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6 Attorneys for Plaintiff  
FEDERAL TRADE COMMISSION

7 IN THE UNITED STATES DISTRICT COURT  
8 CENTRAL DISTRICT OF CALIFORNIA  
9 WESTERN DIVISION

00-06507 RSWL

10 FEDERAL TRADE COMMISSION,  
11 Plaintiff,

CIVIL NO.

12 v.

COMPLAINT FOR INJUNCTIVE AND  
OTHER EQUITABLE RELIEF

13 THE KOHL GROUP, LLC, a  
California limited liability  
company doing business as  
14 Federal Information Services;

15 GREGORY STEWART HALL,  
individually and as a member  
of The Kohl Group, LLC;

16 BENJAMIN H. KIM, individually  
and as a member of The Kohl  
Group, LLC;

17 DOUGLAS LEE, individually and  
as a member of The Kohl  
Group, LLC; and

18 MARK AARON OSBORNE,  
individually and as a member  
of The Kohl Group, LLC,

19 Defendants.  
20  
21  
22

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

25 1. The FTC brings this action under Section 13(b) of  
26 the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.  
27 § 53(b), to secure a permanent injunction, preliminary  
28

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

5 JURISDICTION AND VENUE

6 2. This Court has jurisdiction over this matter  
7 pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, as well as  
8 15 U.S.C. §§ 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.  
11 § 1391(b) 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  
15 by statute. 15 U.S.C. §§ 41 et seq. The Commission is  
16 charged, inter alia, with enforcement of Section 5(a) of the  
17 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or  
18 deceptive acts or practices in or affecting commerce. The  
19 Commission is authorized to initiate federal district court  
20 proceedings, by its own attorneys, to enjoin violations of  
21 the FTC Act and to secure such equitable relief as is  
22 appropriate in each case, including restitution for injured  
23 consumers. 15 U.S.C. § 53(b).

24 5. Defendant The Kohl Group LLC ("Kohl Group"), is a  
25 California limited liability company that does business as  
26 Federal Information Services ("FIS"), with its principal  
27 place of business at 1600 Sawtelle Avenue, Suites 110 and  
28 230, Los Angeles, California 90025. Kohl Group transacts

1 business in the Central District of California.

2 6. Defendant Gregory Stewart Hall is an owner, member,  
3 and principal of Kohl Group. At all times material to this  
4 complaint, acting alone or in concert with others, he has  
5 formulated, directed, controlled, or participated in the  
6 acts and practices of Kohl Group, including the acts and  
7 practices set forth in this complaint. He transacts  
8 business in the Central District of California.

9 7. Defendant Benjamin H. Kim is an owner, member, and  
10 principal of Kohl Group. At all times material to this  
11 complaint, acting alone or in concert with others, he has  
12 formulated, directed, controlled, or participated in the  
13 acts and practices of Kohl Group, including the acts and  
14 practices set forth in this complaint. He transacts  
15 business in the Central District of California.

16 8. Defendant Douglass Lee is an owner, member, and  
17 principal of Kohl Group. At all times material to this  
18 complaint, acting alone or in concert with others, he has  
19 formulated, directed, controlled, or participated in the  
20 acts and practices of Kohl Group, including the acts and  
21 practices set forth in this complaint. He transacts  
22 business in the Central District of California.

23 9. Defendant Mark Aaron Osborne is an owner, member,  
24 and principal of Kohl Group. At all times material to this  
25 complaint, acting alone or in concert with others, he has  
26 formulated, directed, controlled, or participated in the  
27 acts and practices of Kohl Group, including the acts and  
28 practices set forth in this complaint. He transacts

1 business in the Central District of California.

2 COMMERCE

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

7 DEFENDANTS' COURSE OF CONDUCT

8 11. Since at least 1995, defendants have advertised  
9 and telemarketed materials on foreclosed homes and on seized  
10 vehicles to consumers throughout the United States.  
11 Defendants' materials on foreclosed homes purportedly  
12 include current local listings of foreclosed homes and  
13 publications containing general information about purchasing  
14 foreclosed homes. Defendants purportedly provide monthly  
15 updates of the listings. Defendants' materials on seized  
16 vehicles purportedly include current local listings of  
17 auctions at which seized vehicles can be purchased and  
18 publications containing general information about purchasing  
19 auctioned items. Defendants purportedly provide monthly  
20 updates of the listings.

21 Defendants' Marketing Practices

22 12. Defendants have disseminated or have caused the  
23 dissemination of advertisements throughout the United  
24 States, via print media and the Internet, that advertise to  
25 consumers their foreclosed home and seized vehicle  
26 materials.

27 13. Defendants' advertisements include, but are not  
28 limited to, the following:

1           **\*FORECLOSED\* \*\*HOMES\*\*** Low or \$0 down!!  
2           Government and bank repossessions being  
3           sold now! Financing available! \*\*Local  
4           listings. 800-501-1777 ext. [various  
5           numbers][at times, this advertisement  
6           also includes the name "FEDERAL  
7           INFORMATION SERVICES"].

8  
9           **FORECLOSED HOMES. LOW OR \$0 DOWN!** Gov't  
10          & bank repos being sold now! Fantastic  
11          Saving\$!! Financing available. 1-800-  
12          501-1777, ext. 2009. Fee [or 1-800-338-  
13          0020 ext. 8122].

14  
15          **HOMES FROM \$5,000!** Low or \$0 down! Govt  
16          & bank repos being sold now! Financing  
17          available! Local listings. 1-800-501-  
18          1777 X8145.

19  
20          **HOMES FROM \$199/month.** 1-3 bedrooms.  
21          Repos and foreclosures. 4% down, OK  
22          credit. For listings, payment details.  
23          1-800-338-0020 ext. 8148.

24  
25          **JEEPS \$500 - up!** Honda, Chevy, Toyota &  
26          Sport Utility. Police impounds &  
27          repossessions. Must sell! Local  
28          listings! 1-800-451-0050 Ext. C8142.

1 CARS - \$500 & up! Honda, Chevy, Jeep &  
2 Sport Utility. Police impounds and  
3 repossessions. Must Sell! 1-800-941-  
4 8777 Extension C8

5 14. Consumers who call the toll-free telephone number  
6 provided in the advertisements are connected to defendants'  
7 telemarketers, who inform consumers that the materials sell  
8 for approximately \$59, plus shipping and handling.

9 15. Consumers who agree to purchase one or both of the  
10 foreclosed homes or seized vehicle information materials are  
11 asked to provide the telemarketers with their credit card or  
12 checking account numbers. The cost for one or both of the  
13 items, plus shipping and handling, is then charged or  
14 debited to those accounts.

15 16. If consumers have purchased the foreclosed homes  
16 materials, defendants then ship those materials to  
17 consumers, designated as "FIS Listing Center, Real Estate  
18 Owned/Government Foreclosure Properties."

19 17. If consumers have purchased the seized vehicles  
20 materials, defendants then ship those materials to  
21 consumers, designated as "Buying Smart Auction Edition, The  
22 Complete Guide to Purchasing Auction Property At Rock-Bottom  
23 Prices" and "FIS Listing Center, Auction Listing Directory  
24 for the Month of [current Month]."

25 Undisclosed Refund Policy

26 18. In the course of advertising and telemarketing  
27 defendants' materials, defendants' telemarketers typically  
28 represent, expressly or by implication, that consumers may

1 return the materials for a full refund if they are not  
2 completely satisfied. Defendants' telemarketers also  
3 occasionally represent, expressly or by implication, that  
4 consumers should use the materials for 90 days.

5 19. Consumers learn only upon receiving defendants'  
6 materials that, under defendants' written refund policy,  
7 consumers must satisfy previously undisclosed conditions in  
8 order to obtain refunds.

9 20. Those conditions include, but are not limited to,  
10 the following: (1) consumers must use defendants' materials  
11 for at least 90 days before applying for a refund; (2)  
12 consumers must provide proof that they attempted to use  
13 defendants' materials by contacting one or more agencies  
14 listed in those materials; (3) consumers must return  
15 defendants' materials in resalable condition; (4) consumers  
16 must obtain a return authorization number from an FIS  
17 customer service representative; (5) consumers must submit  
18 one or more auction admission tickets; (6) consumers must  
19 identify at least two persons they contacted in their effort  
20 to purchase a listed home; and (7) consumers must submit a  
21 completed real estate loan application.

22 21. These conditions for the receipt of a refund are  
23 not clearly and conspicuously disclosed to consumers when  
24 they place their orders. The effect of these refund  
25 conditions, which are disclosed for the first time when  
26 consumers receive defendants' materials, is to discourage  
27 consumers from seeking refunds.





1 consumers' areas, but consumers who attempt to use  
2 defendants' materials frequently find that the listed homes  
3 are remote from their residences and that no homes or other  
4 property are available for the represented bargains.

5 VIOLATIONS OF SECTION 5 OF THE FTC ACT

6 COUNT ONE

7 28. In numerous instances, in the course of offering  
8 for sale or selling their materials on foreclosed homes and  
9 seized vehicles, defendants have represented, expressly or  
10 by implication, that they will provide refunds to consumers  
11 upon request.

12 29. In truth and in fact, defendants have failed to  
13 disclose that they actually impose additional conditions and  
14 restrictions that discourage consumers from seeking refunds  
15 or restrict the availability of refunds. These conditions  
16 and restrictions would be material to consumers in their  
17 decisions to purchase defendants' products.

18 30. In light of the representation made in Paragraph  
19 28, above, the failure to disclose that defendants actually  
20 impose additional refund conditions and restrictions was,  
21 and is, a deceptive act or practice in violation of Section  
22 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23 COUNT TWO

24 31. In numerous instances, in the course of offering  
25 for sale or selling their materials on foreclosed homes and  
26 seized vehicles, defendants have represented, expressly or  
27 by implication, that they will not use consumers' checking  
28 account or credit card information for the purpose of

1 debiting consumers' bank accounts or billing consumers'  
2 credit card accounts without consumers' authorization.

3 32. In truth and in fact, in numerous instances,  
4 defendants have proceeded to use consumers' checking account  
5 or credit card information for the purpose of debiting  
6 consumers' bank accounts or billing consumers' credit card  
7 accounts without consumers' authorization.

8 33. Therefore, the representation set forth in  
9 Paragraph 31 was, and is, false and misleading and  
10 constitutes a deceptive act or practice in violation of  
11 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

12 COUNT THREE

13 34. In numerous instances, in the course of offering  
14 for sale or selling their materials on foreclosed homes,  
15 defendants have represented, expressly or by implication,  
16 that consumers who purchase those materials frequently are  
17 able to purchase foreclosed homes in reasonably good  
18 condition at prices substantially below their market values,  
19 including as little as \$5,000.

20 35. In truth and in fact, consumers who purchase  
21 defendants' materials on foreclosed homes rarely, if ever,  
22 are able to purchase foreclosed homes in reasonably good  
23 condition at prices substantially below their market values,  
24 including as little as \$5,000.

25 36. Therefore, the representation set forth in  
26 Paragraph 34 was, and is, false and misleading and  
27 constitutes a deceptive act or practice in violation of  
28 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 COUNT FOUR

2 37. Defendants have represented, expressly or by  
3 implication, that they possessed and relied upon a  
4 reasonable basis that substantiated the representation set  
5 forth in Paragraph 34, at the time the representation was  
6 made.

7 38. In truth and in fact, defendants did not possess  
8 and rely upon a reasonable basis that substantiated the  
9 representation set forth in Paragraph 34, at the time the  
10 representation was made.

11 39. Therefore, the representation set forth in  
12 Paragraph 37 was, and is, false and misleading and  
13 constitutes a deceptive act or practice in violation of  
14 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

15 CONSUMER INJURY

16 40. Consumers throughout the United States have  
17 suffered and continue to suffer substantial monetary loss as  
18 a result of defendants' unlawful acts or practices. In  
19 addition, defendants have been unjustly enriched as a result  
20 of their unlawful practices. Absent injunctive relief by  
21 this Court, defendants are likely to continue to injure  
22 consumers, reap unjust enrichment, and harm the public  
23 interest.

24 THIS COURT'S POWER TO GRANT RELIEF

25 41. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),  
26 empowers this Court to grant injunctive and other ancillary  
27 relief, including consumer redress, disgorgement, and  
28 restitution, to prevent and remedy any violations of any

1 provision of law enforced by the Commission.

2 42. This Court, in the exercise of its equitable  
3 jurisdiction, may award other ancillary relief to remedy  
4 injury caused by defendants' law violations.

5 PRAYER FOR RELIEF

6 WHEREFORE, plaintiff, the Federal Trade Commission,  
7 requests that this Court, as authorized by Section 13(b) of  
8 the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own  
9 equitable powers:

10 1. Award plaintiff such temporary and preliminary  
11 injunctive and ancillary relief as may be necessary to avert  
12 the likelihood of consumer injury during the pendency of  
13 this action and to preserve the possibility of effective  
14 final relief;

15 2. Permanently enjoin defendants from violating the  
16 FTC Act as alleged herein;

17 3. Award such relief as the Court finds necessary to  
18 redress injury to consumers resulting from defendants'  
19 violations of the FTC Act, including but not limited to  
20 rescission of contracts, the refund of monies paid, and the  
21 disgorgement of ill-gotten monies; and

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1 4. Award plaintiff the costs of bringing this action,  
2 as well as such other and additional relief as the Court may  
3 determine to be just and proper.  
4

5 Respectfully Submitted,

6 DEBRA A. VALENTINE  
7 General Counsel

8 Dated: June 15, 2000

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