

disgorgement of ill-gotten monies, and other equitable relief, for the 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 over this action pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a) and 57b. This action arises under 15 U.S.C. § 45(a).

3. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(d) and 1395(a), and 15 U.S.C. § 53(b).

PLAINTIFF

4. Plaintiff, the FTC, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 - 58. The FTC is charged, *inter alia*, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is also charged with enforcement of the Telemarketing Act, 15 U.S.C. §§ 6101 - 6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, 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, the TSR, and to secure such equitable relief as may be appropriate in each case. 15 U.S.C. §§ 53(b), 6105. The FTC is also authorized to initiate federal district court proceedings, by its own attorneys, to recover civil penalties for violations

of the TSR if the Attorney General fails to initiate such litigation within 45 days after receipt of notice from the FTC of its intention to initiate such litigation. 15 U.S.C. § 56(a). With respect to the instant proceeding, the Attorney General received such notice from the FTC and declined to initiate the proceeding.

DEFENDANTS

5. At all times material to this complaint, acting alone or in concert with others, Paul Navestad has formulated, directed, controlled or participated in the acts or practices set forth in this complaint. Paul Navestad conducts business in this District.

6. At all times material to this complaint, acting alone or in concert with others, Chintana Maspakorn has formulated, directed, controlled or participated in the acts or practices set forth in this complaint. Chintana Maspakorn conducts business in this District.

ORDER AGAINST PAUL NAVESTAD

7. The FTC sued Navestar D.M., Inc., Financial Services Network-USA, Inc., and Paul Navestad, individually and as an officer of the corporations, in 2000 alleging that the Defendants made misrepresentations in violation of Section 5 of the FTC Act and the Telemarketing Sales Rule in connection with offers to sell the Free Cash Grants Program, and the Borrowing Made Easier Program. The Court entered a Stipulated Final Judgment and Order for Permanent Injunction against all Defendants, including Paul Navestad, in 2002. *FTC v. Navestar D.M., Inc., Financial Services Network-USA, Inc., and Paul Navestad*, Civ. No. 00-

6269(T) (W.D.N.Y. Stipulated Final Judgment and Order for Permanent Injunction entered January 7, 2002.) The Stipulated Final Judgment and Order has a number of terms including, but not limited to, a permanent ban on the advertising, marketing, promoting, offering for sale, or sale of any credit-related goods or services, or assisting others engaged in the same. *Stipulated Final Judgment and Order Paragraph I. A.* "Credit-related goods or services" are defined in the Stipulated Final Judgment and Order to include any business activity that involves telemarketing and purports directly or indirectly to provide consumers, arrange for consumers to receive, or assist consumers in receiving a grant, loan, or other extension of credit. Paul Navestad signed an affidavit on January 18, 2002 acknowledging the he received a copy of the Stipulated Final Judgment and Order on January 16, 2002.

COMMERCE

8. At all times relevant to this complaint, the Defendants have maintained a substantial course of trade or business in the offering for sale and sale of goods or services via the telephone in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

THE TELEMARKETING SALES RULE AND THE NATIONAL DO NOT CALL REGISTRY

9. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule

(the "Original TSR"), 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR. 68 Fed. Reg. 4580, 4669. On August 29, 2008, the FTC amended the TSR again. 73 Fed. Reg. 51164, 51204.

10. The Defendants are "seller[s]" and/or "telemarketer[s]" engaged in "telemarketing," as defined by the TSR, 16 C.F.R. § 310.2.

11. Among other things, the TSR, as amended in 2003, established a "do not call" registry, maintained by the Commission (the "National Do Not Call Registry" or "Registry"), of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the Registry without charge either through a toll-free telephone call or over the Internet at www.donotcall.gov.

12. Consumers who receive telemarketing calls to their registered numbers can complain of Registry violations the same way they registered: through a toll-free telephone call or over the Internet at www.donotcall.gov, or by otherwise contacting law enforcement authorities.

13. Since October 17, 2003, sellers and telemarketers have been prohibited from initiating an outbound call to a person when that person's number is on the Registry. 16 C.F.R. § 310.4(b)(1)(iii)(B).

14. Outbound telephone calls include all calls initiated to induce the purchase of goods or services, regardless of whether the purchase would occur at the time of the call or at some future date.

15. Since October 17, 2003, sellers and telemarketers have been generally prohibited from calling any telephone number within a given area code, unless the seller has first paid the annual fee for access to the telephone numbers, within that area code, that are included in the National Do Not Call Registry. 16 C.F.R. § 310.8(a) and (b).

16. Since October 1, 2003, sellers and telemarketers have been prohibited from abandoning any outbound telephone call. 16 C.F.R. § 310.4(b)(1)(iv).

17. An outbound call is "abandoned" if a person answers it and the telemarketer does not connect the call to a sales representative within two (2) second of the person's completed greeting. *Id.*

18. Since December 1, 2008, sellers and telemarketers have been prohibited from initiating an outbound call that delivers a prerecorded message unless, among other things, the message immediately discloses: (1) the identity of the seller; (2) that the purpose of the call is to sell goods or services; (3) the nature of the goods or services; and (4) in the case of a call that can be answered by a consumer, that the person called can use an automated interactive voice and/or keypress-activated opt-out mechanism to assert a Do Not Call request pursuant to § 310.4(b)(1)(iii)(A) at any time during the message, and in the case of a call that could be answered by an answering machine or voicemail service, that the person called can use a toll-free telephone number to assert a Do Not Call request pursuant to § 310.4(b)(1)(iii)(A). 16 C.F.R. § 310.4(b)(1)(v).

19. The TSR prohibits any seller or telemarketer from making a false or misleading statement to induce any person to pay for goods or services or to induce a charitable contribution. 16 C.F.R. § 310.3(a)(4).

20. 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 Amended 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).

DEFENDANTS' BUSINESS ACTIVITIES

21. The Defendants do business as the Cash Grant Institute, Global Ad Agency, Global Advertising Agency, Domain Leasing Company, and/or Cash Grant Search.

Cash Grant Institute Operation

22. Since on or about July 2008, the Defendants have engaged in, or caused a telemarketer to engage in, initiating outbound telephone calls to consumers throughout the country whose telephone numbers are on the National Do Not Call Registry.

23. The Defendants' calls are sales calls made to induce the purchase of goods or services.

24. Thus, the Defendants have 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 call.

25. Consumers have answered the Defendants' calls, and have been subjected to prerecorded messages.

26. Consumers have also had prerecorded messages left on their answering machines or voice mail services.

27. The content of a message from the Cash Grant Institute is as follows:

This message is from the Cash Grant Institute in Washington D.C. Our phone number is 202-683-1404.

This is not a sales call. We are calling to let you know about free grant money available from the federal, state and local governments. In addition, we are calling to let you know that you qualify for money from public and private foundations and non-profit organizations as well as money from wealthy individuals who give away money to people like you to help you overcome your financial problems. Over 50 million dollars is waiting to be given away right now. You may be eligible to receive up to 25,000 dollars in government, non-profit or private foundation money that you would never have to repay. The quickest way to get access to some of the grant money is to go to requestagrants dot com, that's r-e-q-u-e-s-t-a-g-r-a-n-t dot com. In order to qualify, you will need to have a valid email address and a telephone number. Start the process right now. Go to requestagrants dot com. For additional information, call our Capitol Hill office at 202-683-1404.

28. The Defendants' prerecorded messages include the across-the-board statement made to consumers that they qualify for money

from public and private foundations and non-profit organizations as well as money from wealthy individuals who give away money to people like them to help them overcome their financial problems.

29. In reality, a grant is not preordained or instantaneous. Typically, a consumer must fill out an application, meet certain criteria, and then a grant provider must make a determination as to whether the grant should be awarded to the consumer. There is no guarantee that a consumer will, in fact, receive a grant.

30. In addition to calling consumers on the Registry and making a false statement, the Defendants have failed to pay the required fee to access the Registry, have abandoned calls, and have also failed to, within two seconds after the completed greeting of the person called, disclose the identity of the seller, that the purpose of the call is to sell goods or services, and the nature of the goods or services. The Defendants have also failed to provide, immediately following these disclosures, an automated interactive voice and/or keypress-activated opt-out mechanism available to use at any time during the message in calls that could be answered by a person, and/or a toll-free number that connects to the opt-out mechanism to assert a Do Not Call request in calls that could be answered by an answering machine or voicemail service.

31. Furthermore, the Defendants' prerecorded messages direct consumers to the Defendants' website requestagrants.com. The Defendants' website includes the statements that "Free Grant Money is available from the Federal, State and Local Governments," and that "Free Grant Money is also available from

public & private foundations, non profit organizations as well as money from wealthy individuals who give away money to help people in need." The website includes the option labeled "Get Me My Money."

32. The Defendants' website requestagrant.com does not provide grants.

33. Instead, the requestagrant.com website refers consumers to yet another grant-related website or entity which charges a fee but which does not provide grants to overcome consumers' financial problems.

Defendants' Other Businesses

34. The Defendants have multiple websites in addition to requestagrant.com.

35. One of the other websites is cashgrantsearch.com. This website includes the statement "Welcome to Instant Cash Grants". The website claims an address in Washington, DC and features pictures of the United States Capitol building and President Obama.

36. The Defendants' website also includes a number of statements about the availability and likelihood of obtaining a government grant such as the following:

- Welcome to CashGrantSearch.com - Source of Free Money from the Government
- Did you know that grant money exists for almost any purpose and does not need to be repaid?
- Did you know that many Americans are receiving checks for almost \$25,000?

- Grants are available to everyone:

Students

Single Moms

Senior Citizens/Retired

Disabled people

Unemployed or Underemployed

Businessman

Widows or Widowers

Parents

Low Income Earners.

37. The Defendants' website cashgrantsearch.com does not provide grants.

38. Instead, the website refers consumers to yet another grant-related website or entity which charges a fee but which does not provide government grants to everyone for almost any purpose.

39. It is a false statement to claim that government grants are available to everyone for almost any purpose.

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT I

40. In numerous instances, in connection with telemarketing, the Defendants engaged in or caused a telemarketer to engage in initiating an outbound telephone call to a person's telephone number on the National Do Not Call Registry in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

COUNT II

41. In numerous instances, in connection with telemarketing, the Defendants have initiated, or caused others to initiate, an outbound telephone call to a telephone number with a given

area code without the Defendants, either directly or through another person, first paying the required annual fee for access to the telephone numbers, within that area code, that are on the National Do Not Call Registry, in violation of 16 C.F.R. § 310.8.

COUNT III

42. In numerous instances, in connection with telemarketing, the Defendants have abandoned or caused others to abandon an outbound telephone call by failing to connect the call to a sales representative within two (2) seconds of the completed greeting of the person answering the call, in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iv).

COUNT IV

43. In numerous instances on or after December 1, 2008, in connection with telemarketing, the Defendants have initiated outbound telephone calls delivering prerecorded messages that do not promptly provide the disclosures required by § 310.4(d) of the TSR, and do not include an automated interactive voice and/or keypress-activated opt-out mechanism to assert a Do Not Call request, or a toll-free telephone number to assert a Do Not Call request required by § 310.4(b)(1)(v)(B)(ii).

44. The Defendants' practice as alleged in Paragraph 43 is an abusive telemarketing practice that violates the TSR, 16 C.F.R. § 310.4(b)(1)(v)(B)(ii).

COUNT V

45. In numerous instances, in the course of telemarketing goods or services, the Defendants have misrepresented, directly or by implication, to consumers that they have already qualified for, or are likely to receive, free grant money to overcome their

financial problems in order to induce consumers to pay for goods or services.

46. The Defendants' practice as alleged in Paragraph 45 is a deceptive telemarketing practice that violates Section 310.3(a)(4) of the TSR, 16 C.F.R. § 310.3(a)(4).

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

48. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. 45(a).

COUNT VI

49. In numerous instances, the Defendants represent to consumers, expressly or by implication, that they have already qualified for, or are likely to receive, free grant money to overcome their financial problems.

50. In truth and in fact, in numerous of these instances, the consumers have not already qualified for, or are not likely to receive, free grant money to overcome their financial problems.

51. Therefore, the Defendants' representation as set forth in Paragraph 49 is false and misleading and constitutes a deceptive act or practice in violation Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT VII

52. Through the means described in Paragraphs 34 to 36, the Defendants represent to consumers, expressly or by implication, that government grants are available to everyone for almost any purpose.

53. In truth and in fact, government grants are not available to everyone for almost any purpose.

54. Therefore, the Defendants' representation as set forth in Paragraph 52 is false and misleading and constitutes a deceptive act or practice in violation Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

55. Consumers in the United States have suffered and will suffer injury as a result of the Defendants' unlawful acts and practices in violation of the TSR and the FTC Act. In addition, the Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, the Defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

56. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief to prevent and remedy any violation of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission of contracts and restitution, and disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

57. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and as implemented by 16 C.F.R. § 1.98(d), authorizes this Court to award monetary civil penalties of not more than \$11,000 for each

violation of the TSR prior to February 10, 2009, and \$16,000 for each violation of the TSR on or after February 10, 2009. The Defendants' violations of the TSR were committed with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

58. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant relief.

59. Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorizes this Court to grant relief.

60. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to remedy injury caused by the Defendants' violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court, as authorized by Sections 5(a), 5(m)(1)(A), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b) and 57b, Section 6 of the Telemarketing Act, 15 U.S.C. § 6105, and pursuant to its own equitable powers:

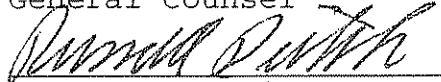
1. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions, an order freezing assets, and appointment of a receiver;
2. Enter judgment against the Defendants and in favor of Plaintiff for each violation alleged in this complaint;

3. Award Plaintiff monetary civil penalties from the Defendants for every violation of the TSR;
4. Award such relief as the Court finds necessary to redress injury to consumers resulting from the Defendants' violations of the FTC Act and the TSR, including but not limited to disgorgement of ill-gotten monies;
5. Enter a permanent injunction to prevent future violations of the TSR and the FTC Act by the Defendants;
6. Order the Defendants to pay the costs of this action; and
7. Award Plaintiff such other and additional relief as the Court may determine to be just and proper.

Dated: June 24, 2009

Respectfully submitted,

WILLARD K. TOM
General Counsel



Russell Deitch
Attorney for Plaintiff,
Federal Trade Commission
600 Pennsylvania Ave., N.W.
Room 288
Washington, D.C. 20580
202-326-2585