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10 ATTORNEYS FOR PLAINTIFF
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12 UNITED STATES DISTRICT COURT
 13 CENTRAL DISTRICT OF CALIFORNIA
 14 SOUTHERN DIVISION

15 FEDERAL TRADE COMMISSION,
 16 Plaintiff,
 17 v.
 18 GLOBAL NETWORK ENTERPRISES, INC.,
 19 REPUBLIC ENTERPRISES, INC.,
 20 CECILIA M. CASTILLO, and
 21 IAN ANTHONY SUITE,
 22 Defendants.

CIVIL NO.
 SACV 00-625 GLT (ANX)

FILED
 JUN 26 2000
 CLERK, U.S. DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 SOUTHERN DIVISION AT SANTA ANA

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

26 1. This is an action under Sections 13(b) and 19 of the
 27 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and
 28 57b, and the Telemarketing and Consumer Fraud and Abuse

1 Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101 et seq.,
2 to secure preliminary and permanent injunctive relief, rescission
3 of contracts, restitution, disgorgement, and other equitable
4 relief for defendants' deceptive acts or practices in violation
5 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's
6 Trade Regulation Rule entitled "Telemarketing Sales Rule,"
7 16 C.F.R. Part 310.

8 JURISDICTION AND VENUE

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

12 3. Venue in the United States District Court for the
13 Central District of California is proper under 15 U.S.C. § 53(b),
14 and 28 U.S.C. § 1391(b) and (c).

15 PLAINTIFF

16 4. Plaintiff Federal Trade Commission is an independent
17 agency of the United States Government created by statute.
18 15 U.S.C. §§ 41-58. The Commission enforces Section 5(a) of the
19 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive
20 acts or practices in or affecting commerce. The Commission also
21 enforces the Telemarketing Sales Rule, 16 C.F.R. Part 310, which
22 prohibits deceptive or abusive telemarketing practices. The
23 Commission may initiate federal district court proceedings by its
24 own attorneys to enjoin violations of the FTC Act and the
25 Telemarketing Sales Rule and to secure such equitable relief as
26 may be appropriate in each case, including restitution for
27 injured consumers. 15 U.S.C. §§ 53(b), 57b and 6105(b).
28

DEFENDANTS

1
2 5. Defendant Global Network Enterprises, Inc. ("GNE,
3 Inc.") is a California corporation with its offices and principal
4 place of business located at 1520 Nutmeg Place, Suite 110, Costa
5 Mesa, California 92627. Defendant GNE, Inc. transacts or has
6 transacted business in the Central District of California.

7 6. Defendant Republic Enterprises, Inc. ("Republic") is a
8 Nevada corporation with its principal place of business located
9 at 3305 W. Spring Mountain Road, Las Vegas, Nevada 89102.
10 Defendant Republic has done business as Global Network
11 Enterprises and TCM. Defendant Republic transacts or has
12 transacted business in the Central District of California.

13 7. Defendants GNE, Inc. and Republic, operate a common
14 enterprise to market prize promotions to consumers.

15 8. Defendant Cynthia M. Castillo is an officer and
16 director of defendant GNE, Inc. and an officer of defendant
17 Republic. At all times material to this Complaint, acting alone
18 or in concert with others, she has formulated, directed,
19 controlled or participated in the acts and practices of
20 defendants GNE, Inc. and Republic, including the acts and
21 practices set forth in this Complaint. Defendant Castillo
22 resides in, and transacts or has transacted business in, the
23 Central District of California.

24 9. Defendant Ian Anthony Suite is an officer of defendant
25 Republic. At all times material to this Complaint, acting alone
26 or in concert with others, he has formulated, directed,
27 controlled or participated in the acts and practices of defendant
28 Republic, including the acts and practices set forth in this

1 Complaint. Defendant Suite resides in, and transacts or has
2 transacted business in, the Central District of California.

3 **COMMERCE**

4 10. At all times material to this Complaint, defendants'
5 course of business, including the acts and practices alleged
6 herein, has been and is in or affecting commerce, as "commerce"
7 is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

8 **DEFENDANTS' BUSINESS ACTIVITIES**

9 11. Since at least December, 1999 and continuing
10 thereafter, defendants, directly or through their
11 representatives, have contacted consumers, many of whom are
12 elderly, nationwide by telephone. During the course of the
13 telephone call, defendants inform consumers that they have won
14 \$5,000 or more in sweepstakes prize money.

15 12. Defendants further inform consumers that in order to
16 receive the prize money the consumers must pay taxes on the
17 prize, totaling up to \$289. In numerous instances, defendants
18 have asked consumers for checking, savings, or similar account
19 information, including account numbers, for the purpose of
20 debiting the consumers' accounts for this money. In numerous
21 instances, defendants informed consumers that their accounts
22 would not be debited until after they received their prizes.
23 However, defendants then debited consumers accounts by presenting
24 electronic checks to the consumers' banks or financial
25 institutions, even though no prize had been delivered to the
26 consumer.

27 13. None of the consumers who paid money to defendants or
28 had electronic withdrawals made from their accounts by defendants

1 received the promised monetary prizes. None of these consumers
2 were successful in obtaining refunds from the company.

3
4 **VIOLATIONS OF SECTION 5(a) OF FTC ACT**

5 14. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
6 provides that "unfair or deceptive acts or practices in or
7 affecting commerce are hereby declared unlawful."

8 **COUNT I**

9 **FAILURE TO DELIVER PRIZE**

10 15. In numerous instances, in connection with the marketing
11 of prize promotions, defendants have represented, expressly or by
12 implication, that consumers would receive a prize of \$5,000 cash
13 or other substantial monetary award.

14 16. In truth and fact, in numerous instances consumers did
15 not receive a prize of \$5,000 cash or other substantial monetary
16 award.

17 17. Therefore, the representations set forth in
18 Paragraph 15 are false and misleading and constitute deceptive
19 acts or practices in violation of Section 5(a) of the FTC Act,
20 15 U.S.C. § 45(a).

21 **COUNT II**

22 **MISREPRESENTATION THAT CONSUMERS' BANK ACCOUNTS WILL NOT BE**
23 **DEBITED UNTIL AFTER THEIR PRIZES HAVE BEEN AWARDED**

24 18. In numerous instances, in connection with the marketing
25 of prize promotions, defendants have represented, expressly or by
26 implication, that consumers' checking, savings, share, or similar
27 accounts would not be debited by defendants until after consumers
28 had received their prizes.

1 19. In truth and in fact, in numerous instances consumers'
2 checking, savings, share, or similar accounts were debited by
3 defendants before consumers had received their prizes.

4 20. Therefore, the representations set forth in
5 Paragraph 18 are false and misleading and constitute deceptive
6 acts or practices in violation of Section 5(a) of the FTC Act,
7 15 U.S.C. § 45(a).

8 VIOLATIONS OF THE FTC TELEMARKETING SALES RULE

9 21. In the Telemarketing Act, 15 U.S.C. § 6101 *et seq.*,
10 Congress directed the Commission to prescribe rules prohibiting
11 deceptive and abusive telemarketing acts or practices. On
12 August 16, 1995, the Commission promulgated the Telemarketing
13 Sales Rule, 16 C.F.R. Part 310, with a Statement of Basis and
14 Purpose, 60 Fed. Reg. 43842 (August 23, 1995). The Telemarketing
15 Sales Rule became effective December 31, 1995, and since then has
16 remained in full force and effect.

17 22. In its Statement of Basis and Purpose for the
18 Telemarketing Sales Rule, the Commission stated:

19 The Commission's law enforcement experience is replete
20 with examples of sellers and telemarketers using
21 deceptive prize promotions to "hook" unsuspecting
22 victims The Commission is persuaded that
23 additional disclosures are needed to ensure that
24 consumers are not misled by the promise of a prize or
25 award. The Commission agrees that disclosure of the
26 no-purchase/no-payment method of entry would serve to
27 emphasize the message that no purchase or payment is
28 necessary in order to participate in a prize promotion

1 or to win a prize. If that disclosure were absent, the
2 fact that no purchase or payment is necessary could
3 more easily become "lost" in a sales pitch or
4 promotional piece [In addition,] [t]he
5 Commission believes that a separate Rule provision is
6 needed specifically prohibiting misrepresentations
7 regarding prize promotions, given the great number of
8 deceptive prize promotions and the distinct
9 characteristics associated with such promotions.

10 60 Fed. Reg. 43842, 43848-49 (Aug. 23, 1995).

11 23. The Telemarketing Sales Rule prohibits sellers and
12 telemarketers from misrepresenting, directly or by implication,
13 any material aspect of a prize promotion including, but not
14 limited to (a) the odds of being able to receive a prize, (b) the
15 nature or value of a prize, or (c) that a purchase or payment is
16 required to win a prize or to participate in a prize promotion.

17 16 C.F.R. § 310.3(a)(2)(v).

18 24. Pursuant to Section 3(c) of the Telemarketing Act,
19 15 U.S.C. § 6102 (c), and Section 18(d)(3) of the FTC Act,
20 15 U.S.C. § 57a(d)(3), violations of the Telemarketing Sales Rule
21 constitute unfair or deceptive acts or practices in or affecting
22 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C.
23 § 45(a).

24 25. Defendants are "telemarketers" or "sellers" engaged in
25 "telemarketing" as those terms are defined in the Telemarketing
26 Sales Rule, 16 C.F.R. § 310.2(r), (t) and (u).

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COUNT III
MISREPRESENTATION THAT CONSUMERS HAVE
WON AND WILL RECEIVE AN AWARD

26. In numerous instances, in connection with their telemarketing of purported prize promotions, defendants have misrepresented, directly or by implication, that (a) consumers have won a monetary award in a prize promotion and (b) by making a payment to defendants, consumers will receive the monetary award.

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

CONSUMER INJURY

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

THIS COURT'S POWER TO GRANT RELIEF

29. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers the Court to grant injunctive and other equitable ancillary relief, including consumer redress, disgorgement, and restitution, to prevent and remedy violations of any provision of law enforced by the Commission.

30. 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 this Court to grant such relief as the Court finds necessary to

1 redress injury to consumers or other persons resulting from
2 defendants' violations of the Telemarketing Sales Rule, including
3 the rescission and reformation of contracts and the refund of
4 monies.

5 31. The Court, in the exercise of its equitable
6 jurisdiction, may award other ancillary relief to remedy injury
7 caused by defendants' violations.

8 PRAYER FOR RELIEF

9 Wherefore, plaintiff requests that this Court, as authorized
10 by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and
11 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C.
12 § 6105(b), and pursuant to its own equitable powers:

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

17 2. Permanently enjoin the defendants from violating the
18 Telemarketing Sales Rule and the FTC Act, as alleged herein;

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

25

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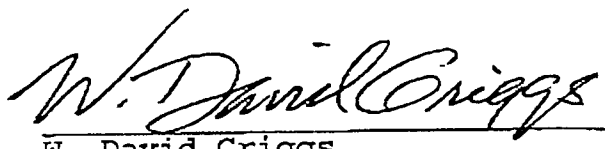
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1 4. Award plaintiff the costs of bringing this action, as
2 well as such other and additional equitable relief as the Court
3 may determine to be just and proper.

4 Dated: June 23, 2000
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6

Respectfully submitted,
DEBRA A. VALENTINE
General Counsel

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