



Plaintiff, the Federal Trade Commission (“FTC” or “the Commission”) for its complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, to secure preliminary and permanent injunctive relief, restitution, rescission or reformation of contracts, disgorgement, and other equitable relief for Defendants’ deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (the “Telemarketing Sales Rule”), 16 C.F.R. Part 310.

#### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the Northern District of Ohio is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b), (c), and (d).

#### **PLAINTIFF**

4. Plaintiff Federal Trade Commission is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58, as amended. The Commission 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 Commission also enforces the Telemarketing Sales Rule, 16 C.F.R. Part 310, which prohibits deceptive or abusive telemarketing acts or practices. The Commission is authorized to initiate federal district court

proceedings, by its own attorneys, to enjoin violations of the FTC Act and the Telemarketing Sales Rule, and to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. §§ 53(b), 57b, 6102(c), and 6105(b).

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**DEFENDANTS**

5. Defendant 1st Beneficial Credit Services LLC (“First Beneficial”) is a Delaware corporation. Doing business as First Beneficial Credit Services and as First Beneficial Credit Services, Inc., it has used the address of 1201 N. Orange Street, Suite 798, Wilmington, Delaware 19801. Doing business as American Capitol it has also used the address 48 Bi-State Plaza, PMB 236, Old Tappan, New Jersey 07675. It has also used the address of 6021 Yonge St., Suite 841, Toronto, Ontario, Canada M2M 3W2. The registered address for First Beneficial is 1220 N. Market Street, Suite 606, Wilmington, Delaware 19801. First Beneficial transacts or has transacted business in the Northern District of Ohio.

6. Defendant Platinum Express Benefits LLC (“Platinum Express”) is a Delaware corporation. It has used the address of 1502 Niagara Street, Suite 1250, Buffalo, New York 14213. It has also used the address of 6021 Yonge St., Suite 841, Toronto, Ontario, Canada M2M 3W2. The registered address for Platinum Express is 1220 N. Market Street, Suite 606, Wilmington, Delaware 19801. Platinum Express transacts or has transacted business in the Northern District of Ohio.

7. Defendant Viktor Golub (“Golub”) a/k/a Victor Golub, is a Canadian citizen. He is the sole officer of defendant First Beneficial and one of two initial members for Platinum Express. He also does business as American Capitol. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in

the acts and practices set forth in this Complaint. Golub transacts or has transacted business in the Northern District of Ohio.

### COMMERCE

8. At all times relevant to this complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### DEFENDANTS’ COURSE OF CONDUCT

9. Defendants are engaged in the business of calling consumers in the United States from Canada and purporting to offer them a Visa or MasterCard with a substantial credit limit for a fee of \$199 or more. Defendants do not actually provide such cards as promised. While debiting consumers’ checking accounts for \$199 or more, Defendants provide nothing of value in return. Defendants use or have used the name First Beneficial Credit Services, sometimes known as First Beneficial Credit Services, Inc., and the address of 1201 North Orange St., Suite 798, Wilmington, Delaware 19801. Defendants also use or have used the name Platinum Express and the address of 1502 Niagara Street, Buffalo, New York 14213. Defendants also use or have used the name American Capitol and the address of 48 Bi-State Plaza, PMB 236, Old Tappan, New Jersey 07675. None of these addresses houses an actual business location of Defendants. Defendants may also use other business names and addresses to carry out the unlawful scheme described herein.

10. Since at least July, 2001, Defendants, acting directly or through their employees and agents, have solicited consumers by telephone throughout the United States and falsely promised to provide credit cards to consumers in exchange for an advance fee, usually either

\$199 or \$249.

11. Calling consumers through telemarketers located in Canada, Defendants offer to provide them an unsecured major credit card, such as a Visa or MasterCard, with a substantial credit limit, such as \$2,500, and absolutely no security deposit, regardless of their credit history. Sometimes the telemarketer promises that the consumer will receive both a Visa and a MasterCard. Defendants represent to consumers that they are pre-approved for a credit card and assure them that if they pay the required fee, they will receive the credit card. Defendants also offer to provide consumers other purported benefits, such as an opportunity to purchase items from a catalogue or “free” incentives such as a satellite dish, vacation for two, and a pager.

12. In connection with taking applications over the telephone, Defendants persuade consumers to divulge their checking account information, including their name as it appears on the account and the account number. They also persuade consumers to divulge their social security numbers.

13. Defendants routinely debit the bank accounts of consumers, in advance of providing those consumers with the VISA or MasterCard credit cards promised during the telephone calls.

14. After debiting the funds from consumers’ bank accounts, Defendants do not provide consumers with the promised VISA or MasterCard credit cards.

15. At best, in some instances, Defendants do provide consumers with a booklet that provides information and advice on such matters as improving one’s credit rating and obtaining a credit card. They may also provide some information on merchandise discount offers. In some cases, Defendants provide a card that can only be used to purchase merchandise from a specific

catalog.

16. Only then do consumers understand that they are not yet approved to receive a credit card, and they will have to complete an additional application which must be screened by a bank based on the bank's own credit criteria, and may have to pay additional fees to that bank if they are ultimately approved to receive a credit card.

**VIOLATIONS OF SECTION 5 OF THE FTC ACT**

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

18. Misrepresentations or omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

**COUNT ONE**

19. In numerous instances, in connection with the telemarketing of advance fee credit cards, Defendants or their employees or agents have represented, expressly or by implication, that after paying Defendants a fee, consumers will, or are highly likely to, receive an unsecured major credit card, such as a VISA or MasterCard credit card.

20. In truth and in fact, in numerous instances, after paying Defendants a fee, consumers do not receive an unsecured major credit card, such as a VISA or MasterCard credit card.

21. Therefore, the representation set forth in Paragraph 19 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**THE FTC'S TELEMARKETING SALES RULE**

22. The Commission promulgated the Telemarketing Sales Rule pursuant to Section 3(a) of the Telemarketing Act, 15 U.S.C. § 6102(a). The Rule became effective on December 31, 1995.

23. The FTC Telemarketing Sales Rule prohibits telemarketers and sellers from misrepresenting any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

24. The Telemarketing Sales Rule also prohibits telemarketers and sellers from requesting or receiving payment of any fee or consideration in advance of obtaining or arranging a loan or other extension of credit when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit. 16 C.F.R. § 310.4(a)(4).

25. 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), violations of the Telemarketing Sales Rule constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

26. Defendants are “sellers” or “telemarketers” engaged in “telemarketing,” as those terms are defined in the FTC Telemarketing Sales Rule. 16 C.F.R. §§ 310.2(r), (t) & (u).

### **VIOLATIONS OF THE TELEMARKETING SALES RULE**

#### **COUNT TWO**

27. In numerous instances, in connection with the telemarketing of advance fee credit cards, Defendants or their employees or agents have misrepresented, directly or by implication,

that after paying Defendants a fee, consumers will, or are highly likely to, receive an unsecured major credit card, such as a VISA or MasterCard credit card.

28. Defendants have thereby violated Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii).

### **COUNT THREE**

29. In numerous instances, in connection with the telemarketing of advance fee credit cards, Defendants or their employees or agents have requested and received payment of a fee in advance of consumers obtaining a credit card when Defendants have guaranteed or represented a high likelihood of success in obtaining or arranging for the acquisition of an unsecured credit card, such as a VISA or MasterCard credit card, for such consumers.

30. Defendants have thereby violated Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4).

### **CONSUMER INJURY**

31. Consumers throughout the United States have suffered, and continue to suffer, substantial monetary loss as a result of Defendants' unlawful acts and practices. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

### **THIS COURT'S POWER TO GRANT RELIEF**

32. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes this Court to issue a permanent injunction against Defendants' violations of the FTC Act and, in the exercise of its equitable jurisdiction, to order such ancillary relief as temporary and preliminary injunctions,



consumer redress, rescission, restitution and disgorgement of profits resulting from Defendants' unlawful acts or practices, and other remedial measures.

33. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize the Court to grant to the FTC such relief as the Court finds necessary to redress injury to consumers or other persons resulting from Defendants' violations of the Telemarketing Sales Rule, including the rescission and reformation of contracts and the refund of money.

#### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff Federal Trade Commission, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and the Court's own equitable powers, requests that the Court:

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, appointment of a receiver, and an order freezing assets;
2. Permanently enjoin Defendants from violating the FTC Act and the Telemarketing Sales Rule, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the Telemarketing Sales Rule, including, but not limited to, rescission or reformation of contracts, restitution, refund of monies paid, and disgorgement of ill-gotten monies; and
4. Award Plaintiff the costs of bringing this action, as well as such other and

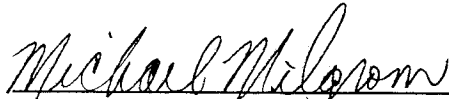
additional relief as the Court may determine to be just and proper.

Dated: August 14, 2002

Respectfully Submitted,

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