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CLERK, U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

6 Attorneys for Plaintiff

8 UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

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10 FEDERAL TRADE COMMISSION,
11 Plaintiff,
12 v.
13 77 INVESTIGATIONS, INC., and
14 REGINALD KIMBRO,
15 Defendants.

EDCV06-0439 VAP

Case No.

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

05/22/06
10:00 AM
RHSIDE #2

(OPX)

17 Plaintiff, the Federal Trade Commission ("FTC"), by its
18 undersigned attorneys, for its complaint alleges:

19 1. The FTC brings this action pursuant to Section 13(b) of
20 the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b),
21 to secure permanent injunctive relief, rescission of contracts,
22 restitution, disgorgement of ill-gotten gains, and other
23 equitable relief against Defendants for violations of Section
24 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with
25 surreptitiously obtaining and selling confidential customer phone
26 records without the customer's knowledge or authorization.

27 JURISDICTION AND VENUE

28 2. This Court has subject matter jurisdiction over this

1 matter pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15
2 U.S.C. §§ 45(a) and 53(b).

3 3. Venue in the Central District of California is proper
4 under 28 U.S.C. §§1391(b) and (c), and 15 U.S.C. § 53(b).

5 **PLAINTIFF**

6 4. Plaintiff FTC is an independent agency of the United
7 States Government created by the FTC Act, 15 U.S.C. §§ 41 *et seq.*
8 The FTC is charged, *inter alia*, with enforcing Section 5(a) of
9 the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or
10 deceptive acts or practices in or affecting commerce. The FTC
11 may initiate federal district court proceedings, through its
12 attorneys, to enjoin violations of the FTC Act, and to secure
13 such other equitable relief, including rescission of contracts
14 and restitution, and disgorgement of ill-gotten gains, as may be
15 appropriate in each case. 15 U.S.C. § 53(b).

16 **DEFENDANTS**

17 5. Defendant 77 Investigations, Inc. ("77I") is a
18 California corporation with its principal place of business
19 located at 99 N. San Antonio Avenue #240, Upland, California. 77I
20 is also registered as a foreign corporation in Florida. 77I also
21 has used mailing addresses of 1033 Cassat Avenue, Jacksonville,
22 Florida; 11001 W. 120th Avenue, Suite 400, Broomfield, Colorado;
23 3200 West End Avenue, Suite 500, Nashville, Tennessee; and 10151
24 Deerwood Park, Bldg 200, Suite 250, Jacksonville, Florida. 77I
25 transacts or has transacted business in this district.

26 6. Defendant Reginald Kimbro is the President and sole
27 director of 77I. At all times material to this complaint, acting
28 alone or in concert with others, he has formulated, directed,

1 controlled, or participated in the acts and practices set forth
2 in this complaint. He resides in and transacts or has transacted
3 business in this district.

4 **COMMERCE**

5 7. At all times material herein, Defendants have
6 maintained a course of trade in or affecting commerce, as
7 commerce is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

8 **BACKGROUND ON CUSTOMER PROPRIETARY NETWORK INFORMATION**

9 8. The Telecommunications Act of 1996 defines "customer
10 proprietary network information" to mean:

11 (A) information that relates to the quantity, technical
12 configuration, type, destination, location, and amount of
13 use of a telecommunications service subscribed to by any
14 customer of a telecommunications carrier, and that is made
15 available to the carrier by the customer solely by virtue of
16 the carrier-customer relationship; and (B) information
17 contained in the bills pertaining to telephone exchange
18 service or telephone toll service received by a customer of
19 a carrier,

20 47 U.S.C. § 222(h)(1), which includes, but is not limited to,
21 telephone call detail records (hereinafter referred to as
22 "customer phone records"). The Telecommunications Act further
23 provides that

24 [e]xcept as required by law or with the approval of the
25 customer, a telecommunications carrier that receives or
26 obtains customer proprietary network information by virtue
27 of its provision of a telecommunications service shall only
28 use, disclose, or permit access to individually identifiable

1 customer proprietary network information in its provision of
2 (A) the telecommunications service from which such
3 information is derived, or (B) services necessary to, or
4 used in, the provision of such telecommunications service,
5 including the publishing of directories.

6 47 U.S.C. § 222(c)(1). The Telecommunications Act further
7 provides that customer phone records may only be disclosed "upon
8 affirmative written request by the customer, to any person
9 designated by the customer." 47 U.S.C. § 222(c)(2).

10 DEFENDANTS' BUSINESS PRACTICES

11 9. Since at least 2001, Defendants have advertised over
12 the World Wide Web that they can obtain confidential customer
13 phone records from telecommunications carriers and make such
14 information available to their clients for a fee. On their
15 website, Defendants state "You'll see more than 18 ways to find
16 and trace unlisted cell phone numbers, obtain phone bills, credit
17 card charges." For a fee, Defendants offer to obtain residential
18 long distance and local toll calls, as well as outgoing calls for
19 a cellular phone. On their website, Defendants state that if
20 "You supply the phone number, name & address," they will return
21 "a list of all the long distance tolls from the requested billing
22 period," "a list of the local tolls from the requested billing
23 period," or "a list of all the outgoing calls [for a cellular
24 phone] from the requested billing period."

25 10. The account holders have not authorized the Defendants
26 to obtain access to or sell their confidential customer phone
27 records. Instead, to obtain such information, Defendants have
28 used, or caused others to use, false pretenses, fraudulent

1 statements, fraudulent or stolen documents or other
2 misrepresentations, including posing as a customer of a
3 telecommunications carrier, to induce officers, employees, or
4 agents of telecommunications carriers to disclose confidential
5 customer phone records. Defendants sell the confidential
6 customer phone records that they have obtained to their clients.

7 11. The invasion of privacy and security resulting from
8 obtaining and selling confidential customer phone records without
9 the consumers' authorization causes substantial harm to consumers
10 and the public, including, but not limited to, endangering the
11 health and safety of consumers. Consumers cannot reasonably
12 avoid these injuries because Defendants' practices are entirely
13 invisible to them. The harm caused by Defendants' unauthorized
14 access to and disclosure of confidential customer phone records
15 is not outweighed by countervailing benefits to consumers or to
16 competition.

17 **DEFENDANTS' VIOLATIONS OF THE FTC ACT**

18 **COUNT ONE**

19 12. As described in paragraphs 9 through 11, Defendants,
20 directly or through their employees or agents, have obtained and
21 sold to third parties confidential customer phone records without
22 the knowledge or consent of the customer.

23 13. Defendants' practices in obtaining and selling to third
24 parties confidential customer phone records causes or is likely
25 to cause substantial injury to consumers that is not reasonably
26 avoidable by consumers and is not outweighed by countervailing
27 benefits to consumers or competition.

28 14. Therefore, Defendants' practices, as alleged in

1 paragraphs 12 and 13, constitute an unfair practice in violation
2 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

3 **CONSUMER INJURY**

4 15. Consumers throughout the United States have suffered,
5 or are likely to suffer, substantial injury as a result of the
6 Defendants' unlawful acts and practices. In addition, Defendants
7 have been unjustly enriched as a result of their unlawful acts
8 and practices. Absent injunctive relief by this Court,
9 Defendants are likely to continue to injure consumers, reap
10 unjust enrichment, and harm the public interest.

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

12 16. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
13 empowers this Court to grant injunctive and other ancillary
14 relief, including rescission of contracts and restitution, and
15 the disgorgement of ill-gotten gains, to prevent and remedy any
16 violations of any provision of law enforced by the FTC.

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff, the Federal Trade Commission, pursuant
19 to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the
20 Court's own equitable powers, requests that this Court:

21 1. Permanently enjoin Defendants from violating the FTC
22 Act, as alleged herein;

23 2. Award such equitable relief as the Court finds
24 necessary to redress injury to consumers resulting from
25 Defendants' violations of the FTC Act, including, but not limited
26 to, rescission of contracts and restitution, and disgorgement of
27 ill-gotten gains by Defendants; and

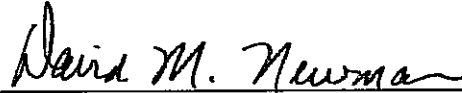
28 3. Award Plaintiff the costs of bringing this action and

1 such other equitable relief as the Court may determine to be just
2 and proper.

3 Dated: May 1, 2006

Respectfully Submitted,

4 WILLIAM BLUMENTHAL
General Counsel

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9 ATTORNEYS FOR PLAINTIFF
10 FEDERAL TRADE COMMISSION
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