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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION

Plaintiff,

-against-

EPIXTAR CORPORATION, LIBERTY ONLINE
SERVICES INC., NATIONAL ONLINE SERVICES,
INC., B2B ADVANTAGE INC., a/k/a SBA
ONLINE, INC.

-and-

WILLIAM DOUGLAS RHODES, individually and as
an officer and director of the corporate defendants,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("Commission") by its undersigned attorneys,

alleges:

Civ. No.

03-CV-8511 (DAB)

1. This is an action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §53(b), to secure injunctive and other equitable relief, including rescission of contracts, restitution, and disgorgement for Defendants' deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. §45(a), in connection with the marketing and sale of Internet "websites" and other on-line services.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a) and 53(b), and 29 U.S.C. §§1331, 1337(a), and 1345.

3. Venue in the Southern District of New York is proper under 15 U.S.C. §53(b) and 28 U.S.C. §§1391(b) and (c).

PLAINTIFF

4. Plaintiff Federal Trade Commission is an independent agency of the United States Government created by statute. 15 U.S.C. §§41-58. The Commission enforces 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 may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. §53(b).

DEFENDANTS

5. Defendant Epixtar Corp. ("Epixtar"), is a publicly traded corporation formed under the laws of the state of Florida and is a holding company of the remaining corporate defendants named below. Epixtar's principal place of business is located at 11900 Biscayne Boulevard, Suite 262, Miami Florida 33181. Defendant Epixtar transacts or has transacted business in the

Southern District of New York.

6. Defendant Liberty Online Services, Inc. ("Liberty"), is a corporation formed under the laws of the state of Florida. Liberty's principal place of business is located at 11900 Biscayne Boulevard, Suite 262, Miami Florida 33181. Defendant Liberty transacts or has transacted business in the Southern District of New York.

7. Defendant National Online Services, Inc. ("National"), is a corporation formed under the laws of the state of Florida. National's principal place of business is located at 11900 Biscayne Boulevard, Suite 262, Miami Florida 33181. Defendant National transacts or has transacted business in the Southern District of New York.

8. Defendant B2B Advantage, Inc. is a corporation formed under the laws of the state of Florida that was formerly known as SBA Online, Inc. (hereinafter collectively "SBA Online"). SBA Online's principal place of business is located at 11900 Biscayne Boulevard, Suite 262, Miami Florida 33181. SBA Online transacts or has transacted business in the Southern District of New York.

9. Defendant William Douglas Rhodes is the President of Epixtar, Liberty, National, and SBA Online, and is also a director of Liberty and National. He resides at 15725 S.W. 17, Davies, Florida 33330. Defendant Rhodes transacts or has transacted business in the Southern District of New York.

10. Individually or in concert with others, Rhodes has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the various acts and practices set forth herein.

COMMERCE

11. 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' BUSINESS PRACTICES

12. Since at least December 2001 and continuing thereafter, Defendants have engaged in a plan, program or campaign to sell Internet services including Internet access, website design and other services to small businesses nationwide. A "website" is a set of electronic documents, usually a home page and subordinate pages, readily viewable on a personal computer by anyone with access to the Internet, standard software and knowledge of the website's location or address.

13. Defendants, using contract telemarketers, sell their Internet services to small businesses often operated by a single individual, and to non-profit organizations like churches and community service organizations.

14. In marketing their Internet services, Defendants typically represent that consumers can try Defendants' Internet services -- a website, Internet access, an email address and listing in an online yellow page directory -- on a free trial basis for thirty days with no risk and no obligation to buy. Defendants often represent that a website for the consumer has already been created and that it will remain in existence for the free trial period of 30 days, with no obligation to the consumer to pay for the service. Defendants also tell consumers that they can cancel Defendants' Internet services at any time.

15. Defendants, however, do not clearly disclose to consumers that, unless they call to cancel

Defendants' Internet services before the close of the free 30 day trial period, their business will automatically be billed \$29.95 plus tax, monthly, for Internet access service.

16. In the course of their sales pitch, Defendants typically mislead consumers about where they are calling from, and represent that they are calling from a telephone company like Verizon, or that they are calling from the "true yellow pages", which consumers often believe means that the call is from an actual business telephone directory. Defendants also represent that they are simply calling to update the consumer's business information, making it appear that they have pre-existing knowledge of or a relationship with the consumer, which they do not.

17. In the course of the telemarketing call, Defendants simply announce that the consumer will receive Defendants' Internet services free for a trial period of 30 days, without asking or letting consumers state whether or not they want to receive these services.

18. In other instances, consumers agree to try Defendants' services based on Defendants' representation that consumers will be charged only if they are satisfied with the services after reviewing them, and only if they contact Defendants at the end of the 30-day trial period using a customer service number. Defendants provide this number on the phone, and also represent that the consumer will find it in a welcome packet that the consumer is told he will receive shortly after the call.

19. Despite their representations, Defendants often fail to provide consumers with the welcome packet or any written material during the trial period that would enable them to review the services. Once the trial period ends, Defendants begin charging consumers for the services even though they have never agreed to pay for them.

20. In many other instances, consumers adamantly inform Defendants that they do not want

to be signed up for the services, and that they will contact Defendants if they are interested.

Defendants appear to concur in these conditions. However, Defendants, in fact, fail to provide consumers with the requested written material and then proceed to charge them for the services, even though they have not agreed to accept them.

21. In numerous instances, consumers inform Defendants that they are not interested in the services and end the sales call without agreeing to receive either information or the services. Defendants nonetheless charge their service to the telephone bills of these consumers, despite their clear refusal of the services.

22. Defendants typically obtain money from consumers by sending consumers' billing information to a third-party billing aggregator, who then submits Defendants' charges to consumers' local telephone carriers. The local telephone carriers place Defendants' charges onto the consumers' telephone bills.

23. Consumers' telephone bills are charged \$29.95 plus tax for each month that Defendants' services are reported to the consumers' telephone company. Often, consumers pay this charge for an extended period, unaware that they are being billed for the services.

24. Consumers often experience great difficulty in contacting Defendants to cancel the services and obtain the refund. Numerous consumers find that they have to call the customer service number several times to speak with an individual and are placed on hold or can never get through to cancel the services. In numerous instances, when consumers do get through to Defendants, Defendants agree to cancel the services but refuse to refund any fees paid or to issue credits to the telephone bills as indicated. Where Defendants agree to make refunds, they typically only agree to make partial refunds to consumers.

25. In numerous instances, Defendants make audio tapes of consumers that purport to show that the consumer has agreed to purchase Defendants' services upon expiration of the free trial period. In these recordings, Defendants typically inadequately disclose that consumers will be automatically billed after the trial period ends. In many instances, consumers assert that the tape recordings do not contain the complete sales pitch that was given to the consumers, nor do they contain the consumers' explicit request to receive information only without giving authorization to be signed up to receive Defendants' services.

26. In numerous instances, when consumers contend that they have not ordered Defendants' services, Defendants represent that consumers have authorized the services and are legally obligated to pay for them. In some instances, Defendants continue to charge consumers for an additional month or months after consumers request cancellation.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

27. As set forth below, Defendants, individually and in concert with others, have violated Section 5(a) of the FTC Act in connection with the offer and sale of their Internet services.

COUNT I

28. In numerous instances, Defendants have caused consumers' telephone accounts to be billed without having previously obtained the small business' express informed consent.

29. Defendants' practices set forth in Paragraph 28 caused or are likely to cause substantial injury to consumers that is not reasonably avoidable by consumers and is not outweighed by countervailing benefits to consumers or competition.

30. Defendants' practices as alleged in Paragraph 28 are unfair practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

31. In numerous instances, Defendants have represented, directly or through third-party telemarketers, expressly or by implication, that a consumer will receive a free trial membership without risk or obligation.

32. Defendants have failed to disclose or to disclose adequately to the consumer the negative option features of the trial service, including, but not limited to:

a. That a consumer who fails to contact Defendants within a specified period of time and cancel the trial membership is automatically enrolled as one of Defendants' customers;

b. That the consumer's telephone bill would be charged the service fee unless the consumer cancels the service during the trial period; and

c. The prescribed manner in which the consumer must cancel the trial service, and other specific steps the consumer must take to avoid the charges; the inception and expiration dates of the trial service; and the date the charges will be submitted for payment.

33. The information contained in Paragraph 32 is material to consumers in their decisions to accept, purchase, or cancel the trial service.

34. Defendants' failure to disclose the material information contained in Paragraph 32, in light of the representations made in Paragraph 31, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

35. Small businesses throughout the United States have suffered 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, Defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

36. 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.

PRAYER FOR RELIEF

Wherefore, Plaintiff requests that this 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;
2. Permanently enjoin the Defendants from violating the FTC Act, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from the Defendants' violations of the FTC Act, including but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and

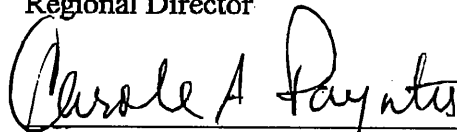
4. Award Plaintiff the costs of bringing this action, as well as such other and additional equitable relief as the court may determine to be just and proper.

Dated: October 28, 2003

Respectfully submitted,

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