

RECEIVED

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

NOV 05 2004

MICHAEL W. DOBINS  
CLERK, U.S. DISTRICT COURT

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

3R BANCORP;

3R E-SOLUTIONS, INC., also d/b/a CR BANCORP,  
EURO BANCA, 3R COMPANIES, 3R VENTURES,  
3R CONTACT CENTERS, 3R SOLUTIONS,  
3RE E-SOLUTIONS, R 3R E-SOLUTIONS,  
E3R E-SOLUTIONS, and E 3R CAPITAL SOLUTIONS;

3R E-SOLUTIONS CORPORATION;

NATIONAL UNITED PROPERTIES, LLC, also d/b/a  
AWFMEX MANAGEMENT COMPANY;

3R REAL ESTATE CORPORATION, also d/b/a  
FAIRVIEW, INC.;

E THREE R INFO SYSTEMS PVT. LTD;

RANBIR SAHNI, individually and as an officer or  
director of the corporate defendants;

JOHN PERTON, individually and as an officer or  
director of the corporate defendants;

OLIVER MCKINNEY, individually and as an officer or  
director of the corporate defendants;

BRIAN MURPHY, individually and as an officer or  
director of the corporate defendants; and

KIRT CHARTER, individually and as an officer or  
director of the corporate defendants;

Defendants.

JUDGE JOAN H. LEFKOW

No.

040 7177

MAGISTRATE JUDGE DENLOW

COMPLAINT

## **COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “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 *et seq.*, to secure temporary, 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” or “TSR”), 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 United States District Court for the Northern District of Illinois is proper under 28 U.S.C. § 1391(b), (c), and (d), and 15 U.S.C. § 53(b).

### **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, 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).

### DEFENDANTS

5. **3R Bancorp** was incorporated in Nevada June 18, 2001, with a registered agent at 318 N. Carson St., # 208, Carson City, Nevada, 89701 and principal place of business and corporate headquarters at 3605 Long Beach Boulevard, Ste. 410, Long Beach, California. 3R Bancorp transacts or has transacted business in the Northern District of Illinois and throughout the United States.

6. **3R e-Solutions, Inc.** (formerly E3R Solutions, Inc.), d/b/a CR Bancorp, Euro Banca, 3R Companies, 3R Ventures, 3R Contact Centers, 3R Solutions, 3RE E-Solutions, R 3R E-Solutions, E3R E-Solutions, and E 3R Capital Solutions was incorporated in Nevada January 25, 2001, with a registered agent at 318 N. Carson St., # 208, Carson City, Nevada, 89701 and principal place of business and corporate headquarters at 3605 Long Beach Boulevard, Ste. 410, Long Beach, California. 3R e-Solutions, Inc. transacts or has transacted business in the Northern District of Illinois and throughout the United States.

7. **3R E-Solutions Corporation** was incorporated in British Columbia, Canada February 13, 2001 with a registered agent at 625 Howe Street, Vancouver, British Columbia, Canada, V6C 2T6, principal place of business at 50 Lisgar Sq., 5<sup>th</sup> Fl., Sudbury, Ontario, Canada, P3E 3L7, and corporate headquarters at 3605 Long Beach Boulevard, Ste. 410, Long Beach, California. 3R E-Solutions Corporation transacts or has transacted business in the Northern

District of Illinois and throughout the United States.

8. **3R Real Estate Corporation**, formerly Fairview, Inc. and still intermittently doing business under that name, was incorporated in Nevada September 22, 1997, with a registered agent at 318 N. Carson St., # 208, Carson City, Nevada, 89701 and principal place of business and corporate headquarters at 3605 Long Beach Boulevard, Ste. 410, Long Beach, California. 3R Real Estate Corporation transacts or has transacted business in the Northern District of Illinois and throughout the United States.

9. **National United Properties, LLC**, formerly AWFMEEX Management Company, LLC, is a California limited liability company organized July 19, 1999 with offices at 3600 Wilshire Blvd., Ste. 1020, Los Angeles, California. National United Properties, LLC transacts or has transacted business in the Northern District of Illinois and throughout the United States.

10. **E Three R Info Systems Pvt. Ltd.** (a/k/a E 3R Infosystems Pvt. Ltd.) was registered in Delhi, India June 26, 2000 and maintains corporate headquarters at 3605 Long Beach Boulevard, Ste. 410, Long Beach, California. E Three R Info Systems Pvt. Ltd. transacts or has transacted business in the Northern District of Illinois and throughout the United States.

11. **Ranbir Sahni** is an officer or director, or has held himself out as an officer or director, of the corporate Defendants, including but not limited to president of 3R Bancorp, 3R E-Solutions, Inc., 3R Real Estate Corporation, and E Three R Info Systems Pvt. Ltd., a director of 3R E-Solutions Corporation in Canada, and a member of National United Properties, LLC. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate Defendants, including the acts and practices set forth in this Complaint. Ranbir Sahni transacts or has

transacted business in the Northern District of Illinois and throughout the United States.

12. **John Perton** is an officer or director, or has held himself out as an officer or director, of the corporate Defendants, including but not limited to Senior Vice President of Call Center Operations. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate Defendants, including the acts and practices set forth in this Complaint. John Perton transacts or has transacted business in the Northern District of Illinois and throughout the United States.

13. **Oliver McKinney** is an officer or director, or has held himself out as an officer or director, of the corporate Defendants, including but not limited to Chief of Staff and/or Chief Operating Officer. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate Defendants, including the acts and practices set forth in this Complaint. Oliver McKinney transacts or has transacted business in the Northern District of Illinois and throughout the United States.

14. **Brian Murphy** is an officer or director, or has held himself out as an officer or director, of the corporate Defendants, including but not limited to Senior Vice President and Chief Operating Officer of 3R E-Solutions Corporation in Canada. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate Defendants, including the acts and practices set forth in this Complaint. Brian Murphy transacts or has transacted business in the Northern District of Illinois and throughout the United States.

15. **Kirt Charter** is an officer or director, or has held himself out as an officer or

director, of the corporate Defendants, including but not limited to Director of Operations for 3R E-Solutions Corporation in Canada. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate Defendants, including the acts and practices set forth in this Complaint. Kirt Charter transacts or has transacted business in the Northern District of Illinois and throughout the United States.

16. Defendants operate together as a common enterprise through an interrelated network of companies under common ownership and/or control.

### **COMMERCE**

17. 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’ DECEPTIVE ACTS AND PRACTICES**

18. Defendants maintain telemarketing call centers (a/k/a/ “boiler rooms”) throughout the United States, Canada, and India.

19. Operating since at least May 2002, 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, typically at least \$149.00.

20. During most of the telephone calls, Defendants, acting directly or through their employees and agents, engage in high pressure sales tactics, offering to provide consumers with an unsecured Visa or MasterCard credit card, with absolutely no security deposit, regardless of

the consumer's credit history. Defendants represent to consumers that the consumer is pre-approved for a credit card, usually with a low interest rate and high credit limit, and assure the consumer that if the consumer pays the required fee, the consumer will receive the credit card. Defendants frequently target consumers with low income and poor credit.

21. During the telephone calls to consumers, Defendants persuade consumers to divulge their checking account information, including their name as it appears on the account, the account number, and the bank routing information.

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

23. After debiting the funds from consumers' bank accounts, Defendants do not provide consumers with the promised credit card.

24. On or after October 17, 2003, Defendants have called consumers' telephone numbers that are on the National Do Not Call Registry.

25. On or after October 17, 2003, Defendants have called, or have caused telemarketers to call, telephone numbers in various area codes without first paying the annual fee for access to the telephone numbers within such area codes that are included in the National Do Not Call Registry.

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

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

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

## COUNT I

28. 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 a fee, consumers will, or are highly likely to, receive an unsecured credit card.

29. In truth and in fact, in numerous instances, after paying Defendants a fee, consumers do not receive an unsecured credit card.

30. Therefore, Defendants' representations, as set forth above, are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### THE FTC'S TELEMARKETING SALES RULE

31. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in 1994. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule, 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the Telemarketing Sales Rule by issuing a Statement of Basis and Purpose ("SBP") and the final amended TSR (the "TSR"). 68 Fed. Reg. 4580, 4669.

32. The TSR 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).

33. The TSR also prohibits telemarketers and sellers from, among other things, 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).

34. The TSR also established a “do-not-call” registry, maintained by the Commission (the “National Do Not Call Registry” or “Registry”), of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the Registry without charge either through a toll-free telephone call or over the Internet at [www.donotcall.gov](http://www.donotcall.gov).

35. Consumers who receive telemarketing calls to their registered numbers can complain of Registry violations the same way they registered, through a toll-free telephone call or over the Internet at [www.donotcall.gov](http://www.donotcall.gov) or by otherwise contacting law enforcement authorities.

36. Since September 2, 2003, sellers, telemarketers, and other permitted organizations have been able to access the Registry over the Internet at [www.telemarketing.donotcall.gov](http://www.telemarketing.donotcall.gov) to download the registered numbers.

37. Since October 17, 2003, sellers and telemarketers subject to the FTC’s jurisdiction have been prohibited from calling numbers on the Registry in violation of the TSR. 16 C.F.R. § 310.4(b)(1)(iii)(B).

38. Since October 17, 2003, sellers and telemarketers have been generally prohibited from calling any telephone number within a given area code unless the seller first has paid the annual fee for access to the telephone numbers within that area code that are included in the National Do Not Call Registry. 16 C.F.R. § 310.8(a) and (b).

39. 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), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

40. Defendants are “sellers” or “telemarketers” engaged in “telemarketing,” as those terms are defined in the TSR. 16 C.F.R. §§ 310.2.

41. Defendants have engaged in telemarketing by a plan, program, or campaign conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call.

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

#### **COUNT II**

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

43. Defendants have thereby violated Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii).

#### **COUNT III**

44. 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, for such consumers.

45. Defendants have thereby violated Section 310.3(a)(4) of the TSR, 16 C.F.R. § 310.3(a)(4).

#### **COUNT IV**

46. In numerous instances, in connection with telemarketing, Defendants engaged in or caused others to engage in initiating an outbound telephone call to a person's telephone number on the National Do Not Call Registry in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

#### **COUNT V**

47. In numerous instances, in connection with telemarketing, Defendants have initiated, or caused others to initiate, an outbound telephone call to a telephone number within a given area code without Defendants first paying the required annual fee for access to the telephone numbers within that area code that are included in the National Do Not Call Registry, in violation of the TSR, 16 C.F.R. § 310.8.

#### **CONSUMER INJURY**

48. 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 by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

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

49. 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, or other remedial measures.

50. 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 and other persons resulting from Defendants' violations of the TSR, 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, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and the Court's own equitable powers, requests that the Court:

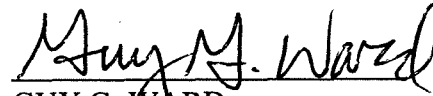
1. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions, appointment 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 TSR, including but not limited to, rescission or reformation of contracts, restitution, refund of monies paid, and the 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.

Respectfully Submitted,

WILLIAM E. KOVACIC  
General Counsel

Dated: November 4, 2004



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