

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
Tampa Division**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

VACATION PROPERTY SERVICES, INC.;
VACATION PROPERTY SELLERS, INC. d/b/a
Timeshare Experts; HIGHER LEVEL
MARKETING, INC. d/b/a Vacation Property
Services; ALBERT M. WILSON; DAVID S.
TAYLOR and FRANK M. PERRY, JR.,

Defendants.

Case No. _____

**COMPLAINT FOR PERMANENT
INJUNCTION & OTHER
EQUITABLE RELIEF**

Injunctive Relief Sought

Filed Under Seal

The Federal Trade Commission (“FTC”) alleges as follows:

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 obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

SUMMARY OF THE CASE

2. This case concerns Defendants' telemarketing scheme that has injured numerous timeshare property owners across the country. Defendants trick consumers into paying large up-front fees, typically using one of two deceptive sales pitches. Defendants represent to consumers that: (1) Defendants have buyers lined up and waiting to buy the consumers' timeshare properties; or (2) Defendants will find a buyer for the consumers' timeshare properties within a short period of time. Regardless of the pitch used, Defendants demand that consumers pay an up-front fee, ranging from \$200 to more than \$8,000. After making the hefty up-front payment, consumers ultimately learn that Defendants have no buyers lined up to purchase their timeshare properties and that no such buyers are in the offing.

JURISDICTION AND VENUE

3. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45(a) and 53(b). This action arises under 15 U.S.C. § 45(a).

4. Venue is proper in this district under 28 U.S.C. § 1391(b)-(c) and 15 U.S.C. § 53(b).

PLAINTIFF

5. The FTC is an independent agency of the United States government created by statute. 15 U.S.C. §§ 41-58. The FTC is charged with, *inter alia*, 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 FTC also enforces the Telemarketing Act, 15 U.S.C. §§ 6101-

6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

6. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the TSR, and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 57b, 6102(c), and 6105(b).

DEFENDANTS

7. Defendant Vacation Property Services, Inc. (“VPS”) is a Florida corporation with its principal place of business at 7005 4th St. N., Ste. 5, St. Petersburg, FL 33703. VPS transacts or has transacted business in this district and throughout the United States.

8. Defendant Higher Level Marketing, Inc. d/b/a Vacation Property Services (“HLM”) is a Florida corporation with its principal place of business at 300 31st St. N., Ste. 615, St. Petersburg, FL 33713. HLM transacts or has transacted business in this district and throughout the United States.

9. Defendant Vacation Property Sellers, Inc. d/b/a Timeshare Experts (“Timeshare Experts”) is a Florida corporation with its principal place of business at 300 31st St. N., Ste. 602, St. Petersburg, FL 33713. Timeshare Experts transacts or has transacted business in this district and throughout the United States.

10. Defendant Albert M. Wilson is an officer, director and owner of VPS. At all times material to this Complaint, Defendant Wilson has formulated, directed, controlled, had the authority to control, or participated in, and had knowledge of, the acts and practices set

forth in this Complaint. Defendant Wilson resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

11. Defendant David S. Taylor is a current or former officer and owner of VPS. Defendant Taylor receives significant proceeds from VPS's business activities. Defendant Taylor has formulated, directed, controlled, had the authority to control, or participated in, and had knowledge of, the acts and practices set forth in this Complaint. Defendant Taylor resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

12. Defendant Frank M. Perry, Jr. is an officer, director and owner of Timeshare Experts and HLM. Defendant Perry also was, and may still be, an owner and manager of VPS. At all times material to this Complaint, Defendant Perry has formulated, directed, controlled, had the authority to control, or participated in, and had knowledge of, the acts and practices set forth in this Complaint. Defendant Perry resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

13. Defendants VPS, HLM and Timeshare Experts (collectively, "Corporate Defendants") have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. The Defendants have conducted the business practices described below through an interrelated network of companies that, at various times, shared owners, employees, company logos and letterhead, business practices, telemarketing licenses, telecommunications providers, Internet providers, expertise, customer

testimonials, television commercials and telemarketing scripts, and have co-mingled funds in conducting the deceptive telemarketing campaigns described in this Complaint. Because the Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the deceptive acts and practices and violations of law alleged below.

14. Individual Defendants Wilson, Perry and Taylor have formulated, directed, controlled, had the authority to control, or participated in, and had knowledge of, the acts and practices of the Corporate Defendants that constitute the common enterprise.

15. At all times material 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’ BUSINESS ACTIVITIES

Defendants’ Deceptive Sales Practices

16. Since at least 2006, and continuing thereafter, Defendants have engaged in a plan, program, or campaign to deceptively advertise, market, promote, offer for sale, or sell timeshare resale services through interstate telephone calls to consumers throughout the United States.

17. Defendants, directly and through their agents and telemarketers, contact consumers through unsolicited telemarketing calls. Many of these consumers registered their phone numbers with the National Do Not Call Registry prior to being called by Defendants.

18. Defendants target consumers who own timeshare properties. Many of Defendants’ victims are elderly consumers and/or immigrants who speak English as a second language. Defendants also deceive many other segments of the population.

19. When contacting a consumer, Defendants often already have information about the consumer's timeshare property, such as the property's location, the amount of "points" the consumer has banked, and the amount of maintenance fees the consumer must pay to the property management.

20. In many cases, Defendants' telemarketers represent to the consumer, expressly or by implication, that they have a buyer for the consumer's timeshare property, and that the sale can be closed within a specified period of time, often within a matter of weeks. The telemarketer typically tells the consumer the price the purported buyer is willing to pay for the timeshare property, and often congratulates the consumer for his or her good fortune.

21. In other cases, Defendants' telemarketers represent to consumers, expressly or by implication, that their timeshares are sought-after properties. These telemarketers typically assure consumers that numerous potential buyers have already contacted Defendants to express interest in the consumer's timeshare resort property. Accordingly, Defendants' telemarketers frequently promise that these consumers' timeshares will sell within a short period of time – often days or weeks.

22. After representing that Defendants will quickly arrange for the sale of the consumer's timeshare, the telemarketer frequently tells the consumer that he or she must pay Defendants a fee in order for the sale to proceed and close. Defendants often represent that this payment will cover various sale-related costs, such as title searches or document processing.

23. If the consumer asks whether Defendants can deduct the fee from the proceeds that will be owed to the consumer at the time of the sale, the telemarketer responds negatively. The telemarketers provide various explanations for their answer, including that such payment arrangements are illegal, against company policy, or may result in the loss of the telemarketer's license.

24. When a consumer expresses doubt about the truthfulness of Defendants' offer, Defendants' telemarketers often respond with representations about the legitimacy of Defendants' service – such as telling the consumer that Defendants' industry is heavily regulated by the FTC and, therefore, Defendants must be “on the up and up.”

25. Defendants' telemarketers have also assured skeptical consumers that Defendants' fee will be refunded if the sale does not close as promised.

26. In many instances in which Defendants claim to have already located a buyer for the consumer's timeshare, the telemarketer provides the consumer with details about the purported buyer, such as the buyer's name and/or nationality. Defendants' telemarketers frequently tell consumers that the purported buyer is foreign.

27. The telemarketers often provide consumers with a timeline for the purported sale of their timeshare, including the date on which the sale should close and the date on which the consumer should anticipate receiving a check with the closing proceeds. They frequently tell consumers that a check with the proceeds from the sale will arrive via FedEx and instruct the consumers to be at home, with proper ID, on the day the settlement check arrives in order to receive the check.

28. The amount of Defendants' up-front fee varies widely, ranging from \$200 to more than \$8,000. Defendants frequently offer to reduce the fee if the consumer expresses displeasure with the size of the fee.

29. Believing – as they were promised – that Defendants have a buyer for their timeshare property and/or will have it sold within a short period, and that Defendants' fee must be paid up-front in order to assure that the sale will go forward, many consumers agree to pay Defendants' fee.

30. After securing credit card payment information or payment by check or other means, the telemarketer often tells the consumer that he or she will receive a follow-up call to confirm the payment information. The telemarketer typically states that the follow-up call will be from Defendants' "legal department" or "verification department."

31. In some cases, Defendants' telemarketers tell consumers that the person making the follow-up phone call will not know about the purported pending sale and thus will pose questions to the consumer that are not relevant to the sale.

32. Defendants' telemarketers often tell consumers that, in order to move forward with the sale, they must agree to all the statements made by the person making the follow-up call.

33. The person making the follow-up call typically tells the consumer that he or she is calling from Defendants' "legal department" or "verification department," and proceeds to quickly run through a series of questions and statements.

34. Defendants' verifier (the caller on the follow-up call) confirms the consumer's personal and payment information, as well as details about the consumer's timeshare

property. In many cases, the verifier also quickly informs the consumer of Defendants' seven-day rescission period and states that Defendants will advertise the timeshare property until sold, while stating that Defendants cannot guarantee how long it will take to sell the property, or the price at which it will sell.

35. If the consumer states that he or she does not understand what the verifier has said, or suggests that the verifier has made statements that differ from the promises made by the telemarketer concerning the supposedly imminent sale of the consumer's timeshare, the verifier typically transfers the consumer back to the telemarketer.

36. In many cases, the telemarketer then tells or reminds the consumer that he or she must agree to the verifier's statements in order to ensure that the sale will go forward, reassuring the consumer that – since the sale of his or her property is imminent – the verifier's statements do not apply to the consumer's situation.

37. In some instances, when questioned about the verifier's statements regarding advertising the timeshare, the telemarketer tells the consumer that Defendants previously advertised his or her resort. As there is already a buyer for the consumer's property, the telemarketer explains, Defendants will now move his or her account from “advertising” to “financing” to reflect the pending sale.

38. In other cases, the telemarketer reassures the consumer that the discussion of advertising services must be included in the terms of service for legal reasons, due to laws governing timeshare sales.

39. After providing reassurances and explanations, the telemarketer often transfers the consumer back to the verifier, who again quickly runs through the list of verification questions and statements.

40. Defendants maintain that these “verification” calls are recorded. In numerous cases, Defendants utilize purported transcripts from these calls when responding to refund and chargeback requests or consumer complaints filed with state agencies or Better Business Bureaus (“BBBs”). Defendants do not claim to record the actual sales calls, which are typically much longer and more detailed than the verification calls.

41. In many cases, after completing the verification process, Defendants place a brief description of the consumer’s timeshare on one of the websites maintained by Defendants, such as alllandsales.com, timeshareexperts.com, besttimesharesales.com, sellingtimeshare.com, soldmytimeshare.com, vacationsbuyowner.com or rentingtimeshare.com. The brief descriptions typically include basic details about the consumer’s timeshare, such as location, number of bedrooms and bathrooms, usage terms, maintenance fees and asking price.

42. Within 10 to 14 days of payment, most consumers receive a confirmation document. The confirmation document typically includes various details concerning the sales process and/or the consumer’s timeshare property. The confirmation document also includes a section entitled “Terms of Advertising Agreement,” which typically states:

- (1) Vacation Property Services is a For-Sale-By-Owner advertising company that is not a real estate broker. This advertising program involves pooling advertising resources with those of other advertisers to maximize exposure to potential buyers or renters.

- (2) Vacation Property Services forwards all offers about my timeshare directly to me and allows me to negotiate the sale of my property without the involvement of any broker, and without any commission.
- (3) Vacation Property Services assumes that my timeshare sells, rents or exchanges within a SIX-month period unless I advise Vacation Property Services to the contrary, prior to the expiration date of six months. Upon notification Vacation Property Services will renew my advertisement at company expense.
- (4) Our refund policy states this is a one time fee with a 7 day right of rescission from the date your advertisement is listed. After the 7 days it is only refundable if your property is sold or rented any other way within 10% of the original price upon proof of sale or rental.
- (5) Pursuant to [Florida Statute] 721.20(9)(a), the ratio of the number of timeshare interests listings for sale versus the number of timeshare interests sold by Vacation Property Services is zero for each of the previous two calendar years. Because Vacation Property Services is a For Sale By Owner timeshare advertising company, it does not obtain, track, or keep records of sales from its timeshare property advertisements.

43. Upon reviewing the confirmation document, many consumers immediately attempt to contact Defendants to obtain a refund, recognizing that the “advertising” terms in the document do not match the telemarketer’s promise of a quick sale.

44. Other consumers do not react to the confirmation document, either because:

- (1) Defendants’ telemarketer promises the consumer that his or her property is not subject to the typical advertisement agreement because a buyer has already been identified and the timeshare property will soon be sold;
- (2) the consumer reviewed the confirmation document during the initial sales call and was promised by the telemarketer that, notwithstanding the fact that the terms of service discuss advertising, the fee paid by the consumer to Defendants will be used to pay fees and expenses necessary for consummation of the promised sale;
- (3) the telemarketer told the consumer during the sales call that the property would be

advertised, while also promising a quick sale – often within days or weeks; or (4) the consumer managed to speak with the telemarketer, who assured the consumer that the terms discussed in the confirmation document have no impact on the imminent sale of the consumer's timeshare.

45. Consumers frequently receive the confirmation document more than seven days after paying Defendants' fee. If consumers become suspicious after carefully reviewing the terms contained in the confirmation document, any refund request made by a consumer as a result of such suspicion will be filed more than seven days after the consumer has paid Defendants' fee. Indeed, Defendants often deny refund requests as untimely.

46. After Defendants receive their up-front fee from a consumer, they typically ignore his or her inquiries. When the consumer attempts to contact Defendants by email, Defendants often ignore the emails or provide boilerplate responses unrelated to the consumer's request or inquiry. When the consumer calls their offices, Defendants' employees frequently tell the consumer that the telemarketer in charge of his or her transaction is unavailable. Defendants' employees repeatedly tell consumers seeking post-payment assistance that the telemarketer in charge of their transaction is "out of the office," "sick," "in the field," "in a meeting," etc. Likewise, Defendants rarely respond to consumers' post-payment voicemails and messages.

47. Defendants also stymie any attempt to obtain refunds, including attempts made well within Defendants' seven-day cancellation period, by, among other stalling tactics: (1) refusing to permit cancellation via email, phone call or fax; (2) refusing to provide

consumers with a written address for cancellation letters; (3) refusing to acknowledge receipt of cancellation letters; and/or (4) refusing to respond to calls and emails, as discussed above.

48. When a consumer succeeds in contacting the relevant telemarketer within Defendants' cancellation period, the telemarketer often attempts to convince the consumer to forgo the refund request by assuring him or her that the promised sale of the timeshare will proceed as planned.

49. The promised date for the sale of the timeshare property, or the date by which Defendants promised to locate a buyer, typically passes without any contact from Defendants and without a sale of the timeshare property or identification of a real buyer.

50. When consumers realize they have been deceived, they often seek refunds directly from Defendants and/or initiate chargebacks with their credit cards companies.

51. Consumers have also logged hundreds of complaints against Defendants with law enforcement agencies and BBBs.

52. When credit card companies contact Defendants regarding a chargeback request, or BBBs contact them regarding consumer complaints, Defendants typically deny that they made any promises regarding locating buyers or the time that it would take to sell the consumer's timeshare property.

53. Defendants typically respond to refund requests initiated through consumers' credit card companies or BBBs by stating that Defendants' fee is non-refundable after seven days and claiming that their service is limited to posting an online advertisement for the consumer's timeshare property, "just like a newspaper."

54. Defendants typically produce a copy of their confirmation document to the credit card company or the BBB, citing the terms of service as proof of the consumer's agreement to pay for Defendants' services. Defendants often present the document as proof that the consumer was on notice regarding their seven-day rescission policy.

55. In many cases, Defendants provide, or offer to provide, the credit card company or the BBB a purported transcript of the brief verification call. Frequently, Defendants produce a template of a verification call script, instead of the actual transcript.

56. In many instances, Defendants rely upon the confirmation document and the purported verification transcript (or the template of a verification script) to defeat consumer chargeback challenges.

57. Consumers' attempts to obtain refunds directly from Defendants are similarly futile. Even when the consumer repeatedly contacts Defendants to cancel the transaction within seven days of payment, Defendants often fight or ignore the consumer's request, a contravention of Defendants' own "terms of service."

Prior Enforcement

58. In July 2007, HLM entered into an assurance of voluntary compliance ("AVC") with the Office of the Attorney General of Florida ("Florida AG") to settle allegations that it made false promises to consumers, including promises that HLM "had a buyer or renter already identified for the [consumer's] timeshare." HLM agreed that it would not engage in various unlawful practices, such as making calls to consumers listed on the National Do Not Call Registry and making false and misleading promises to consumers when pitching HLM's timeshare resale services. HLM agreed to pay \$7,500 to the Florida

Department of Legal Affairs Revolving Trust Fund and refunded \$10,223.50 to consumers. Defendant Perry signed the AVC on behalf of HLM.

59. In March 2008, VPS entered into a similar AVC with the Florida AG to settle allegations that it made false promises to consumers, including promises that VPS “had a buyer or renter already identified for the [consumer’s] timeshare.” VPS promised that it would not call consumers listed on the National Do Not Call Registry or make false or misleading statements about its timeshare resale services. VPS agreed to pay \$15,000 to the Florida Department of Legal Affairs Revolving Trust Fund and refunded \$12,266.50 to consumers. VPS further agreed to escrow \$10,000 for any unidentified refund requests made prior to the effective date of the AVC. Defendant Wilson signed the AVC on behalf of VPS, and also in his personal capacity.

SECTION 5 OF THE FTC ACT

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

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

THE TELEMARKETING ACT AND THE TELEMARKETING SALES RULE

62. 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. The FTC adopted the original TSR in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

63. It is a deceptive telemarketing act or practice, and a violation of the TSR, for any seller or telemarketer to make a false or misleading statement to induce a person to pay for goods or services or to induce a charitable contribution. 16 C.F.R. § 310.3(a)(4).

64. It is a deceptive telemarketing act or practice, and a violation of the TSR, for any seller or telemarketer to misrepresent any material aspect of the nature or terms of the seller's refund, cancellation, exchange, or repurchase policies. 16 C.F.R. § 310.3(a)(2)(iv).

65. Among other things, amendments made to the TSR in 2003 established a do-not-call registry (the "National Do Not Call Registry"), maintained by the FTC, of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the National Do Not Call Registry without charge either through a toll-free telephone call or over the Internet at donotcall.gov.

66. Consumers who receive telemarketing calls to their registered numbers can complain of National Do Not Call Registry violations the same way they registered, through a toll-free telephone call or over the Internet at donotcall.gov, or by otherwise contacting law enforcement authorities.

67. The FTC allows sellers, telemarketers, and other permitted organizations to access the National Do Not Call Registry over the Internet at telemarketing.donotcall.gov, to pay the fee(s) if required, and to download the numbers not to call.

68. The TSR prohibits sellers and telemarketers from calling any telephone number within a given area code unless the seller on whose behalf the call is made 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.

69. Under the TSR, an “outbound telephone call” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution. 16 C.F.R. § 310.2(v).

70. The TSR prohibits sellers and telemarketers from initiating an outbound telephone call to numbers on the National Do Not Call Registry. 16 C.F.R. § 310.4(b)(1)(iii)(B).

71. The TSR prohibits sellers and telemarketers from initiating an outbound telephone call to any consumer when that consumer previously has stated that he or she does not wish to receive an outbound telephone call made by or on behalf of the seller whose goods or services are being offered, or made by or on behalf of the charitable organization for which a charitable contribution is being solicited. 16 C.F.R. § 310.4(b)(1)(iii)(A).

72. 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).

Defendants’ Disregard for Do Not Call Rules

73. Defendants are “sellers” and “telemarketers” engaged in “telemarketing,” as defined by the TSR, 16 C.F.R. § 310.2.

74. Defendants are sellers of timeshare resale services to consumers. Defendants have called consumers in the United States to induce the purchase of Defendants’ services.

75. Defendants are also telemarketers that initiate outbound telephone calls to consumers in the United States to induce the purchase of Defendants’ services.

76. 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.

77. Defendants have called consumers' telephone numbers that are on the National Do Not Call Registry without limiting such calls to persons who had previously purchased or inquired about Defendants' products or services.

78. Defendants have called 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.

79. From November 2009 to November 2010, Defendants initiated more than 292,000 telephone calls to telephone numbers of persons who had placed their numbers on the National Do Not Call Registry prior to being called by Defendants.

COUNT I
Deceptive Telemarketing Calls in Violation of the FTC Act

80. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of timeshare resale services, Defendants have represented, directly or indirectly, expressly or by implication, that:

- A. Defendants have located a buyer for the consumer's timeshare property who has agreed to pay a specified price or that Defendants will quickly sell the consumer's timeshare;
- B. Defendants will refund their fee to the consumer if the promised sale does not take place; and

- C. Defendants will refund their fee to the consumer if the consumer requests to rescind payment within seven days of the first appearance of the consumer's advertisement on one of Defendants' websites.

81. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 80 of this Complaint:

- A. Defendants have not located a buyer for the consumer's timeshare property who will pay a specified price and Defendants do not quickly sell the timeshare;
- B. Defendants do not refund their fee to the consumer if the promised sale fails to occur; and
- C. Defendants refuse to refund their fee, even if the consumer requests rescission within seven days of the first appearance of the consumer's advertisement on one of Defendants' websites.

82. Therefore, Defendants' representations, as set forth in Paragraph 80 of this Complaint, are false and misleading and constitute deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II
Deceptive Telemarketing Calls in Violation of the TSR

83. In numerous instances, in the course of telemarketing their goods and services, Defendants have made false or misleading statements, directly or by implication, to induce consumers to pay for goods or services, including, but not limited to, misrepresentations that:

- A. Defendants have located a buyer for the consumer's timeshare property who has agreed to pay a specified price or that Defendants will quickly sell the consumer's timeshare;
- B. Defendants will refund their fee to the consumer if the promised sale does not take place; and
- C. Defendants will refund their fee to the consumer if the consumer requests to rescind payment within seven days of the first appearance of the consumer's advertisement on one of Defendants' websites.

84. Defendants' acts or practices, as described in Paragraph 83 above, are deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. §§ 310.3(a)(2)(iv) and 310.3(a)(4).

COUNT III
Violating the National Do Not Call Registry

85. In numerous instances, in connection with telemarketing, Defendants initiated or caused others to initiate 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 IV
Failing to Pay National Registry Fees

86. 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 when Defendants had not, either directly or through another person, paid 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

87. Consumers have suffered, and will continue to suffer, substantial injury as a result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

88. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

89. 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 redress injury to consumers resulting from Defendants' violations of the TSR, including the rescission or reformation of contracts, and the refund of money.

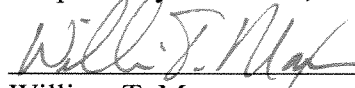
PRAYER FOR RELIEF

WHEREFORE, Plaintiff FTC, 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:

- A. 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, an order freezing assets, immediate access, and the appointment of a receiver;
- B. Enter a permanent injunction to prevent future violations of the FTC Act and the TSR by Defendants;
- C. 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, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- D. 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: March 22, 2011

Respectfully submitted,



William T. Maxson
Dotan Weinman
FEDERAL TRADE COMMISSION
600 Pennsylvania Ave, N.W.
Mailstop H-286
Washington, DC 20580
(202) 326-2635 (Maxson phone)
(202) 326-3049 (Weinman phone)
(202) 326-3395 (facsimile)
wmaxson@ftc.gov
dweinman@ftc.gov

*Attorneys for Plaintiff Federal Trade
Commission*