



The Commission's motion to enter default judgment is hereby granted, and it is therefore **ORDERED, ADJUDGED, AND DECREED** as follows:

### **FINDINGS**

1. This Court has jurisdiction over the subject matter of this case and all parties hereto. Venue in the Northern District of Illinois is proper.
2. Plaintiff's complaint states a claim upon which relief may be granted against Defendants under Sections 5, 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45, 53(b) & 57b, the Telemarketing Act, 15 U.S.C. §§ 6101, *et seq.*, and the FTC's Telemarketing Rule, 16 C.F.R. Part 310.
3. The activities of Defendants are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.
4. The Defendants were properly served with copies of the summons and complaint on June 8, 2002.
5. Defendants, directly or through their telemarketers, have explicitly or implicitly made false or misleading statements in connection with the telemarketing of advance fee credit cards, that include, but are not limited to, the following:
  - a. that after paying Defendants a fee, consumers will, or are highly likely to, receive an unsecured major credit card, such as a VISA or MasterCard credit card; and
  - b. that Defendants can guarantee or have a high likelihood of success in obtaining or arranging for the acquisition of an unsecured credit card, such as a VISA or MasterCard credit card, for consumers.

6. The evidence establishes that Defendants violated Section 5 of the FTC Act, 15 U.S.C. § 45, and the Telemarketing Sales Rule, 16 C.F.R. Part 310.

7. Defendants are likely to continue to engage in the activities alleged in the complaint unless they are permanently enjoined from such acts and practices.

8. Plaintiff is entitled to judgment pursuant to Rule 55(b)(2) of the Federal Rules of Civil Procedure.

9. Plaintiff is entitled to judgment against the Defendants in the amount of \$1,300,000 (USD), for which Defendants are jointly and severally liable.

10. Entry of this Order is in the public interest.

### **ORDER**

#### **DEFINITIONS**

For purposes of this Order, the following definitions shall apply:

1. "Defendants" means Efficient Telesales Services Inc., also d/b/a U.S. Credit Services and U.S. Direct Benefits and Savings, and Leonora Khan, and each of them, by whatever names each might be known.

2. "Assets" means all real and personal property of any Defendant, or held for the benefit of any Defendant, including but not limited to "goods," "instruments," "equipment," "fixtures," "general intangibles," "inventory," "checks," or "notes," (as these terms are defined in the Uniform Commercial Code), lines of credit and all cash, wherever located.

3. "Telemarketing" means the advertising, offering for sale, or sale of any good or service to any person by means of telephone sales presentations, either exclusively or in conjunction with the use of other advertising.

4. "Assisting others" means: (1) performing customer service functions including, but not limited to, receiving or responding to consumer complaints, receiving identifying and financial information from consumers, and communicating with consumers about extensions of credit; (2) developing, providing or arranging for the development or provision of sales scripts or any other marketing material; (3) providing names of, or arranging for the provision of names of, potential customers; or (4) performing marketing services of any kind.

5. "Customer" means any person who has paid or may be required to pay for goods or services.

6. "Person" means any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.

7. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

8. "Document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

9. "Credit-related products, programs, or services" means any product, program, or service which is advertised, offered for sale, or sold to consumers as a method by which consumers may establish or obtain any extension of credit or credit device, including, but not limited to, credit cards, loans, or financing, or as a method to consolidate or liquidate debts.

**I.**

**PROHIBITED BUSINESS ACTIVITIES**

**IT IS FURTHER ORDERED** that, in connection with the advertising, marketing, promoting, offering for sale, or sale of any product, program, or service, Defendants, their successors, assigns, officers, agents, servants, employees, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporate or other device, are hereby permanently restrained and enjoined from:

- A. Misrepresenting, directly or by implication, that Defendants will provide consumers with, or arrange for consumers to receive, a major credit card, such as a Visa or MasterCard;**
- B. Misrepresenting, directly or by implication, Defendants' ability to provide consumers with any credit-related product, program, or service;**
- C. Misrepresenting, directly or by implication, any fact material to a consumer's decision to purchase any product, program or service;**
- D. Violating or assisting others to violate any provision of the Telemarketing Sales Rule, 16 C.F.R. Part 310, *et seq.*, including, but not limited to:
  - 1. Violating Section 310.3(a)(2) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2), by misrepresenting, directly or by implication, 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); and****

2. Violating Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4), by requesting or receiving payment of any fee or consideration in advance of obtaining or arranging an extension of credit when they have guaranteed or represented a high likelihood of success in obtaining or arranging an extension of credit;

E. Assisting others who violate any provision of Subsections A through D of this Section.

## II.

### MONETARY JUDGMENT AND REDRESS

**IT IS FURTHER ORDERED** that:

A. Defendants, jointly and severally, shall pay consumer redress in the amount of \$1,300,000 (USD), 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). This redress amount shall become immediately due and payable by Defendants upon entry of this Order, and interest computed at the rate prescribed under 28 U.S.C. § 1961, as amended, shall immediately begin to accrue on the unpaid balance.

B. These payments shall be made in U.S. funds by certified or cashier's check, made payable to the Federal Trade Commission, and delivered to the Regional Director, Federal Trade Commission, 55 E. Monroe, Suite 1860, Chicago, Illinois 60603. These funds will be used to provide redress to consumers injured by Defendants' violations of the FTC Act and the Telemarketing Sales Rule. If Plaintiff determines, in its sole discretion, that redress is wholly or partially impracticable, any funds not so used shall be paid into the U.S. Treasury as

disgorgement. Defendants may be notified as to how funds are disbursed, but shall have no right to contest the manner of distribution chosen by Plaintiff.

### III.

#### CUSTOMER LISTS

**IT IS FURTHER ORDERED** that Defendants, their successors, assigns, officers, agents, servants, employees, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporate or other device, are permanently restrained and enjoined from selling, renting, leasing, transferring, or otherwise disclosing the name, address, telephone number, social security number, credit card number, bank account number, e-mail address, or other identifying information of any person who paid any money to or received any credit-related product, program, or service from any Defendant, or whose identifying information was obtained for the purpose of soliciting them to pay money to or receive services from any Defendant at any time prior to the date this Order is entered, in connection with the sale or rendition of the products, programs, or services referenced in the complaint. *Provided, however,* that Defendants, their successors, assigns, officers, agents, servants, employees, and all other persons or entities in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, whether acting directly or through any corporate or other device, may provide such identifying information to a law enforcement agency or as required by any law, regulation, or court order.

IV.

**COMPLETE AND FILE FINANCIAL STATEMENT**

**IT IS FURTHER ORDERED** that Defendant Leonora Khan shall serve upon counsel for the Commission, no later than five (5) days after entry of this Order, a completed financial statement, in the form shown on Appendix A to this Order, for herself individually, and for each corporation or business entity under which she conducts business or of which she is an officer, and for each trust of which she is a trustee, accurate as of the date of service of this Order upon Defendant Leonora Khan. Said financial statement shall include all assets held within or outside of the territory of the United States.

V.

**ACKNOWLEDGMENT OF RECEIPT OF ORDER BY DEFENDANTS**

**IT IS FURTHER ORDERED** that each Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to the Commission a truthful sworn statement, in the form shown on Appendix B to this Order, acknowledging receipt of this Order.

VI.

**COMMISSION'S AUTHORITY TO MONITOR COMPLIANCE**

**IT IS FURTHER ORDERED** that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten days of receipt of written notice from a representative of the Commission, each Defendant shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide



entry during normal business hours to any business location in such Defendant's possession or direct or indirect control to inspect the business operation;

B. In addition, the Commission is authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;

2. posing as consumers and suppliers to: Defendants, Defendants' employees, or any other entity managed or controlled in whole or in part by Defendants, without the necessity of identification or prior notice; Provided that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

C. Defendants shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

## VII.

### COMPLIANCE REPORTING BY DEFENDANT

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

- A. For a period of five (5) years from the date of entry of this Order,
1. Defendant Leonora Khan shall notify the Commission of the following:
    - a. Any changes in Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;
    - b. Any changes in Defendant's employment status (including self-employment) within ten (10) days of the date of such change. Such notice shall include the name and address of each business that Defendant is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a statement of Defendant's duties and responsibilities in connection with the business;
    - c. Any changes in Defendant's name or use of any aliases or fictitious names; and
  2. Defendant Efficient Telesales Services Inc., also d/b/a U.S. Credit Services and U.S. Direct Benefits and Savings, shall notify the Commission of any changes in corporate structure that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor corporation; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the corporation about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendants Leonora Khan and Efficient Telesales Services Inc., also d/b/a U.S. Credit Services and U.S. Direct Benefits and Savings, shall provide a written report to the FTC, sworn to under penalty of perjury under the laws of the United States, setting forth in detail the manner and form in which they have complied and are complying with this Order. This report shall include, but not be limited to:

1. Any changes required to be reported pursuant to Subsection A above;
2. A copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Section IX of this Order.

C. For the purposes of this Order, Defendants shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Regional Director for Midwest Region  
Federal Trade Commission  
55 East Monroe Street, Suite 1860  
Chicago, Illinois 60603  
Re: FTC v. Efficient Telesales Services Inc., et al., Civil Action No. 02 C 3776.

D. For purposes of the compliance reporting required by this Section, the Commission is authorized to communicate directly with Defendants.

## VIII.

### MONITORING COMPLIANCE OF SALES PERSONNEL

**IF IS FURTHER ORDERED** that Defendant Leonora Khan, in connection with any business where (1) Defendant Leonora Khan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in

telemarketing, or assisting others engaged in telemarketing, are hereby permanently restrained and enjoined from:

A. Failing to take reasonable steps sufficient to monitor and ensure that all employees and independent contractors engaged in sales or other customer service functions comply with Section I of this Order. Such steps shall include adequate monitoring of sales presentations or other calls with customers, and shall also include, at a minimum, the following: (1) listening to the oral representations made by persons engaged in sales or other customer service functions; (2) establishing a procedure for receiving and responding to consumer complaints; and (3) ascertaining the number and nature of consumer complaints regarding transactions in which each employee or independent contractor is involved;

B. Failing promptly to investigate fully any consumer complaint received by any business to which this Section applies; and

C. Failing to take corrective action with respect to any sales person whom Defendants determine is not complying with this Order, which may include training, disciplining, and/or terminating such sales person.

## **IX.**

### **DISTRIBUTION OF ORDER BY DEFENDANT**

**IT IS FURTHER ORDERED** that, for a period of five (5) years from the date of entry of this Order:

A. Defendant Efficient Telesales Services Inc., also d/b/a U.S. Credit Services and U.S. Direct Benefits and Savings, shall deliver a copy of this Order to all principals, officers, directors, managers, employees, agents, and representatives having responsibilities with respect

to the subject matter of this Order, and shall secure from each such person a signed and dated statement acknowledging receipt of the Order. Defendant Efficient Telesales Services Inc., also d/b/a U.S. Credit Services and U.S. Direct Benefits and Savings, shall deliver this Order to current personnel within thirty (30) days after the date of service of this Order, and to new personnel within thirty (30) days after the person assumes such position or responsibilities.

B. Defendant Leonora Khan shall deliver a copy of this Order to the principals, officers, directors, managers and employees under Defendant Leonora Khan's control for any business that (a) employs or contracts for personal services from Defendant Leonora Khan and (b) has responsibilities with respect to the subject matter of this Order. Defendant Leonora Khan shall secure from each such person a signed and dated statement acknowledging receipt of the Order within thirty (30) days after the date of service of the Order or the commencement of the employment relationship.

X.

#### **RECORD KEEPING PROVISIONS**

**IT IS FURTHER ORDERED** that, for a period of eight (8) years from the date of entry of this Order, for any business where (1) Defendant Leonora Khan is the majority owner of the business or directly or indirectly manages or controls the business, and where (2) the business is engaged in telemarketing, or assisting others engaged in telemarketing, Defendants and their agents, employees, officers, corporations, successors, and assigns, and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect the cost of goods or services sold, revenues generated, and the disbursement of such revenues;

B. Personnel records accurately reflecting: the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; that person's job title or position; the date upon which the person commenced work; and the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, telephone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Complaint and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests; and

E. Copies of all sales scripts, training materials, advertisements, or other marketing materials.

XI.

**RETENTION OF JURISDICTION**

**IT IS FURTHER ORDERED** that the Court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this Order.

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO ORDERED, this 5<sup>th</sup> day of February, 2003.

  
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United States District Judge