



UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

**FOURTH ANNUAL REPORT TO CONGRESS
UNDER SECTION 526(b) OF THE GRAMM-LEACH-BLILEY ACT
("Fraudulent Access to Financial Information")**

This report is submitted in accordance with the reporting provision of Section 526(b) of the Gramm-Leach-Bliley Act ("GLB Act"), 15 U.S.C. § 6826(b) (1999). Section 526(b) requires that the Federal Trade Commission ("FTC" or "Commission") and the Attorney General¹ submit to Congress an annual report on the number and disposition of all enforcement actions taken pursuant to Title V, Subtitle B ("Fraudulent Access to Financial Information") of that Act.

Enforcement Actions Taken by the Federal Trade Commission

Since the last Report, and covering the period through March 31, 2004, the Federal Trade Commission filed three new law enforcement actions in federal district court against companies and individuals for, *inter alia*, violations of 15 U.S.C. § 6821. The complaints alleged that the defendants engaged in "pretexting" – obtaining a consumer's financial information by false pretenses. In each of these cases, the FTC alleged that the defendants procured the information from consumers themselves, by various misrepresentations and deceptive practices intended fraudulently to obtain those consumers' customer information of a financial institution. *See FTC v. Sun Spectrum Communications Organization, Inc., et al.*, Civil Action No. 03-8110 (S.D. Fla., preliminary injunction entered Feb. 5, 2004)(defendants allegedly obtained consumers' bank account numbers through deception in connection with the sale of "advance-fee credit cards" to consumers nationwide)(*see also* <http://www.ftc.gov/opa/2004/01/ccscams.htm>); *FTC v. Zachary Keith Hill*, Civ. Action No. H 03-5537 (S.D. Tex., stipulated preliminary injunction entered Dec. 18, 2003)(defendants allegedly used hijacked logos from AOL and Paypal to deceive hundreds of consumers into providing credit card and bank account numbers via the Internet²)(*see also* <http://www.ftc.gov/opa/2004/03/phishinghilljoint.htm>); and *FTC v. C.J.*, Civ. No. 03-5275 (C.D. Cal., stipulated permanent injunction entered July 25, 2003) (defendant allegedly used hijacked corporate logos and deceptive spam to fraudulently obtain consumers' credit card numbers and other financial data via the Internet; order prohibits defendant from future violations of the FTC

¹ The Department of Justice is submitting its report separately.

² The Computer Crimes and Intellectual Property Section of the Department of Justice concurrently brought a parallel criminal case. *United States v. Zachary Keith Hill*, 04-cr-4-ALL (S.D. Tex., plea agreement entered Feb. 9, 2004). These cases were brought with the assistance of the Federal Bureau of Investigation's Washington Field Office, and the United States Attorney for the Eastern District of Virginia's Computer Hacking and Intellectual Property Squad.

Act and GLB Act, bans defendant from sending spam, and requires disgorgement of \$3,500 in ill-gotten gains)(*see also* <http://www.ftc.gov/opa/2003/07/phishing.htm>).

The Commission also obtained successful results in two cases initially reported in the Third Annual Report to Congress: *FTC v. Assail, Inc., et al.*, Civ. No. W03CA007 (W.D. Tex., stipulated permanent injunction entered Sept. 22, 2003)(defendants allegedly obtained consumers' personal financial information in connection with fraudulent advance-fee credit card packages; order requires redress payments and prohibits defendants from: violating the pretexting provisions of the GLB Act, engaging in any future telemarketing, misrepresenting the defendants' products or services or the defendants' affiliation with credit card companies or financial institutions, and billing consumers without authorization)(*see also* <http://www.ftc.gov/opa/2003/02/assail.htm> and <http://www.ftc.gov/opa/2003/09/assail2.htm>);³ and *FTC v. 30 Minute Mortgage, Inc., Gregory P. Roth, and Peter W. Stolz*, No. 03-60021 (S.D. Fla., stipulated final order against defendant Gregory Roth entered Sept. 16, 2003; stipulated final order against defendant Peter Stoltz, and final default judgment and order against 30 Minute Mortgage entered Nov. 26, 2003) (defendants allegedly obtained consumer financial information in connection with deceptive marketing of mortgages; orders prohibit defendants from: violating the financial privacy or pretexting provisions of the GLB Act or the Commission's Privacy Rule, violating the Truth in Lending Act or its implementing Regulation Z, making misrepresentations related to residential mortgages, and using or benefitting from the personal information that they deceptively obtained from consumers; orders also require defendants to post a \$1 million bond before sending spam)(*see also* <http://www.ftc.gov/opa/2003/03/thirty6.htm> and <http://www.ftc.gov/opa/2003/12/30mm2.htm>).

In addition to the civil enforcement actions concluded by the Commission, the Commission (which does not have criminal enforcement authority) referred an investigation, including evidentiary material gathered by Commission staff, to the Department of Justice for consideration as a criminal enforcement matter under Section 6823.

The Commission's law enforcement efforts are ongoing. The Commission also engages in consumer and business education on the GLB Act and pretexting.

³ The Commission also added two additional individual defendants to the case during the period charging similar GLB Act violations. *See* <http://www.ftc.gov/opa/2004/02/fyi0412.htm>.