Federal Trade Commission
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FTC Wins $37. 5 Million Judgment from X-Rated Web Site Operators

Bank Sold Defendants Access to Active MasterCard, Visa Card Numbers; More Than 700,000 Consumers Illegally Billed

The Federal Trade Commission has won a $37.5 million verdict against a California-based adult Web site operation the FTC charged with operating an illegal billing scam. The agency alleged the defendants repeatedly placed charges on consumers' credit and debit cards for X-rated Internet visits they had not made and services they didn't order. Indeed thousands of those billed for visiting the Web sites did not own computers. At trial, the agency told the court that the defendants bought access to lists from a California bank that provided the account numbers for more than 3 million valid Visa and MasterCard credit cards. Rather than use the lists to confirm that potential customers had valid cards, the defendants debited the cards for Web site services the cardholders had never used. In addition to the $37 million in damages, the court judgment will ban the primary defendant from owning or controlling, holding a managerial position, serving as an officer, or in a consulting position for any business that handles consumers' credit or debit card accounts.

In January 1999, the FTC filed the case against Malibu, California residents Kenneth and Teresa Taves, and Dennis Rappaport and their businesses J.K. Publications, Inc., MJD Service Corp., Herbal Care, Inc., and Discreet Bill, Inc. The complaint charged that the defendants were billing consumers without authorization for alleged visits to adult Web sites. Consumers saw the charges on their bills under the names "Netfill," "N-Bill," "MJD Service Corp," and "Webtel." Based on the preliminary evidence presented by the FTC, a U. S. District Court judge entered an order on January 6, 1999 that temporarily shut down the defendants' business and appointed a receiver, pending trial.

According to the FTC, the defendants had purchased access to a database of credit card numbers provided by Charter Pacific Bank of Agoura Hills, California. This database contained card numbers, dates and amounts of sales, for more than 3 million card holders who purchased goods or services from merchants with accounts at Charter Pacific. The FTC argued that the defendants illegally used the account numbers to place charges on the accounts and that over 90 percent of their $49 million a year in "sales," were actually unauthorized charges. The court agreed, saying, "The Court finds that the FTC has proven by a preponderance of the evidence that 90.8 % of the total 'sales' amount the defendants caused to be deposited into their merchant accounts was unauthorized."

The FTC showed that the defendants used at least five different merchant accounts and four fictitious business names to process over $40 million in credit and debit card transactions. The timing of each new merchant account application coincided with the impending threat of being placed on VISA USA's "active monitoring" list for excessive "chargebacks" -- amounts debited to cards but disputed by the consumers who were charged. By submitting the charges and debits for processing, the defendants represented to the merchant banks that they had obtained authorization from the cardholders for the charges and debits. But thousands of consumers who were charged said they did not incur the charges and, according to U. S. District Court Judge Audrey B. Collins, "A shocking 40% to 50% of the calls received by the defendants were from people who said they did not have a computer and had not given their card numbers to anyone." Judge Collins concluded "[T]he only reasonable inference the Court can draw from the corporate defendants' access to the Charter Pacific Positive Database and the time of the defendants' fraudulent billing practices is that the defendants stole and processed Visa and MasterCard numbers from the database."

The court concluded that the defendants had processed bogus charges totaling more than $43 million. The $37.5 million damages verdict represents the illegal charges minus the amounts that consumers already received through chargebacks and credits.

In addition to the $37.5 million in damages, defendant Kenneth Taves is barred for 10 years from owning, controlling, holding a managerial post, consulting for or serving as an officer in any business that handles consumers' credit or debit card accounts. Teresa Callei Taves would be required to obtain a surety bond in the amount of $500,000 before engaging in future business where consumers' cards would be billed. Defendant Dennis Rappaport, who fled to Jamaica soon after he was served with the complaint, is barred from false representations that consumers have agreed to purchase goods or services and from unauthorized billing. The court entered a default judgment against Mr. Rappaport.

Two other defendants in this case, Gary Mittman and Adult Banc, Inc., settled FTC charges in June 1999. That settlement bars them from making false representations that customers have agreed to purchase goods; bars billing or receiving money or assisting others to do so without consumer authorization; requires that they obtain express verifiable authorization from consumers before billing them; requires that they maintain adequate staff to respond to consumer complaints or inquires; and requires that they promptly credit the accounts of consumers who request refunds.

Consumers wishing to make claims can contact the Court-appointed receiver in the following manner: by email at rea@robbevans.com or by regular mail at Robb Evans & Associates, Receiver, PO Box 880, Sun Valley, CA 91353 and submit the following information (1) consumer's name (2) the credit card number that was wrongfully billed, (3) the amount of the wrongful bill(s), and (4) a currently-valid credit card number through which the consumer can receive a refund.

Consumers without computers can contact the receiver by calling (818) 768-8869. Consumers will hear a recorded message which will instruct them to contact the receiver at the P.O. Box listed above. The Receiver expects a great volume of calls in the first weeks after the judgment, and urges callers who are met with a busy signal to be patient and to try calling again at a different time.

The FTC has identified in excess of $20 million in defendant's assets. It is not clear that the total of $37.5 million ordered by the Judge will be available for consumer redress.

NOTE: A stipulated final judgment and order is for settlement purposes only and does not constitute an admission by the defendant of a law violation. Consent judgments have the force of law when signed by the judge.

The case was filed in U. S. District Court for the Central District of California, in Los Angeles.

Copies of the complaint and other legal documents associated with 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; 877-FTC-HELP (877-382-4357); TDD for the hearing impaired 1-866-653-4261. To find out the latest news as it is announced, call the FTC NewsPhone recording at 202-326-2710.

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