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International Telemarketing Network That Sold Bogus Advance-Fee Credit Card Packages Banned from Telemarketing

Kyle Kimoto, the chief architect of an illicit international telemarketing network, has agreed to the terms of a federal court order to settle Federal Trade Commission charges that his telemarketing scheme violated federal laws. The FTC alleged that the Assail Telemarketing Network, which was orchestrated by Kimoto through his company Assail, Inc., perpetrated widespread telemarketing fraud including a massive scam involving advance-fee credit card packages under the names Advantage Capital, Capital First, and Premier One. The settlement permanently bans Kimoto and Assail, Inc. from engaging in any telemarketing activities in the future. In addition, several other key defendants in this ongoing case also have settled with the Commission.

The FTC filed three separate settlements against: (1) Assail, Inc., based in St. George, Utah, and its president, Kyle Kimoto (collectively the Assail Order); (2) Infinium, Inc., based in Cedar City, Utah, Market-Rep.com, Inc., doing business as Market-Reps.com, Inc., and their president, Brian Schofield (collectively the Infinium Order); and (3) Specialty Outsourcing Solutions, Ltd., based in Waco, Texas, and its officers, Jay Lankford and H. Lee Murphy (collectively the SOS Order).

In January 2003, the FTC filed a complaint against the defendants alleging that they violated the FTC Act by operating an advance-fee credit card scam through a network of boiler rooms, Canadian front men, and outsourced fulfillment and customer service centers. The Commission alleged that the defendants targeted consumers with poor credit histories, offering credit cards that never materialized, while upselling various benefit packages through an incomprehensible, computer-generated "verification" tape. According to the FTC's complaint, the defendants telemarketed various products and services to U.S. consumers, or provided substantial assistance or support to the telemarketers or sellers of such products or services. They maintained their own boiler rooms and kept contract boiler rooms in the United States, Canada, India, and the Caribbean, the FTC alleged.

The stipulated orders permanently ban the Assail defendants and the Infinium defendants from engaging in any future telemarketing of any kind. The orders also prohibit the settling defendants from:

- misrepresenting that they are associated with any credit card company 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.

Additionally, the Assail Order requires Kimoto to turn over to the Commission virtually all of his assets, including his home, his vehicles, and nearly all of his personal property. The Order also imposes a \$106 million suspended judgment against Kimoto that will be triggered if the court finds: (1) that he has failed to disclose to the Commission any material asset on his sworn financial statements, or (2) that he ever receives any assets derived from his fraudulent activities.

The stipulated order against the Infinium defendants requires payment of \$200,000 by Brian Schofield and contains a suspended \$18 million judgment, which would be payable in full if the court finds that he made any material misrepresentations on his sworn financial statements. Like Assail, Inc., the Infinium defendant companies have ceased operation and are in the process of being liquidated, with all proceeds going to the Commission.

The SOS Order requires the transfer of \$512,000 in assets and contains a \$4 million avalanche clause.

Also, the FTC amended its complaint to include Joel Best, the former vice president of Assail, Inc. The FTC alleges that Best contributed substantially to the fraudulent advance-fee credit card scheme perpetrated by the company. The Commission dismissed its complaint against Ben Lee, president of Capital First, and Johnson Salanga, president of Premier One, after finding reason to believe they did not play a role in the scheme.

The Commission vote to authorize the staff to file the proposed settlements and amended complaints was 4-0-1, with Commissioner Pamela Jones Harbour not participating. They were filed in the U.S. District Court, Western District of Texas, Waco Division, and approved by the court on September 22, 2003.

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 FTC's Web site at <http://www.ftc.gov> and also from the FTC's 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, 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.

MEDIA CONTACT:

Brenda Mack,
Office of Public Affairs
202-326-2182

STAFF CONTACT:

James Kohm or Robert Kaye
Bureau of Consumer Protection
202-326-2640 or 202-326-2215

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(<http://www.ftc.gov/opa/2003/assail2.htm>)