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International Telemarketing Network Defendants Banned from Telemarketing

Defendants Sold Bogus Advance-Fee Credit Card Packages; \$106 Million Judgment Entered Against Lead Defendant; Associate Who Helped Hide Proceeds Incarcerated

Officers of a company that directed an international telemarketing network that defrauded hundreds of thousands of consumers through the deceptive telemarketing of bogus advance-fee credit cards are banned from telemarketing for life as part of federal court orders settling Federal Trade Commission charges. Another alleged leader of this massive scam, who has a prior history involving telemarketing fraud, also agreed to a lifetime telemarketing ban.

The Assail Telemarketing Network engaged in more than \$100 million in deceptive telemarketing sales, including the sale of hundreds of thousands of fraudulent advance-fee credit card packages using names such as Advantage Capital, Capital First, and Premier One. The FTC alleged in its complaint that the defendants operated the advance-fee credit card scam through a network of telemarketing boiler rooms, Canadian front men, and outsourced fulfillment and customer service centers. The FTC alleged that the defendants' telemarketers contacted consumers with poor credit records and told them that they were guaranteed to receive a MasterCard for an advance fee. Consumers, however, did not receive a MasterCard or any other legitimate payment device. The FTC's complaint alleged that the defendants maintained their own telemarketing boiler rooms and also kept contract boiler rooms in the United States, Canada, India, and the Caribbean.

Today, the FTC announces settlements with four of the individuals responsible for the scheme. Three of these settlements are with officers of Assail, Inc.: Joel Best, Vice President; Michael Henriksen, Chief Financial Officer; and Clifford Dunn, General Manager. The fourth settlement is with Lawrence Silverman, who the FTC alleged played a critical role creating the deceptive corporate structure of the scheme, and his company, relief defendant Lamar Holdings, Inc. (Lamar). The FTC alleged that each of these defendants played important roles in planning and implementing the scam. The settlements with each of the individual defendants permanently bans them from engaging in any telemarketing activities in the future and also contain monetary judgments.

The settlements with Assail officers Dunn, Best, and Henriksen contain a suspended \$30 million judgment, which would be payable in full if the court finds that they have made any material misrepresentations on sworn financial statements submitted to the FTC. The settlement with Silverman, who was previously prosecuted in the State of Florida and placed on probation in connection with his involvement in a prior telemarketing fraud, includes a \$50 million suspended monetary judgment and \$1.9 million disgorgement order, which will be triggered if he is found to have misrepresented his or Lamar's financial condition. The settlement with Lamar also contains a \$1.9 million suspended judgment to account for the \$1.9 million in proceeds traceable to Silverman that were deposited with Lamar.

In addition to the telemarketing bans, all of the stipulated orders announced today prohibit the defendants from:

- Making false or misleading representations in connection with the sale of any good or service;
- Misrepresenting that they are associated with any credit card company, bank, or financial institution, or that they can guarantee a consumer a credit card, improve a consumer's credit, or give consumers discounts on products or services;
- Conducting any unauthorized billing of consumers;
- Obtaining consumers' personal information by pretending to verify a consumer's financial information; and
- Selling their customer lists.

Finally, each of the orders contains various record-keeping provisions to assist the FTC in monitoring the defendants' compliance.

These settlements were finalized shortly after the court entered a \$106 million judgment against Assail, Inc. and its President, Kyle Kimoto. The \$106 million judgment was entered after the court found that Kimoto concealed more than \$3 million from the FTC that he should have disclosed as part of his settlement with the FTC. The court also recently incarcerated an associate of Kimoto, James Fales, for civil contempt for his actions in assisting Kimoto to conceal some of those assets by transferring them overseas, including an effort to buy diamonds in South Africa. Two other associates of Kimoto, Richard Fritzler, Sr. and Richard Fritzler II, along with their company, Nevada Corporate Services, Inc., avoided a contempt hearing by agreeing to pay \$300,000 that the FTC alleged they had received for helping Kimoto hide these funds.

The settlements announced today end the litigation against the named defendants in this massive scam. In total, 13 individuals or entities are under lifetime telemarketing bans, including Assail Inc., its four officers, a major telemarketing boiler room operator and his companies, the three front companies, a Canadian facilitator, and Silverman.

The Commission votes to approve consent settlements as to defendants Cliff Dunn, Joel Best, Lawrence Silverman and relief defendant Lamar Holdings, and Michael Henriksen were 5-0. The settlements were filed in the U.S. District Court, Western District of Texas, Waco Division, and approved by the court.

NOTE: These stipulated orders are for settlement purposes only and do not constitute an admission by the defendants of a law violation. Stipulated orders for permanent injunctions have the force of law when signed by the judge.

Copies of the stipulated orders, as well as other documents pertaining to this case, are available from the FTCs Web site at <http://www.ftc.gov> and also from the FTCs Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. The FTC works for the consumer to prevent fraudulent, deceptive, and unfair business practices in the marketplace and to provide information to help consumers spot, stop, and avoid them. To file a complaint in English or Spanish (bilingual counselors are available to take complaints), or to get free information on any of 150 consumer topics, call toll-free, 1-877-FTC-HELP (1-877-382-4357), or use the complaint form at <http://www.ftc.gov>. The FTC enters Internet, telemarketing, identity theft, and other fraud-related complaints into Consumer Sentinel, a secure, online database available to hundreds of civil and criminal law enforcement agencies in the U.S. and abroad.

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(<http://www.ftc.gov/opa/2005/01/assail.htm>)