

1 WILLIAM BLUMENTHAL  
General Counsel

2 TRACY S. THORLEIFSON  
3 MARY T. BENFIELD  
Federal Trade Commission  
4 915 Second Avenue, Suite 2896  
Seattle, WA 98174  
5 Phone: (206)220-6350  
Facsimile: (206) 220-6366

6 BLAINE T. WELSH  
7 Assistant United States Attorney  
333 Las Vegas Blvd, South, Suite 5000  
8 Las Vegas, NV 89101  
Phone (702) 388-6336

9 Attorneys for Plaintiff  
10 Federal Trade Commission

11  
12 **UNITED STATES DISTRICT COURT**  
13 **DISTRICT OF NEVADA**  
14

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 v.

18 INTERBILL, LTD., and THOMAS  
19 WELLS, individually and as an officer or  
director of InterBill,

20 Defendants.

CV-S-06-

COMPLAINT FOR INJUNCTION  
AND OTHER EQUITABLE  
RELIEF

21  
22 Plaintiff, the Federal Trade Commission (“the FTC” or “the Commission”), for its  
23 complaint alleges:

24  
25 1. The FTC brings this action under Sections 5(a) and 13(b) of the Federal  
26 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 53(b), to obtain permanent  
27 injunctive relief, rescission or reformation of contracts, restitution, disgorgement, and  
28

1 other equitable relief in connection with defendants' unauthorized debiting of  
2 consumers' checking accounts, which constitutes an unfair act or practice in violation of  
3 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

4  
5 **JURISDICTION AND VENUE**

6 2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C.  
7 §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

8 3. Venue in the District of Nevada is proper under 15 U.S.C. § 53(b) and 28  
9 U.S.C. §§ 1391(b) and (c).

10  
11 **PLAINTIFF**

12 4. Plaintiff Federal Trade Commission is an independent agency of the  
13 United States Government created by statute. 15 U.S.C. §§ 41 *et seq.* The Commission  
14 enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or  
15 deceptive acts or practices in or affecting commerce. The Commission may initiate  
16 federal district court proceedings by its own attorneys to enjoin violations of the  
17 FTC Act and to secure such equitable relief as may be appropriate in each  
18 case, including restitution for injured consumers and disgorgement of ill-gotten  
19 monies. 15 U.S.C. § 53(b).

20  
21 **DEFENDANTS**

22 5. Defendant InterBill, Ltd., is a limited liability company organized under  
23 the laws of the British Virgin Islands. It is engaged in the business of providing payment  
24 processing services to merchants, including those considered "high risk" by the payment  
25 processing industry, such as online gaming and mail and telephone marketing.  
26 InterBill's principal place of business is located at 3770 Bombastic Court, Las Vegas,  
27 Nevada, 89147. InterBill engages in and transacts business in this district.



1 customer service and cancel within five days of receipt of the letter to avoid being  
2 charged. By the time the consumers received the letter, their accounts had already been  
3 debited. Most consumers did not even receive a letter, however, and their accounts were  
4 simply debited without their knowledge or permission.

5 10. Using consumers' name and bank account information provided by the  
6 Pharmacards perpetrators, defendant InterBill arranged for the production of "remotely  
7 created checks," or "demand drafts," and submitted them for deposit into a designated  
8 account in InterBill's name at Wells Fargo Bank. Demand drafts are paper checks  
9 imprinted by a third party with the name and bank account number of a consumer, but  
10 not signed by that consumer. Such drafts are deposited into the banking system and  
11 processed like ordinary checks. Even though more than 70% of the attempted demand  
12 draft transactions were "returned," or refused by the consumers' banks, more than \$2.38  
13 million was debited from consumers' accounts and paid to InterBill.

14 11. InterBill agreed to process demand drafts for Pharmacards despite  
15 indications that the operation was likely fictitious and that payments submitted for  
16 processing by Pharmacards were not authorized by consumers. Indeed, at one point  
17 the Pharmacards operators told defendant Thomas Wells that consumers were being  
18 billed prior to receiving any information from Pharmacards. The fraudulent  
19 Pharmacards scheme purported to offer U.S. consumers a discount prescription  
20 benefits card but the Pharmacards operators did not provide the defendants with  
21 references demonstrating experience with the U.S. prescription benefits field.

22 12. The Pharmacards principals provided a London, England mail drop as a  
23 business address and conducted all their business by pre-paid, virtually untraceable  
24 cellular phones and free, anonymous email and facsimile accounts. The Pharmacards  
25 website provided a toll-free customer service number that was answered at a call center  
26 in Montreal, Quebec, Canada and a fake address in British Columbia, Canada. Finally,  
27 the Pharmacards operators used the identity of a Cyprus corporation and directed that  
28 their funds be wired to a Cyprus bank account, a known tax haven.

1           13. InterBill failed to follow its own guidelines regarding the information to be  
2 collected from new merchants prior to initiating processing for Pharmacards. For  
3 example, Wells, acting on InterBill's behalf, neither asked for nor checked business or  
4 individual references. He did not obtain copies of the alleged direct mail offer. He did  
5 not request or review information about the business' operations or its expertise in direct  
6 mail or discount prescription offerings. He did not verify a physical address for the  
7 individuals or the company.

8           14. From the start of its dealings with Pharmacards, InterBill anticipated  
9 high rates of returned or reversed transactions, a sign that unauthorized debits to  
10 consumers' accounts were likely. In an email to one of the Pharmacards operators,  
11 defendant Wells stated that, "[g]oing into this project we discussed 40-45% being the  
12 max [return rate] we could tolerate with this project." Despite the likelihood of high  
13 rates of returned transactions, InterBill did not request or obtain proof that consumers  
14 had authorized Pharmacards to debit their accounts.

15           15. Shortly after beginning to process demand drafts on behalf of  
16 Pharmacards, defendant InterBill received additional information that Pharmacards  
17 was not a legitimate business and that the Pharmacards transactions were, in fact, not  
18 authorized. InterBill quickly began to receive consumer and bank complaints concerning  
19 unauthorized debits, and rates of returned transactions sky-rocketed. InterBill also  
20 learned of the high volume of unauthorized debit complaints from Pharmacards'  
21 customer service operation, a Montreal, Quebec company, Customer Care Relations,  
22 operated by Neil Haboush.

23           16. Despite these early signs of problems with the Pharmacards transactions,  
24 InterBill continued processing demand drafts for the fraudulent Pharmacards  
25 operators.

26           17. Only belatedly, a month into processing, did defendant Wells ask the  
27 Pharmacards operators for information on the source of the database providing  
28 consumers' checking account numbers, and request evidence that consumers had

1 received the packages for which they were billed. Even though Wells did not receive  
2 answers to these questions, or received only incomplete answers, InterBill continued to  
3 make unauthorized debits of consumers' bank accounts in the name of Pharmacycards.  
4

#### 5 VIOLATIONS OF SECTION FIVE

6 18. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or  
7 deceptive acts or practices in or affecting commerce. An act or practice is unfair if it  
8 "causes or is likely to cause substantial injury to consumers which is not reasonably  
9 avoidable by consumers themselves and not outweighed by countervailing benefits to  
10 consumers or to competition." 15 U.S.C. § 45(n).

11 19. Defendants' acts and practices in processing debit transactions to  
12 consumers' bank accounts, as described in Paragraphs 8-17 above, cause or are likely to  
13 cause substantial injury to consumers which is not reasonably avoidable by consumers  
14 themselves and not outweighed by countervailing benefits to consumers or competition  
15 and, therefore, constitute unfair acts or practices in violation of Section 5(a) of the FTC  
16 Act, 15 U.S.C. § 45(a).

#### 17 CONSUMER INJURY

18 20. Consumers throughout the United States have suffered substantial  
19 monetary loss as a result of the defendants' unlawful acts or practices. Absent injunctive  
20 relief by this Court, defendants are likely to continue to injure consumers and harm the  
21 public interest.  
22

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

24 21. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to  
25 grant injunctive and other ancillary relief to prevent and remedy any violations of any  
26 provision of law enforced by the Commission.  
27  
28

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

3 **PRAYER FOR RELIEF**

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

7 a. Enter a permanent injunction to prevent future violations of the FTC Act  
8 by defendants;

9 b. Enter judgment against defendants and in favor of plaintiff for the  
10 violations alleged in this Complaint;

11 c. Award such relief as the Court finds necessary and appropriate, including  
12 but not limited to, rescission of contracts, the refund of monies paid, and the  
13 disgorgement of ill-gotten monies and interest thereon by defendants; and

14 d. Award plaintiff the costs of bringing this action, as well as such other and  
15 additional relief as the Court may determine to be just and proper.

16

17 Dated: 12-26-06

18 Respectfully Submitted,  
19 WILLIAM BLUMENTHAL  
20 General Counsel



21 Tracy S. Thorleifson  
22 Mary T. Benfield  
23 Federal Trade Commission

24 Blaine T. Welsh  
25 Assistant United States Attorney

26 Attorneys For Plaintiff  
27 Federal Trade Commission  
28