



FTC, OHIO AND ILLINOIS STOP ONLINE CREDIT MONITORING SCHEME

The Federal Trade Commission (FTC) and the Ohio and Illinois attorneys general have stopped an online credit scheme in which companies told consumers they would receive free access to their credit scores and then billed those consumers \$29.95 for a "credit monitoring program" they allegedly never ordered. The three companies have agreed to a \$22 million settlement agreement with the FTC and the attorneys general. As part of the settlement, the companies will pay substantial relief to customers and materially change the way they market their services. The defendant companies are One Technologies Capital LLP, One Technologies Management LLC and One Technologies LP (doing business as ScoreSense, One Technologies Inc. and MyCreditHealth).

The programs at issue were marketed through numerous websites, including those titled "FreeScoreOnline.com" and "FreeScore360.com" The most notable advertisement read: "View your latest Credit Scores from all 3 Bureaus in 60 seconds for \$0." The companies did not clearly disclose to consumers that those who used the websites to see their credit score would be automatically enrolled in the monitoring program. After being enrolled in the program, the consumers automatically incurred monthly charges until they called a toll free number to cancel. The consumers often had to call the number multiple times in order to cancel the program. Over 200,000 consumers brought complaints against the companies to multiple entities including banks, law enforcement agencies and the Better Business Bureau.

In addition to being charged under the Illinois Consumer Fraud Act and the Ohio Consumer Sales Practices Act, the companies were charged with violating the Federal Trade Commission Act and the Restore Online Shoppers' Confidence Act, which prohibit charging consumers for goods or services sold online via a negative option unless the seller clearly discloses all material terms before obtaining the consumer's billing information, obtains the consumer's express informed consent before making the charge and provides a simple way to stop recurring charges.

In addition to the monetary settlement, the defendant companies are prohibited from misrepresenting material facts about any product or service marketed with a negative option, misrepresenting material

terms of any refund or cancellation policy and failing to clearly disclose before a consumer consents to pay via a negative option. They must also provide a simple way for consumers to stop recurring charges and must honor refunds or cancellation requests that comply with the policy. The defendant companies must also obtain the consumer's prior express informed consent before using billing information to obtain payment for any product or service marketed with a negative option.

This settlement serves as a reminder that companies using negative option strategies should carefully review related materials to ensure that appropriate, conspicuous disclosures of material terms are made and that cancellation procedures are not inordinately complex or difficult. We can assist in reviews of programs and policies. □

✧ *Mike Tomkies and Emily Barlage*

Darrell L. Dreher
ddreher@dltlaw.com

Judith M. Scheiderer
jscheiderer@dltlaw.com

Elizabeth L. Anstaett
eanstaett@dltlaw.com

Charles V. Gall
cgall@dltlaw.com

Emily C. Barlage
ebarlage@dltlaw.com

2750 HUNTINGTON CENTER
41 S. HIGH STREET
COLUMBUS, OHIO 43215
TELEPHONE: (614) 628-8000 FACSIMILE: (614) 628-1600
WWW.DLTLAW.COM

To see all previously sent ALERTS, visit our website at www.dttlaw.com

*To decline future ALERTS, please contact us at ALERTS@DLTLAW.COM.
This ALERT has been prepared for informational purposes only. It does not constitute legal advice and does not create an attorney-client relationship.*

Michael C. Tomkies
mtomkies@dltlaw.com

Margaret M. Stolar
mstolar@dltlaw.com

Robin R. De Leo
robin@dreher-la.com

Susan L. Ostrander
sostrander@dltlaw.com

Susan M. Manship
smanship@dltlaw.com