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U.S. DISTRICT COURT
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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

UNITED STATES OF AMERICA,

Plaintiff,

v.

FLAGSHIP RESORT DEVELOPMENT

CORPORATION, a New Jersey
corporation,

60 N. Maine Avenue

Atlantic City, New Jersey 08401,

and

ATLANTIC PALACE DEVELOPMENT,

LLC, a New Jersey limited liability
corporation,

1507 New York Avenue

and the Boardwalk

Atlantic City, New Jersey 08401,

Defendants.

Civil No. _____

**COMPLAINT FOR
CIVIL PENALTIES,
PERMANENT INJUNCTION, AND
OTHER RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("FTC" or "Commission"), pursuant to

Section 16(a)(1) of the Federal Trade Commission Act ("FTCA") and 15 U.S.C. § 562(a)(1),

vacation properties, to consumers. Atlantic Palace transacts or has transacted business in this District.

**THE TELEMARKETING SALES RULE
AND THE NATIONAL DO NOT CALL REGISTRY**

6. In 1994, Congress directed the FTC to prescribe rules prohibiting abusive and deceptive

6108. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule (the "Original TSR"), 16 C.F.R. Part 310, which became effective on December 31, 1995. On

January 29, 2003, the FTC amended the TSR by issuing a Statement of Basis and

generally prohibited from calling any telephone number within a given area code, unless the seller has first paid the annual fee for access to the telephone numbers, within that area code, that are included in the Registry. 16 C.F.R. § 310.8(a) and (b).

10. Consumers who receive telemarketing calls to their registered numbers can complain of

Registry violations the same way they registered, through a toll-free telephone call or over the Internet at *donotcall.gov*, or by otherwise contacting law enforcement

authorities.

11. On or after September 2, 2003, the FTC opened access for sellers and telemarketers to

begin registering, paying the fee(s) for, and accessing the Registry.

12. On or after October 1, 2003, the FTC began enforcement of the Amended TSR's prohibition against sellers and telemarketers abandoning outbound calls to consumers.

13. On or after October 17, 2003, the FTC began enforcement of the National Do Not Call

Registry against sellers and telemarketers.

14. Pursuant to Section 3(e) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section

18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an

... sales and marketing opportunities to consumers. It has

... telemarketing calls to consumers to induce the

purchase of its goods or services.

18. Flagship Resort and Atlantic Palace have caused a telemarketer, Braglia Marketing

... limited liability company ("BMC") to place outbound

VIOLATIONS OF THE TELEMARKETING SALES RULE

**Count I
(Violating the National Do Not Call Registry)**

24. In numerous instances, in connection with telemarketing, defendants have initiated, or

the National Do Not Call Registry in violation of the TSR, 16 C.F.R.

§ 310.4(b)(1)(iii)(B).

**Count II
(Abandoning Calls)**

25. In numerous instances, in connection with telemarketing, defendants have abandoned, or caused others to abandon, an outbound telephone call by failing to connect the call to a sales representative within two (2) seconds of the completed greeting of the person answering the call, in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iv) and § 310.4(b)(4).

**Count III
(Failing to Pay the Fee to Access the National Do Not Call Registry)**

THIS COURT'S POWER TO GRANT RELIEF

28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive

relief to prevent and remedy any violation of any provision of law

enforced by the FTC.

29. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and as implemented by 16 C.F.R. § 1.98(d) (1997), authorizes this Court to award monetary civil penalties of not more than \$11,000 for each violation of the TSR. Defendants' violations of the TSR were committed with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

5. Award plaintiff such other and additional relief as the Court may determine to be just and proper.

Dated: February 16, 2005

Respectfully submitted,

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FEDERAL TRADE COMMISSION

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