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CLERK U S DISTRICT COURT DISTRICT OF ARIZONA	
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7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF ARIZONA

9 Federal Trade Commission,

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11 Plaintiff,

12 v.

13 National Card Monitor LLC, also d/b/a  
14 Nationwide Card Monitor; and  
James Eric Cox,

15 Defendants.  
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CV-12-2521-PHX-JAT

COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF

1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

2 1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade  
3 Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and  
4 Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-  
5 6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or  
6 reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten  
7 monies, and other equitable relief for Defendants’ acts or practices in violation of Section  
8 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in violation of the FTC’s Trade Regulation  
9 Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

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**JURISDICTION AND VENUE**

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

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

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**PLAINTIFF**

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4. The FTC is an independent agency of the United States Government created  
by statute. 15 U.S.C. §§ 41-58. The FTC 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 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.

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5. 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

1 monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), 56(a)(2)(B), 57b, 6102(c) and 6105(b).

2  
3 **DEFENDANTS**

4 6. National Card Monitor LLC, which also does business as Nationwide Card  
5 Monitor (“National”), is an Arizona limited liability company with its principal place of  
6 business at 500 West Southern Ave., Suites 15, 16, and 17, Mesa, Arizona 85210.  
7 National transacts or has transacted business in this district and throughout the United  
8 States.

9 7. James Eric Cox is the sole member, statutory agent, and CEO of National.  
10 He also was responsible for the registration of a National website,  
11 nationalcardmonitor.com, and pays for its web hosting. He is the lone signer on a  
12 National checking account. He has responded on National’s behalf to Better Business  
13 Bureau and Arizona Attorney General complaints. At all times material to this  
14 Complaint, acting alone or in concert with others, he has formulated, directed, controlled,  
15 had the authority to control, or participated in the acts and practices set forth in this  
16 Complaint. Cox resides in this district and, in connection with the matters alleged herein,  
17 transacts or has transacted business in this district and throughout the United States.

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19 **COMMERCE**

20 8. At all times material to this Complaint, Defendants have maintained a  
21 substantial course of trade in or affecting commerce, as “commerce” is defined in Section  
22 4 of the FTC Act, 15 U.S.C. § 44.

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24 **DEFENDANTS’ BUSINESS PRACTICES**

25 9. Since approximately early 2011, Defendants have telemarketed credit card  
26 interest rate reduction services to consumers throughout the United States. Defendants  
27 also market these services via the Internet on several websites, including  
28 nationalcardmonitor.com and nationwidecardmonitor.com.

1           10.     During telemarketing calls, Defendants claim to have the ability to reduce  
2 substantially consumers' credit card interest rates by obtaining for the consumers one or  
3 more low interest rate credit cards onto which the consumers can transfer their credit card  
4 balances. In many instances, Defendants claim that they can obtain very low interest  
5 rates, such as 7 percent or even zero percent, for consumers. Thus, consumers think they  
6 will save money as a result of using Defendants' service.

7           11.     In numerous instances, Defendants claim they have a money-back  
8 guarantee, and that if consumers do not receive the low interest rate card(s) that  
9 Defendants represented that they would obtain for the consumers, the consumers will  
10 receive a full refund of the cost of Defendants' services.

11           12.     Defendants charge consumers a fee for their services, typically ranging from  
12 \$499 to \$599. Defendants typically place this charge on consumers' credit cards the same  
13 day as the telemarketing calls.

14           13.     After consumers pay Defendants' fee, Defendants usually send consumers a  
15 booklet of materials that include forms to complete and return listing all of the consumers'  
16 credit card account information and other sensitive personal information such as date of  
17 birth and Social Security Number. The booklet also re-states Defendants' "100% money-  
18 back guarantee," promising to refund the fee if consumers do not receive the low interest  
19 rate credit card(s).

20           14.     In some instances, Defendants use the information they obtained from  
21 consumers to apply for new credit cards on the consumers' behalf.

22           15.     In most instances, Defendants fail to obtain any credit card at all for  
23 consumers. In the few instances where consumers do receive a credit card, it is not the  
24 low interest rate credit card that was promised during the initial telephone calls.  
25 Consequently, in numerous instances, consumers are not able to save any money by using  
26 Defendants' services.

27           16.     Despite Defendants' failure to obtain a low interest rate credit card for  
28 consumers, in numerous instances Defendants fail to refund the fee charged to consumers.



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**COUNT TWO**

**Refund Misrepresentations**

24. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of credit card interest rate reduction services, Defendants have represented, directly or indirectly, expressly or by implication, that Defendants will provide full refunds if consumers do not receive the low interest rate credit cards that Defendants represented that they would obtain for the consumers.

25. In truth and in fact, in numerous instances in which Defendants have made the representation set forth in Paragraph 24 of this Complaint, Defendants do not provide full refunds when consumers do not receive the low interest rate credit cards that Defendants represented that they would obtain for the consumers.

26. Therefore, Defendants' representation as set forth in Paragraph 24 of this Complaint is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**THE TELEMARKETING SALES RULE**

27. 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 Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

28. Defendants are "seller[s]" and/or "telemarketer[s]" engaged in "telemarketing," and Defendants have initiated, or have caused telemarketers to initiate, "outbound telephone call[s]" to consumers to induce the purchase of goods or services, as those terms are defined in the TSR, 16 C.F.R. § 310.2(v), (aa), (cc), and (dd).

29. 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).

1           30.    The TSR prohibits sellers and telemarketers from misrepresenting, directly  
2 or by implication, in the sale of goods or services, any material aspect of the performance,  
3 efficacy, nature, or central characteristics of the goods or services that are the subject of a  
4 sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

5           31.    The TSR prohibits sellers and telemarketers from misrepresenting, directly  
6 or by implication, in the sale of goods or services, any material aspect of the nature or  
7 terms of the seller's refund, cancellation, exchange, or repurchase policies. 16 C.F.R.  
8 § 310.3(a)(2)(iv).

9           32.    The TSR, as amended in 2003, established a "do-not-call" registry (the  
10 "National Do Not Call Registry" or "Registry"), maintained by the FTC, of consumers  
11 who do not wish to receive certain types of telemarketing calls. Consumers can register  
12 their telephone numbers on the Registry without charge either through a toll-free  
13 telephone call or over the Internet at [www.donotcall.gov](http://www.donotcall.gov).

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

18           34.    The FTC allows sellers, telemarketers, and other permitted organizations to  
19 access the Registry over the Internet at [www.telemarketing.donotcall.gov](http://www.telemarketing.donotcall.gov), to pay any  
20 required fee(s), and to download the numbers not to call.

21           35.    The TSR prohibits sellers and telemarketers from calling any telephone  
22 number within a given area code unless the seller on whose behalf the call is made has  
23 paid the annual fee for access to the telephone numbers within that area code that are  
24 included in the Registry. 16 C.F.R. § 310.8.

25           36.    The TSR prohibits sellers and telemarketers from initiating an outbound  
26 telephone call to telephone numbers on the Registry. 16 C.F.R. § 310.4(b)(1)(iii)(B).

27           37.    The TSR prohibits sellers and telemarketers from requesting or receiving  
28 payment of any fee or consideration in advance of obtaining a loan or other extension of

1 credit when the seller or telemarketer has guaranteed or represented a high likelihood of  
2 success in obtaining or arranging a loan or other extension of credit for a person. 16  
3 C.F.R. § 310.4(a)(4).

4 38. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and  
5 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes  
6 an unfair or deceptive act or practice in or affecting commerce, in violation of Section  
7 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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9 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

10 **COUNT THREE**

11 **Misrepresentations in Violation of the TSR**

12 39. In numerous instances, in connection with the telemarketing of goods and  
13 services, Defendants have misrepresented, directly or by implication, material aspects of  
14 the performance, efficacy, nature, or central characteristics of such goods and services,  
15 including, but not limited to, that consumers who purchase Defendants' credit card  
16 interest rate reduction services will receive a low interest rate credit card.

17 40. Defendants' acts and practices, as described in Paragraph 39 above, are  
18 deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(iii).

19  
20 **COUNT FOUR**

21 **Refund Misrepresentations in Violation of the TSR**

22 41. In numerous instances, in the course of telemarketing goods and services,  
23 Defendants have misrepresented, directly or by implication, that Defendants will provide  
24 full refunds if consumers do not receive the low interest rate credit cards that Defendants  
25 represented that they would obtain for the consumers.

26 42. Defendants' acts and practices, as described in Paragraph 41 above, are  
27 deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.3(a)(2)(iv).



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**COUNT FIVE**

**Violating the National Do Not Call Registry**

43. In numerous instances, in connection with telemarketing, Defendants have engaged, or caused a telemarketer 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 SIX**

**Failing to Pay National Registry Fees**

44. 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.

**COUNT SEVEN**

**Advance Fee for New Lower Interest Rate Credit Card**

45. In numerous instances, in the course of telemarketing goods and services, Defendants have requested or received payment of a fee or consideration in advance of consumers obtaining an extension of credit when Defendants have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit for such consumers.

46. Defendants' acts and practices, as described in Paragraph 45 above, are abusive telemarketing acts or practices that violate the TSR, 16 C.F.R. § 310.4(a)(4).

**CONSUMER INJURY**

47. Consumers have suffered and will continue to suffer substantial injury as a

1 result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants  
2 have been unjustly enriched as a result of their unlawful acts or practices. Absent  
3 injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap  
4 unjust enrichment, and harm the public interest.

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

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

14 49. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the  
15 Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the  
16 Court finds necessary to redress injury to consumers resulting from Defendants' violations  
17 of the TSR, including the rescission or reformation of contracts, and the refund of money.

18  
19 **PRAYER FOR RELIEF**

20 WHEREFORE, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act,  
21 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b),  
22 and the Court's own equitable powers, requests that the Court:

23 A. Award Plaintiff such preliminary injunctive and ancillary relief as may be  
24 necessary to avert the likelihood of consumer injury during the pendency of this action  
25 and to preserve the possibility of effective final relief, including, but not limited to,  
26 temporary and preliminary injunctions, an order freezing assets, immediate access, and  
27 the appointment of a receiver;

28 B. Enter a permanent injunction to prevent future violations of the FTC Act

1 and the TSR by Defendants;

2 C. Award such relief as the Court finds necessary to redress injury to  
3 consumers resulting from Defendants' violations of the FTC Act and the TSR, including,  
4 but not limited to, rescission or reformation of contracts, restitution, the refund of monies  
5 paid, and the disgorgement of ill-gotten monies; and

6 D. Award Plaintiff the costs of bringing this action, as well as such other and  
7 additional relief as the Court may determine to be just and proper.

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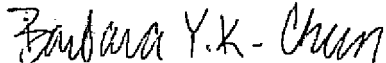
Respectfully Submitted,

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DAVID SHONKA  
Acting General Counsel

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12 Dated: November 20, 2012

  
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BARBARA Y.K. CHUN  
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FEDERAL TRADE COMMISSION

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