⁰ *Id.* ¶ 13 (Williams incorporated Ovadaa in June 2013).

⁹¹ *Id.* ¶¶ 82-85, 121-127.

⁹² PX 2, Velez Dec. ¶ 11.

⁹³ *Id.* ¶¶ 18-22, 25 (Payless Inc.), and ¶¶ 32-33 (Payless LLC).

⁹⁴ *Id.* ¶¶ 19-20.

⁹⁵ PX 1, Einikis Dec. ¶¶ 14, 86-87 (Paulino incorporated Royal Holdings of America in November 2013). Consumers filed over 4,000 Do Not Call complaints regarding a single number associated with Royal Holdings. *Id.* ¶ 138; PX 20, Shelmidine Dec. ¶ 2.

⁹⁶ PX 1, Einikis Dec. ¶ 100.

⁹⁷ PX 9, Hogan Dec. ¶ 11. This employee received a paycheck drawn on a Royal Holdings of America bank account. *Id.* ¶ 13, Att. D.

Fariborz Fard is a managing member of corporate defendant **Global Marketing Enterprises Inc.**⁹⁸ Fard has filed documents with the FDACS related to the telemarketing license for this entity and authorized Defendant Carmen Williams to do the same.⁹⁹ For example, in 2014, Fard submitted four “material change forms” to the FDACS identifying several call centers used by Defendants as business locations associated with this license.¹⁰⁰ He has also received tens of thousands of dollars from the corporate defendants.¹⁰¹

Shirin Imani incorporated corporate defendant **All Us Marketing LLC** and obtained a telemarketing license for it in April 2014.¹⁰² She also obtained a license for corporate defendant Global Marketing Enterprises and served as its president.¹⁰³ Defendants have used both of these licenses to facilitate their telemarketing schemes.¹⁰⁴

Alex Serna is a managing member of corporate defendant **All Us Marketing LLC.**¹⁰⁵ In 2014, he received \$56,970 from defendant Global One Financial Services

⁹⁸ PX 1, Einikis Dec. ¶ 10 (this entity was incorporated in February 2010 by Fard’s wife, Shirin Imani; Fard replaced her as its registered agent and sole officer in July 2011).

⁹⁹ PX 2, Velez Dec. ¶¶ 22-24, 26-27, 29.

¹⁰⁰ *Id.* ¶ 24.

¹⁰¹ PX 1, Einikis Dec. ¶ 101.

¹⁰² *Id.* ¶ 9; PX 2, Velez Dec. ¶ 31.

¹⁰³ PX 1, Einikis Dec. ¶ 10; PX 2, Velez Dec. ¶ 16.

¹⁰⁴ Defendants have registered four of their call centers as business locations for these licenses. See PX 2, Velez Dec. ¶¶ 24, 26 (5104 N. Orange Blossom Trail identified as business location for Global Marketing license by Defendant Fard in April, June, and July 2014); *id.* ¶¶ 20, 24, 26 (1620 Premier Row identified as business location for Global Marketing license by Defendants Fard and Williams in February, April, June, and July 2014); *id.* ¶ 32 (1624 Premier Row identified as business location for All Us Marketing license by Defendant Williams in August 2014); and *id.* ¶¶ 24, 27 (541 N. Palmetto Avenue, Suite 104, identified as business location for All Us Marketing license by Defendant Fard in April and October 2014).

¹⁰⁵ PX 1, Einikis Dec. ¶ 9 (Serna became managing member in October 2014 when the company’s name changed from Payless Solutions LLC to All Us Marketing LLC).

LLC.¹⁰⁶ He is also a signer on a corporate bank account for GRR Financial Services LLC, a dissolved Florida entity.¹⁰⁷ This account received hundreds of thousands of dollars in merchant payments related to Defendants' scam.¹⁰⁸ Serna diverted \$125,000 of these funds into a separate account that he controls.¹⁰⁹ Defendants also used the GRR bank account to pay employees and rent for one of their call centers.¹¹⁰ In April 2015, police arrested Serna for making unauthorized purchases with credit card information acquired from an interest rate reduction call center.¹¹¹

Corporate defendants **All Us Marketing LLC, Global Marketing Enterprises Inc., Global One Financial Services LLC, Your #1 Savings LLC, Ovadaa LLC, and Royal Holdings of America LLC** do not function as independent legal entities, but as interchangeable shells that exist solely as conduits for Defendants' scam. They commingle assets,¹¹² and share addresses,¹¹³ employees,¹¹⁴ merchant accounts,¹¹⁵

¹⁰⁶ *Id.* ¶ 103, Att. KK.

¹⁰⁷ *Id.* ¶ 88.

¹⁰⁸ *Id.* ¶ 128-130.

¹⁰⁹ Serna wired \$125,000 from the GRR Financial account to an account in the name of AJC Global Solutions, LLC, a dissolved Florida entity that he incorporated. *Id.* ¶¶ 20, 92.

¹¹⁰ *Id.* ¶¶ 48, 104.

¹¹¹ *Id.* ¶¶ 29-30.

¹¹² *Id.* ¶¶ 90-103, Att. KK.

¹¹³ *See, e.g., id.* ¶¶ 11, 12, 17, 18 (two corporate defendants as well as two related entities all located at 312 Redwing Way in Casselberry, Florida); *id.* ¶¶ 9-10, 45, 57-58 (two corporate defendants and call center located at 8803 Futures Drive Suite 10 in Orlando, Florida); *id.* ¶¶ 47-49 (three different and ostensibly unrelated corporations controlled by Defendants – Ovadaa, Global One Financial, and GRR Financial – paid rent for call center located at 1620 Premier Row in Orlando); *id.* ¶¶ 33, 50-53, 121, 127 and PX 2, Velez Dec. ¶¶ 15, 24, 27 (defendants Gary Rodriguez, Carmen Williams, and Ovadaa operating from address in Sanford, Florida associated with telemarketing license of defendant Global Marketing Enterprises).

¹¹⁴ PX 1, Einikis Dec. ¶¶ 104-105, Att. LL.

¹¹⁵ *Id.* ¶ 89, Att. JJ.

telemarketing licenses,¹¹⁶ call centers,¹¹⁷ and even sales scripts.¹¹⁸ Defendants' interconnectedness is perhaps best illustrated by the experience of former employee Miavanni Hogan. Defendants interviewed and trained Ms. Hogan at their Sanford location and employed her as a frontier in Orlando, where she observed Defendants Gary Rodriguez, Jonathan Paulino, and Fariborz Fard.¹¹⁹

IV. ARGUMENT

Defendants' practices violate Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), multiple provisions of the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, and Section 501.204 of the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Chapter 501, Part II, Florida Statutes. To prevent any further injury to consumers, the FTC and State of Florida ask that the Court issue *ex parte* their proposed TRO. This order would enjoin Defendants' ongoing law violations and would provide for other equitable relief designed to preserve the Court's ability to provide restitution to victims at the conclusion of the proceeding.

A. The Court Has the Authority to Grant the Requested Relief

The FTC Act provides that "in proper cases the Commission may seek, and after proper proof, the court may issue a permanent injunction." 15 U.S.C. § 53(b). The practice of defrauding consumers by misrepresenting or omitting material facts in

¹¹⁶ PX 2, Velez Dec. ¶¶ 18-22, 25, 32-34 (Defendant Carmen Williams files documents with FDACS related to separate telemarketing licenses for Defendant All Us Marketing LLC and Defendant Global Marketing Enterprises LLC).

¹¹⁷ PX 1, Einikis Dec. ¶¶ 45-58. Two of these call centers were located right next to one another in the same building. *Id.* ¶¶ 47-49.

¹¹⁸ PX 2, Velez Dec. ¶¶ 23, 29, 31.

¹¹⁹ *See* PX 9, Hogan Dec. ¶¶ 2, 4, 10-12.

violation of Section 5(a) of the FTC Act presents a “proper case” for injunctive relief under 15 U.S.C. § 53(b). *See FTC v. Gem Merch. Corp.*, 87 F.3d 466, 468 (11th Cir. 1996). Once the Commission invokes the federal court’s equitable powers, moreover, the full breadth of the court’s authority is available, including the power to grant such ancillary final relief as rescission of contracts and restitution. *Id.* The court may also enter a TRO, a preliminary injunction, and whatever additional preliminary relief is necessary to preserve the possibility of providing effective final relief. *FTC v. U.S. Oil & Gas Corp.*, 748 F.2d 1431, 1432 (11th Cir. 1984). Such ancillary relief may include an asset freeze to preserve assets for eventual restitution to victimized consumers as well as the appointment of a receiver. *Id.* at 1432-34.¹²⁰

B. Plaintiffs Meet the Standard for Issuance of a Temporary Restraining Order

In the Eleventh Circuit, two factors determine the appropriateness of preliminary injunctive relief under Section 13(b): (1) the likelihood of success on the merits, and (2) the balance of equities. *FTC v. University Health*, 938 F.2d 1206, 1217 (11th Cir. 1991). Irreparable injury need not be shown because its existence is presumed in a statutory enforcement action. *Id.* at 1218. As set forth below, both factors favor entry of the requested relief.

¹²⁰ The court’s expansive equitable powers also are available under the TSR. *See* 15 U.S.C. § 6105(b). Courts may enter any relief necessary to redress injury to consumers caused by the TSR violation, including “rescission or reformation of contracts [and] the refund of money or return of property.” 15 U.S.C. §§ 57b(a)(1) & (b).

1. Plaintiffs are Likely to Succeed on the Merits

a. Deceptive Sales Practices in Violation of the FTC Act and the FDUTPA

An act or practice is deceptive under the FTC Act if it involves a material misrepresentation that is likely to mislead consumers acting reasonably under the circumstances. *FTC v. Tashman*, 318 F.3d 1273, 1277 (11th Cir. 2003); *see also FTC v. World Media Brokers*, 415 F.3d 758, 763 (7th Cir. 2005). Express claims, or deliberately made implied claims, used to induce the purchase of a particular product or service are presumed to be material. *FTC v. Pantron I Corp.*, 33 F.3d 1088, 1096 (9th Cir. 1994); *FTC v. SlimAmerica, Inc.*, 77 F. Supp. 2d 1263, 1272 (S.D. Fla. 1999).

Defendants violate the FTC Act by making false and misleading claims to sell their credit card interest rate reduction services. Specifically, Defendants falsely claim that they will substantially reduce consumers' credit card interest rates, save consumers thousands of dollars, and enable consumers to pay off their debt much faster. Defendants also falsely claim to be affiliated with consumers' financial institutions. These express claims often induce consumers into disclosing their credit card account information and agreeing to enroll in Defendants' fraudulent service.

This conduct also violates the FDUTPA, which declares unlawful "unfair or deceptive acts or practices in the conduct of any trade or commerce." Chapter 501, Part II, Florida Statutes. In construing this Section, the Florida Legislature has declared that "due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1) as of July 1, 2006." *Id.*

b. Unfair Billing Practices in Violation of the FTC Act

The unauthorized charging of consumers' credit cards by Defendants is an unfair practice that violates Section 5 of the FTC Act. An act or practice is unfair under Section 5 if it causes or is likely to cause substantial injury to consumers that is not reasonably avoidable and is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n); *FTC v. Neovi, Inc.*, 604 F.3d 1150, 1155 (9th Cir. 2010); *FTC v. Accusearch, Inc.*, 570 F.3d 1187, 1193 (10th Cir. 2009); *FTC v. Global Marketing Grp.*, 594 F. Supp. 2d 1281, 1288 (M.D. Fla. 2008) (Covington, J.).

Substantial injury is clear. The unauthorized fees charged by Defendants to consumers' credit cards are often thousands of dollars each. Consumers cannot reasonably avoid this injury because the fees are charged without their consent and often to consumers who have had no prior contact with Defendants. Finally, there is no conceivable benefit to charging consumers for services they did not agree to purchase and that they do not receive.

c. Deceptive and Abusive Telemarketing Practices in Violation of the TSR

The same deceptive conduct that violates the FTC Act also violates the TSR. The TSR prohibits sellers and telemarketers¹²¹ from (1) misrepresenting any material aspect of a debt relief service, (2) misrepresenting their affiliation with, or endorsement or sponsorship by, any person or government entity, (3) charging or receiving a fee in

¹²¹ Defendants qualify as "sellers" or "telemarketers" as defined by the TSR, and are engaged in "telemarketing" as defined by the TSR. 16 C.F.R. §§ 310.2(b), (aa), (cc), and (dd).

advance of providing debt relief services,¹²² and (4) causing billing information to be submitted for payment without the express informed consent of the consumer. 16 C.F.R. §§ 310.3(a)(2)(x), 310.3(a)(2)(vii), 310.4(a)(5)(i) and 310.4(a)(7). As noted above, Defendants' credit card interest rate reduction scheme violates all of these provisions. Indeed, Defendants do not even bother attempting to hide their violation of the advance-fee prohibition. Licensing documents submitted to state regulators by Defendants plainly indicate that they both request and receive fees from consumers prior to providing debt relief services.¹²³

Defendants also engage in wholesale violations of the TSR's prohibitions against abusive telemarketing practices by harassing consumers with robocalls that disguise Defendants' identity and make a mockery of the National Do Not Call Registry.¹²⁴ Just four numbers associated with Defendants' telemarketing campaigns generated over 30,000 consumer complaints.¹²⁵

2. The Balance of Equities Strongly Favors Injunctive Relief

The need for injunctive relief is especially urgent given the vast quantity of sensitive consumer data in Defendants' possession that they are *currently* using to run

¹²² "Debt relief service" is defined to include a program or service represented (directly or by implication) to reduce a person's interest rate. 16 C.F.R. § 310.2(m). Fees for such services may not be requested or received until and unless the seller or telemarketer has renegotiated or otherwise altered the terms of at least one debt for a customer and the customer has made at least one payment to the creditor on the newly altered debt. 16 C.F.R. § 310.4(a)(5)(i).

¹²³ See, e.g., PX 2, Velez Dec. Att. D at 7, Att. L at 4, Att. R at 4, Att. T at 4.

¹²⁴ These practices violate TSR provisions that prohibit (1) calling telephone numbers on the Registry, (2) failing to honor entity-specific do-not-call requests, (3) failing to accurately transmit the telephone number and name of the telemarketer, and (4) sending illegal robocalls. 16 C.F.R. §§ 310.4(b)(1)(iii)(B), 310.4(b)(1)(iii)(A), 310.4(a)(8), 310.4(b)(1)(v), 310.4(b)(1)(v)(B)(ii)

¹²⁵ PX 1, Einikis Dec. ¶ 138.

their latest scheme, and the ease with which employees can misappropriate this data.¹²⁶ There is also a strong public interest in halting Defendants' unlawful conduct and in preserving assets for consumer redress. These concerns far outweigh any interest Defendants may have in continuing to operate their fraudulent business. *See FTC v. World Wide Factors, Ltd.*, 882 F.2d 344, 347 (9th Cir. 1989) (in balancing equities, "the public interest should receive greater weight" than any private interest); *FTC v. World Travel Vacation Brokers, Inc.*, 861 F.2d 1020, 1029 (7th Cir. 1988). In contrast, "there is no oppressive hardship to defendants in requiring them to comply with the FTC Act, refrain from fraudulent representation or preserve their assets from dissipation or concealment." *World Wide Factors*, 882 F.2d at 347. *See also FTC v. Affordable Media*, 179 F.3d 1228, 1236 (9th Cir. 1999).

C. The Individual Defendants are Liable for the Practices of the Corporate Defendants

The individual defendants are responsible for the illegal activity of the corporations they control.¹²⁷ An individual may be held liable for injunctive and monetary relief under the FTC Act if the individual: (1) participated directly in or had authority to control the practices, and (2) had some knowledge of the practices. *See Gem*

¹²⁶ *See supra* notes 67 and 88 (two of Defendants' former employees purchased and resold tens of thousands of dollars in goods using credit cards procured from call centers operated by Defendants and others in the Orlando area).

¹²⁷ As noted above in Section III, *supra*, the corporate defendants do not function as independent legal entities, but as interchangeable shells that exist solely as conduits of Defendants' scam. They are therefore jointly and severally liable for Defendants' conduct because they have operated as a common enterprise. *See Del. Watch v. FTC*, 332 F.2d 745, 746 (2nd Cir. 1964); *accord FTC v. J.K. Publ'ns., Inc.*, 99 F. Supp. 2d 1176, 1202 (C.D. Cal. 2000) (finding common enterprise where corporate defendants were under common control; shared office space, employees, and officers; and conducted their businesses through a "maze of interrelated companies"); *FTC v. Wash. Data Res.*, 856 F. Supp. 2d 1247, 1271 (M.D. Fla. 2012); *FTC v. Direct Benefits Group, LLC*, 6:11-cv-1186-Orl-28TBS, 2013 WL 3771322, at *18 (M.D. Fla. July 18, 2013).

Merch. Corp., 87 F.3d at 470; *FTC v. Amy Travel Serv., Inc.*, 875 F.2d 564, 573 (7th Cir. 1989).¹²⁸ Authority to control may be evidenced by “active involvement in business affairs and the making of corporate policy, including assuming the duties of a corporate officer.” *FTC v. Wilcox*, 926 F. Supp. 1091, 1104 (S.D. Fla. 1995) (quoting *Amy Travel*, 875 F.2d at 573); see also *Transnet Wireless*, 506 F. Supp. 2d at 1270 (“An individual’s status as a corporate officer gives rise to a presumption of ability to control a small, closely-held corporation.”) (citations omitted). Having signing authority on corporate accounts or acquiring services on behalf of the corporation also evidences authority to control. *FTC v. USA Fin., LLC*, 415 Fed. Appx. 970, 974-75 (11th Cir. 2011); *Transnet Wireless*, 506 F. Supp. 2d at 1271. Even when an individual is not officially designated as a corporate officer, courts consider “the control that a person actually exercises over given activities.” *FTC v. Windward Mktg., Ltd.*, 1997 WL 33642380, *5 (N.D. Ga. Sept. 30, 1997) (holding that defendant did not have to be an officer or even an employee to control corporate activities). Participation in corporate affairs is probative of knowledge. *Transnet Wireless*, 506 F. Supp. 2d at 1270; *Wilcox*, 926 F. Supp. at 1104. The FTC need not show intent to defraud. *Transnet Wireless*, 506 F. Supp. 2d at 1270.

Here, each individual defendant is an officer or manager of one or more of the corporate defendants, all of which are small, closely held companies, giving rise to a presumption of control. Bank records, communications, and other documents show the

¹²⁸ The knowledge requirement is satisfied by a showing that the defendant (1) had actual knowledge of the deceptive acts or practices, (2) was recklessly indifferent to the truth or falsity of the representations, or (3) had an awareness of a high probability of fraud coupled with an intentional avoidance of the truth. *FTC v. Transnet Wireless Corp.*, 506 F. Supp. 2d 1247, 1270 (S.D. Fla. 2007); *Amy Travel Service*, 875 F.2d at 574.

individual defendants' direct involvement with obtaining telemarketing licenses, managing call centers, training employees, procuring merchant processing, and even making misrepresentations to consumers. Defendants Gary Rodriguez, Marbel Rodriguez, Carmen Williams, Jonathan Paulino and Alex Serna are each signatories on bank accounts into which millions of dollars in scam proceeds have been transferred.¹²⁹ Their efforts to evade detection by using a multitude of different business names, bank accounts, and other ruses are probative of their knowledge. *See J.K. Publ'ns, Inc.*, 99 F. Supp. 2d at 1202. Given their control over and active participation in this scheme, the individual defendants are undoubtedly aware of the deceptive practices, and should therefore be held individually liable.

D. The Scope of the Proposed TRO is Necessary and Appropriate

An *ex parte* TRO is necessary and legally appropriate to prevent Defendants from dissipating assets and destroying evidence. Plaintiffs respectfully request a TRO to: (a) freeze Defendants' assets; (b) appoint a temporary receiver over the corporate defendants; and (c) grant Plaintiffs immediate access to Defendants' records and information. Defendants are likely to dissipate assets or destroy evidence if given advance notice of the FTC's action.¹³⁰ Courts in this district have frozen defendants' assets, appointed receivers, and granted the FTC immediate access to defendants'

¹²⁹ *See supra* notes 81-84, 86-87, 91, 95, 107-110.

¹³⁰ *See Declaration and Certification of FTC Counsel Pursuant to Fed. R. Civ. P. 65(b) in Support of Plaintiffs' Ex Parte Motion for Temporary Restraining Order and Motion to Temporarily Seal File* (describing need for *ex parte* relief and citing cases in which defendants who learned of impending FTC action withdrew funds, destroyed vital documents, and fled the jurisdiction). *See also* PX 2, Velez Dec. ¶ 10 (telemarketers engaged in fraudulent activity are likely to destroy business records if they receive notice that they are the target of a law enforcement investigation).

business premises in numerous FTC enforcement actions.¹³¹

1. Asset Freeze

When a district court determines that the FTC is likely to prevail on the merits, it has “a duty to ensure that . . . assets . . . [are] available to make restitution to the injured customers.” *World Travel Vacation Brokers*, 861 F.2d at 1031. The Eleventh Circuit has repeatedly upheld the authority of district courts to order an asset freeze to preserve the possibility of consumer redress. *See, e.g., Gem Merch. Corp.*, 87 F.3d at 469; *U.S. Oil & Gas*, 748 F.2d at 1433-34. To help ensure the availability of assets, preserve the status quo, and guard against the dissipation and diversion of assets, the Court should impose an asset freeze. In light of evidence showing the individual defendants’ control of the corporate defendants’ bank accounts and the likelihood that Plaintiffs will succeed in establishing their liability for restitution, the freeze should unquestionably extend to individual assets as well.

2. Temporary Receiver

Plaintiffs seek the appointment of a temporary receiver pursuant to the Court’s equitable powers under Section 13(b) of the FTC Act. *See U.S. Oil & Gas*, 748 F.2d at 1432. Such an appointment is particularly appropriate when, as here, Defendants’ pervasive fraud presents a strong likelihood of continued misconduct. A temporary receiver would prevent the destruction of documents and dissipation of assets as well as

¹³¹ *See, e.g., FTC v. Resort Prop. Depot, Inc.*, No. 8:13-cv-1328-T-35-TBM (M.D. Fla. May 21, 2013); *FTC v. Vacation Communications Group, LLC*, No. 6:13-cv-789-Ori-37DAB (M.D. Fla. May 20, 2013); *FTC v. Resort Solution Trust, Inc.*, No. 8:13-cv-1329-T-33TBM (M.D. Fla. May 20, 2013); *FTC v. Innovative Wealth Builders, Inc.*, No. 8:13-cv-123-T-33EAJ (M.D. Fla. Jan 14, 2013); *FTC v. WV Universal Mgmt., LLC*, No. 6:12-cv-01618-ACC-KRS (M.D. Fla. Oct. 30, 2012); *FTC v. The Green Savers, LLC*, Case No. 6:12-cv-01588-JA-DAB (M.D. Fla. Oct. 22, 2012).

secure sensitive consumer data. A receiver could also assist the Court in assessing the extent of Defendants' fraud, trace the proceeds of that fraud, and make an independent report of Defendants' current and past activities to the Court.

3. Immediate Access and Limited Expedited Discovery

The proposed TRO grants the temporary receiver and Plaintiffs immediate access to the corporate defendants' physical business premises to locate and to secure Defendants' assets and documents pertaining to their business practices. For the same purposes, Plaintiffs seek limited expedited discovery into the nature, location, and extent of these assets and documents, including permission to conduct depositions with 48 hours' notice and to issue requests for production of documents on five days' notice.

E. The Temporary Restraining Order Should Be Issued *Ex Parte*

To prevent Defendants from dissipating or concealing their assets, the requested TRO should be issued *ex parte*. An *ex parte* TRO is warranted when the facts show that immediate and irreparable injury, loss, or damage will occur before the defendants can be heard in opposition. *See* Fed. R. Civ. P. 65(b). There is a serious risk that assets and evidence stemming from Defendants' illegal activity will disappear if they receive prior notice. The blatantly deceptive nature of Defendants' scheme as well as the steps they have taken to disguise their activities and to avoid detection of law enforcement all indicate there is a serious risk that they will destroy documents and dissipate assets if given advance notice of Plaintiffs' motion.

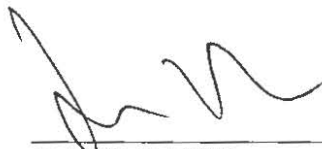
V. CONCLUSION

For the reasons set forth above, Plaintiffs respectfully request that the Court enter the proposed TRO to halt Defendants' violations of the FTC Act, the Florida Deceptive and Unfair Trade Practices Act, and the Telemarketing Sales Rule and to help ensure the possibility of effective final relief for consumers.¹³²

Respectfully submitted,

Dated: June 22, 2015

JONATHAN E. NUECHTERLEIN
General Counsel



JAMES DAVIS
JOHN HALLERUD
Federal Trade Commission
55 West Monroe, Suite 1825
Chicago, IL 60603
(312) 960-5634
jdavis@ftc.gov, jhallerud@ftc.gov

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION

¹³² Along with this Memorandum, Plaintiffs have submitted a proposed *Ex Parte* Temporary Restraining Order with Asset Freeze, Appointment of a Receiver, Other Equitable Relief and Order to Show Cause Why a Preliminary Injunction Should Not Issue.

Dated: June 22, 2015

PAMELA JO BONDI
Attorney General
State of Florida

A handwritten signature in black ink, appearing to read "Denise B", written over a horizontal line.

DENISE BEAMER
Assistant Attorney General
Florida Bar # 69369
Email: Denise.Beamer@myfloridalegal.com
Office of the Attorney General
Consumer Protection Division
135 W. Central Blvd., Suite 670
Orlando, Florida 32801
Telephone: (407) 316-4840
Facsimile: (407) 245-0365

Attorney for Plaintiff
STATE OF FLORIDA
OFFICE OF THE ATTORNEY GENERAL