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FTC Charges Marketers with Billing Consumers Without Their Consent; Tricked People Who Were Seeking Payday Loans

The Federal Trade Commission charged two men and their companies with unfairly and deceptively billing consumers without their consent, and not providing promised refunds, in violation of federal law. At the FTC's request, a federal court temporarily halted the defendants' deceptive practices pending further proceedings, froze their assets, and appointed a receiver to take control of the business and its assets. The FTC seeks to stop their illegal practices and make them give up their ill-gotten gains and provide refunds to consumers.

According to the FTC's complaint, Michael Bruce Moneymaker, Daniel De La Cruz, and their companies obtained consumers' personal information from websites that claimed to match consumers with payday lenders, and then enrolled consumers, without their knowledge, in one or more of several worthless "continuity" programs. These programs included an up-front cost of up to \$49.99 each, plus additional weekly or monthly recurring fees of up to \$19.98. Continuity programs charge recurring fees until a consumer takes affirmative action to cancel.

The complaint alleges that after consumers submitted their personal information online, they encountered a pop-up box titled "Terms and Conditions" that appeared to be a part of their payday loan application. This pop-up box asked consumers to provide an authorization but made no mention of the defendants or their continuity programs. In many instances, consumers believed the pop-up box was part of their payday loan application and provided the requested authorization.

The FTC alleges that the defendants used consumers' bank account information, obtained through their payday loan applications, to create and deposit "remotely created checks" to pay for the continuity programs. Consumers learned of their enrollment in the defendants' continuity programs only when they checked their bank account, or when their bank accounts were overdrawn because of the defendants' unauthorized debits. Frequently when consumers called the defendants' customer service numbers to cancel or seek a refund, no one would answer the line, the line would go dead, or the consumer would be put on hold for an extended period of time. If consumers actually reached someone in the defendants' call center, the defendants' employees attempted to dissuade them from demanding their money back.

The defendants' call center employees allegedly told consumers they authorized the charges as part of a payday loan application and that they were being charged for a third-party offer with benefits including a free stored-value Visa card, free voicemail, free airline tickets, and a \$10,000 secured credit line. Call center employees also promised consumers refunds that consumers never received. In some instances, consumers who had been enrolled in multiple programs were told they had to call separate numbers to discuss each one, even though the call center handled calls for all of the defendants' programs.

The defendants allegedly told call center employees to limit the number of refunds offered and evaluated employees' performance based on their ability to keep the refund rate as low as possible. The defendants' employees often refused refund requests, gave refunds only to the most persistent consumers, or falsely promised refunds until consumers stopped calling. Some consumers were told, falsely, that a manager would call them or their calls would be returned.

The FTC charges that the defendants violated the FTC Act by:

- obtaining consumers' bank account information and debiting their accounts without their express informed consent;
- falsely representing that consumers' authorizations were part of their payday loan applications;
- failing to clearly and conspicuously disclose that consumers would be charged for third-party trial offers automatically extended to them;
- falsely telling consumers that they were not entitled to refunds because they agreed to enroll in the defendants' programs and pay for them, and had agreed that they could get a refund only if they asked during the initial trial period; and
- falsely promising refunds to consumers and not providing the refunds.

The FTC complaint names Michael Bruce Moneymaker, also known as Bruce Moneymaker, Mike Smith, and Michael Bruce Millerd, and also doing business as Fortress Secured; Daniel De La Cruz; Belfort Capital Ventures, Inc.; Dynamic Online Solutions, LLC; HSC Labs, Inc.; Red Dust Studios, Inc.; and Seaside Ventures Trust and its trustee.

The Commission vote authorizing the staff to file the complaint was 5-0. The complaint was filed in the U.S. District Court for the District of Nevada.

To help consumers avoid the hidden costs in some "free trial" programs, the FTC is releasing a new video. *Free Trial Offers* tells how to check out a free trial before you sign up, and what to do if you find yourself enrolled in a free trial offer without your permission: in short, getting charged for merchandise you don't want and didn't order. Watch the video at <http://www.ftc.gov/multimedia/video/scam-watch/free-trial-offers.shtm> here or at <http://www.youtube.com/ftcvideos>.

For more on free trials, go to <http://www.ftc.gov/bcp/edu/pubs/consumer/alerts/alt008.shtm>.

The FTC would like to thank the Financial Crimes Enforcement Network of the Department of the Treasury, the North Carolina Attorney General's Office, and the Las Vegas Metropolitan Police Department's Enterprise Area Command for their help in bringing this case.

NOTE: The Commission files a complaint when it has "reason to believe" that the law has been or is being violated, and it appears to the Commission that a proceeding is in the public interest. The complaint is not a finding or ruling that the defendant has actually violated the law. The case will be decided by the court.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online Complaint Assistant or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 1,800 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's website provides free information on a variety of consumer topics. "Like" the FTC on Facebook and "follow" us on Twitter.

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