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11

12 UNITED STATES DISTRICT COURT
 FOR THE CENTRAL DISTRICT OF CALIFORNIA
 13 WESTERN DIVISION

14 00-06505

5 FEDERAL TRADE COMMISSION,)
)
 16 Plaintiff,)
)
 17 v.)
)
 18 NATIONWIDE INFORMATION SERVICE, INC.,)
 a California corporation, and)
 19)
 20 STEVAN P. TODOROVIC, individually)
 and as an officer of the)
 corporation,)
 21)
 22 Defendants.)

Civ. No.

COMPLAINT FOR INJUNCTION
 AND OTHER EQUITABLE RELIEF

23

24 Plaintiff, the Federal Trade Commission ("FTC" or
 25 "Commission"), for its complaint alleges:

26 1. The FTC brings this action under Section 13(b) of the
 27 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to
 3 secure a permanent injunction, preliminary injunctive relief,

U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 JUN 19 10 06 AM '00

FILED

TJH
 (2)

1 rescission of contracts, restitution, disgorgement, appointment of
2 a receiver, and other equitable relief for defendants' deceptive
3 acts or practices in violation of Section 5(a) of the FTC Act, 15
4 U.S.C. § 45(a).

5 JURISDICTION AND VENUE

6 2. This Court has jurisdiction over this matter pursuant to
7 28 U.S.C. §§ 1331, 1337(a), and 1345, as well as 15 U.S.C.
8 §§ 45(a) and 53(b).

9 3. Venue in the United States District Court for the
10 Central District of California is proper under 28 U.S.C. § 1391(b)
11 and (c), as well as under 15 U.S.C. § 53(b).

12 THE PARTIES

13 4. Plaintiff, the Federal Trade Commission, is an
14 independent agency of the United States Government created by
15 statute. 15 U.S.C. §§ 41 et seq. The Commission is charged,
16 inter alia, with enforcement of Section 5(a) of the FTC Act, 15
17 U.S.C. § 45(a), which prohibits unfair or deceptive acts or
18 practices in or affecting commerce. The Commission is authorized
19 to initiate federal district court proceedings, by its own
20 attorneys, to enjoin violations of the FTC Act and to secure such
21 equitable relief as may be appropriate in each case, including
22 restitution for injured consumers. 15 U.S.C. § 53(b).

23 5. Defendant Nationwide Information Service, Inc.
24 ("Nationwide") is a California corporation with its principal
25 place of business at 121 West Mission Street, Santa Barbara,
26 California. Nationwide transacts business in the Central District
27 of California.

8 6. Defendant Stevan P. Todorovic is an officer and director

1 of Nationwide. At all times material to this complaint, acting
2 alone or in concert with others, he has formulated, directed,
3 controlled, or participated in the acts and practices of
4 Nationwide, including the acts and practices set forth in this
5 complaint. He resides and transacts business in the Central
6 District of California.

7 COMMERCE

8 7. At all times material to this complaint, defendants have
9 maintained a substantial course of trade in or affecting commerce,
10 as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C.
11 § 44.

12 DEFENDANTS' COURSE OF CONDUCT

13 8. Since at least July 1997, defendants have advertised and
14 telemarketed information about seized vehicles and foreclosed
15 homes to consumers throughout the United States. Defendants
16 purport to sell current local listings of seized vehicles and
17 foreclosed homes, updated every couple of weeks, along with bound
18 publications containing general information about purchasing
19 seized vehicles and foreclosed homes.

20 Seized Vehicles

21 9. In the course of advertising and telemarketing their
22 materials on seized vehicles, defendants have disseminated or have
23 caused the dissemination of advertisements throughout the United
24 States, via local newspapers and television, that advertise to
25 consumers current local listings of seized vehicles. Defendants'
26 advertisements invite consumers to call a toll-free telephone
27 number for further information.

9 10. Consumers who call the toll-free telephone number are

1 connected to defendants' telemarketers, who inform consumers that
2 defendants will provide them with current listings of seized
3 vehicle auctions taking place in the consumers' geographic areas
4 of interest.

5 11. In numerous instances, defendants' telemarketers
6 represent to consumers that the current listing information will
7 include details such as the dates and times of upcoming auctions,
8 as well as the make, model, year of manufacture, and mileage of
9 actual vehicles that will be sold at the upcoming auctions.

10 12. Defendants' telemarketers also frequently represent that
11 consumers who purchase the listing information will periodically
12 receive updated current listings of upcoming auctions for a period
13 of one year.

14 13. Consumers who agree to purchase the current local
5 listings of seized vehicles are asked to provide defendants'
16 telemarketers with their credit card or checking account numbers.
17 The \$48.00 cost of the materials, plus shipping and handling, is
18 then charged or debited to those accounts.

19 14. Shortly thereafter, defendants ship to consumers a bound
20 publication entitled "The Complete Guide to Government Sales and
21 Auctions" along with photocopied pages headed "Auction Listings
22 for the State of [consumer's state]." Neither the bound
23 publication nor the photocopied pages includes the detailed
24 current listings that defendants' telemarketers had described.
25 Rather, defendants only provide their customers with a list of
26 public and private entities that, at least according to
27 defendants, hold auctions on a regular basis. In most instances,
3 that list does not include the dates and times of upcoming

1 auctions, or any information about actual vehicles that will be
2 sold at the upcoming auctions. Finally, defendants do not
3 periodically send consumers updated information for a period of
4 one year.

5 Foreclosed Homes

6 15. In the course of advertising and telemarketing their
7 materials on foreclosed homes, defendants also have disseminated
8 or have caused the dissemination of advertisements throughout the
9 United States, via local newspapers and television, that advertise
10 to consumers current listings of foreclosed homes. Defendants'
11 advertisements invite consumers to call a toll-free telephone
12 number for further information.

13 16. Consumers who call the toll-free telephone number are
14 connected to defendants' telemarketers, who inform consumers that
15 defendants will provide them with current listings of foreclosed
16 homes that are available for purchase in the consumers' areas of
17 interest.

18 17. In numerous instances, defendants' telemarketers also
19 represent that consumers will receive updated current listings
20 every couple of weeks for a period of one year.

21 18. Consumers who agree to purchase the current listings of
22 foreclosed homes are asked to provide defendants' telemarketers
23 with their credit card or checking account numbers. The \$48.00
24 cost of the materials, plus shipping and handling, is then charged
25 or debited to those accounts.

26 19. Shortly thereafter, defendants ship to consumers a bound
27 publication entitled "The Complete Guide to Government
28 Foreclosures" along with photocopied pages headed "Property

1 Listings for the State of [consumer's state]."

2 Unauthorized Charges

3 20. In the course of advertising and telemarketing
4 defendants' materials on seized vehicles and foreclosed homes,
5 defendants' telemarketers frequently charge consumers for
6 materials the consumers did not agree to purchase.

7 21. In some instances, defendants obtain consumers' credit
8 card or bank account information under false pretenses - for
9 example, by claiming that the information is needed for
10 verification purposes only - and then use the information to
11 charge consumers' credit card or bank accounts. In doing so,
12 defendants' telemarketers reassure consumers who provide their
13 account information that no charges will be assessed to those
14 accounts, or that no charges will be assessed until the expiration
15 of a free trial period.

16 22. Consumers who provide their credit card or checking
17 account information to defendants' telemarketers for defendants'
18 purported verification purposes only later discover that
19 defendants in fact have charged or debited their accounts without
20 the consumers' authorization for the full price of one or both of
21 defendants' programs.

22 23. In other instances, when consumers agree to purchase one
23 of defendants' programs and defendants' telemarketers have
24 obtained the consumers' credit card or checking account
25 information, defendants' telemarketers proceed to inform consumers
26 that defendants have another program. For example, if a consumer
27 has agreed to purchase the seized vehicle information, defendants'
28 telemarketers will offer to send the foreclosed home information

1 as well. In many instances, however, defendants' telemarketers do
2 not disclose that there is an additional charge for the second
3 program.

4 24. Although consumers may have authorized defendants to
5 charge or debit their credit card or checking accounts for the
6 cost of the single program they actually ordered, consumers later
7 learn that defendants have charged them for the additional program
8 as well, resulting in charges or debits in an amount nearly double
9 the amount they had authorized.

10 Undisclosed Refund Policy

11 25. In the course of advertising and telemarketing
12 defendants' materials on seized vehicles and foreclosed homes,
13 defendants' telemarketers typically tell consumers that they may
14 return the materials for a full refund if they are not completely
15 satisfied. Defendants' telemarketers also sometimes tell
16 consumers, expressly or by implication, that the refund request
17 must be made within 90 days of purchase or that consumers should
18 use the materials for 90 days.

19 26. Consumers learn only upon receiving defendants'
20 materials that, under defendants' written refund policy, consumers
21 must satisfy previously undisclosed conditions in order to obtain
22 refunds.

23 27. Those conditions include, but are not limited to, the
24 following: (1) consumers must use defendants' materials for at
25 least 90 days before applying for a refund; (2) consumers must
26 provide proof that they attempted to use defendants' materials by
27 contacting one or more agencies listed in those materials; (3)
28 consumers must provide a specific and frequently unobtainable

1 proof of purchase to defendants; (4) consumers must return
2 defendants' materials in resalable condition; and (5) consumers
3 must obtain a return authorization number from a Nationwide
4 customer service representative. In numerous instances,
5 defendants also inform consumers that they will be assessed a 20%
6 restocking fee if they fail to comply with any or all of these
7 conditions.

8 28. These conditions on the receipt of a refund are not
9 clearly and conspicuously disclosed to consumers when they place
10 their orders. The effect of these refund conditions, which are
11 disclosed for the first time when consumers receive defendants'
12 materials, is to discourage consumers from seeking refunds.

13 VIOLATIONS OF SECTION 5 OF THE FTC ACT

14 COUNT ONE

15 29. In numerous instances, in the course of offering for
16 sale or selling their materials on seized vehicles, defendants
17 have represented, expressly or by implication, that they will
18 provide consumers with current listings, updated periodically over
19 the course of one year, of seized vehicle auctions in the
20 consumers' geographic areas of interest, with details such as the
21 dates and times of upcoming auctions, as well as the make, model,
22 year of manufacture, and mileage of actual vehicles that are
23 available for purchase at the upcoming auctions.

24 30. In truth and in fact, defendants did not provide
25 consumers with current listings, updated periodically over the
26 course of one year, of seized vehicle auctions in the consumers'
27 geographic areas of interest, with details such as the dates and
28 times of upcoming auctions, as well as the make, model, year of