

FILED

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U.S. DISTRICT COURT
EASTERN DISTRICT OF MO
ST. LOUIS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
v.) No.)
)
MICHAEL McNEILL,)
JOSHUA FLYNN,)
TIMOTHY MURPHY,)
SHAWN CASEY,)
THOMAS SILHA,)
JENNIFER HANSEN,)
DEAN MILLER,)
MICHAEL SILVER, and)
JOHN BALLEWEG,)
)
Defendants.)

4:16CR466 JAR/SPM

INDICTMENT

COUNT 1

Conspiracy to Commit Mail Fraud, Wire Fraud and Bank Fraud
18 U.S.C. § 1349 (18 U.S.C. §§ 1341, 1343 and 1344)

The Grand Jury charges:

1. Beginning on or about sometime prior to 2013, with the exact date unknown to the Grand Jury, and continuing until on or about July, 2015, with the exact date unknown to the Grand Jury, in the Eastern District of Missouri and elsewhere,

MICHAEL McNEILL,
JOSHUA FLYNN,
TIMOTHY MURPHY,
SHAWN CASEY,
THOMAS SILHA,
JENNIFER HANSEN,
DEAN MILLER,
MICHAEL SILVER, and
JOHN BALLEWEG,

the defendants herein, and other persons known and unknown to the Grand Jury, did knowingly and willfully combine, conspire, confederate and agree together and with each other to commit various offenses defined in Title 18, United States Code, Part 1, Chapter 63, that is mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; and bank fraud, in violation of Title 18, United States Code, Section 1344.

2. The allegations of Paragraphs 1 through 105 of Count 2 of this Indictment are hereby realleged and incorporated herein by reference as if fully set forth herein.

In violation of Title 18, United States Code, Section 1349 (Title 18, United States Code, Sections 1341, 1343 and 1344).

COUNT 2
Wire Fraud, Telemarketing, Aiding and Abetting
18 U.S.C. §§ 1343, 2326 and 2

The Grand Jury further charges:

A. INTRODUCTION AND OVERVIEW OF THE TELEMARKETING ENTERPRISE

At all times material to this Indictment:

1. “Telemarketing” refers to a plan, program, promotion, or campaign that is conducted to induce the purchase of goods or services by the use of one or more interstate telephone calls initiated by a person who is conducting or participating in the plan, program, promotion, or campaign.

2. The “Telemarketing Enterprise” and the defendants herein, as members of the Telemarketing Enterprise, promoted and sold “business opportunities” related to the business of merchant processing. The Telemarketing Enterprise consisted of and utilized:

a. multiple frontend call rooms based in and around Phoenix, Arizona; frontend rooms, also known as boiler rooms, were outbound call centers where a seller or employee of a seller, uses a telephone to make interstate cold calls and seeks sales of any goods or services to a consumer for an initial payment;

b. one and more backend rooms based in and around Phoenix, Arizona; a backend room consisted of a call center for both inbound and outbound interstate calls related to customer service, reloading, and campaign management; a backend location also typically served as the operational base for the management and administration of the Telemarketing Enterprise;

c. a designated "fulfillment" operation based in and around Las Vegas, Nevada; as used by the Telemarketing Enterprise, "fulfillment" activities included, but were not limited to, opening and monitoring merchant accounts, contesting charge-backs initiated by credit card customers of the Telemarketing Enterprise, and managing ancillary services and products sold by the Telemarketing Enterprise, such as LLC creation and tax services;

d. a series of entities created primarily for the purpose of obtaining merchant accounts necessary for the credit card transactions of the Telemarketing Enterprise; the Telemarketing Enterprise opened and held merchant accounts at financial institutions insured by the Federal Deposit Insurance Corporation, including, but not limited to, Wells Fargo Bank, NA, with said financial institutions being responsible for settlement funds and funds held in reserve as a result of credit card transactions engaged in by the Telemarketing Enterprise;

e. a series of entities created primarily for the purpose of obtaining bank accounts necessary for accepting wires and deposits of checks received by mail as a result of backend sales, including, but not limited to, reloads; and

f. entities created primarily for the purpose of obtaining bank accounts necessary for the promotion, management and administration of the Telemarketing Enterprise including, but not limited to, payroll.

I. THE SCHEME AND CONSPIRACY

3. Beginning on or about sometime prior to 2013, with the exact date unknown to the Grand Jury, and continuing until on or about July, 2015, in the Eastern District of Missouri and elsewhere,

MICHAEL McNEILL,
JOSHUA FLYNN,
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JOHN BALLEWEG,

the defendants herein, and other persons known and unknown to the Grand Jury, devised and intended to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises from purchasers of “business opportunities” promoted, offered and sold as part of the Telemarketing Enterprise, and in connection with telemarketing that victimized ten or more persons over the age of 55 and targeted persons over the age of 55, and knowingly executed and attempted to execute a scheme and artifice to defraud financial institutions regarding high risk merchant accounts for the Telemarketing Enterprise, and to obtain any of the money, funds, credits, assets, securities and property owned by, and under the custody and control of such financial institutions, by means of materially false and fraudulent pretenses, representations, and promises.

II. MANNER AND MEANS OF THE SCHEME AND CONSPIRACY

4. The purpose of the joint scheme and artifice to defraud of the defendants herein and the conspiracy was to make unsolicited interstate telephone calls to sell goods and services for false and fictitious “business opportunities” related to merchant processing services. Generally, the primary function of merchant processing services is to establish and provide merchants and businesses with a processing system to accept, validate and process credit card transactions. Neither the Telemarketing Enterprise, nor the entities that were a part of the Telemarketing Enterprise, were actually in the business of merchant processing or engaged in merchant processing services. Over the course of the scheme and conspiracy, the frontend and backend rooms of the Telemarketing Enterprise generated in excess of \$10,000,000 in telemarketing sales. The Telemarketing Enterprise targeted persons over the age of 55 and the scheme and artifice to defraud did, in fact, victimize ten or more persons over the age of 55. This scheme and artifice to defraud and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises and the conspiracy was carried out by the defendants herein in the following manner:

B. ENTITIES INVOLVED IN THE SCHEME

5. The Telemarketing Enterprise operated under multiple business names and utilized multiple business entities over the course of the scheme including, but not limited to, the following: ABS Management Group; ACME Business Services LLC; Alpha Lead Holdings LLC; Biz Management Pros; Biz System Now LLC; Capital Marketing Pros LLC; Cash Box SEO LLC; CC Payroll Services LLC; Corporate Business Builders; Corporate Business Structure LLC; Cyber System Now; Digital Blog World LLC; DM Business Solutions; Epic Financial Resources; Financial Lead Brokers LLC; Fulfillment Specialists; Global National

Company LLC; H&R Investments LLC; Internet Biz System; Internet Market Master LLC; MCV Lead Holdings LLC; Quick Online Biz LLC; RLR Enterprises LLC; Secured Drop LLC; Smart Business Pros LLC; VMC Business Development; VMC Marketing Pros LLC; and WJ Security Consulting LLC.

6. On or before May, 2013, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Epic Financial Resources, a Bluffdale, Utah entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

7. On or before June, 2013, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Biz Management Pros, a Parker, Colorado entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

8. On or before August, 2013, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Quick Online Biz LLC, a Henderson, Nevada entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

9. On or before December, 2013, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Biz System Now LLC, a Marshalltown, Iowa entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

10. On or before March, 2014, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Cyber System Now, a Derby, Kansas entity, for credit

card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

11. On or before June, 2014, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Internet Biz System, a Las Vegas, Nevada entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

12. On or before July, 2014, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Internet Market Master LLC (www.InternetMarketMaster.net), a Pembroke Pines, Florida entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

13. On or before July, 2014, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Smart Business Pros LLC (www.SmartBusinessPros.net), a Warson Woods, Missouri entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

14. On or before September, 2014, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Cash Box SEO LLC, a Torrance, California entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

15. On or before January, 2015, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Capital Marketing Pros LLC (www.CapitalMarketingPros.net), a West Hollywood, California entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

16. On or before February, 2015, the Telemarketing Enterprise began using one or more merchant accounts held in the name of Global National Company LLC (www.GlobalNational.net), a San Jose, California entity, for credit card processing associated with frontend room sales and/or backend room sales, including the sale of leads.

17. On or before May, 2013, the Telemarketing Enterprise began using one or more bank accounts held in the name of WJ Security Consulting LLC, a Phoenix, Arizona entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

18. On or before December, 2013, the Telemarketing Enterprise began using one or more bank accounts held in the name of RLR Enterprises LLC, a Phoenix, Arizona entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

19. On or before March, 2014, the Telemarketing Enterprise began using one or more bank accounts held in the name of Financial Lead Brokers LLC, an Albuquerque, New Mexico entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

20. On or before May, 2014, the Telemarketing Enterprise began using one or more bank accounts held in the name of Secured Drop LLC, a San Francisco, California entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

21. On or before July, 2014, the Telemarketing Enterprise began using one or more bank accounts held in the name of Smart Business Pros LLC, a Warson Woods, Missouri entity,

for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

22. On or before September, 2014, the Telemarketing Enterprise began using one or more bank accounts held in the name of Internet Market Master LLC, a Pembroke Pines, Florida entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

23. On or before January, 2015, the Telemarketing Enterprise began using one or more bank accounts held in the name of MCV Lead Holdings LLC, a Phoenix, Arizona entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

24. On or before January, 2015, the Telemarketing Enterprise began using one or more bank accounts held in the name of Alpha Lead Holdings LLC, a Phoenix, Arizona entity, for the receipt and deposit of checks and wires associated with the sale of leads offered and sold by the Telemarketing Enterprise.

25. On or before June, 2014, the Telemarketing Enterprise began using one or more bank accounts held in the name of CC Payroll Services LLC, a Tempe, Arizona entity, for the operations of the Telemarketing Enterprise including, but not limited to, payroll.

26. On or before March, 2015, the Telemarketing Enterprise began using one or more bank accounts held in the name of ACME Business Services LLC, a Phoenix, Arizona entity, for the operations of the Telemarketing Enterprise including, but not limited to, payroll.

C. DEFENDANTS AND THEIR ROLES IN THE SCHEME

27. Beginning sometime prior to 2013, with the exact date unknown to the Grand Jury, and continuing until on or about July, 2015, Defendant Michael McNeill owned, led,

directed, controlled and managed the Telemarketing Enterprise including, but not limited to, the Telemarketing Enterprise's "frontend" and "backend" rooms.

28. Beginning sometime in 2013 and continuing until on or about July, 2015, Defendant Joshua Flynn was a business partner of Defendant Michael McNeill in the Telemarketing Enterprise and also owned, led, directed, controlled and managed the Telemarketing Enterprise including, but not limited to, the Telemarketing Enterprise's "frontend" and "backend" rooms. Defendant Flynn was, at all times relevant to the Telemarketing Enterprise, subject to a prior judicial order issued in the State of Arizona prohibiting his involvement in telemarketing activities, specifically, a stipulated consent judgment entered in Maricopa County Superior Court, Civil Case number CV2013-012700.

29. Beginning sometime in 2013 and continuing until on or about July, 2015, Defendant Timothy Murphy managed and directed the Telemarketing Enterprise including, but not limited to, the Telemarketing Enterprise's "frontend" and "backend" rooms. Defendant Murphy had day-to-day responsibilities overseeing and directing the financial transactions of the Telemarketing Enterprise including, but not limited to, establishing and managing financial accounts, including bank and merchant accounts of the entities utilized by the Telemarketing Enterprise. Defendant Murphy was responsible for creating business names, bank accounts, phone numbers, and corporations for the companies for the Telemarketing Enterprise. Defendant Murphy was also responsible for instructing members of the Telemarketing Enterprise to open bank accounts, cash checks, and withdraw funds from bank accounts.

30. Beginning sometime prior to 2013 and continuing until on or about July, 2015, Defendant Shawn Casey was a "Reloader" for the backend rooms of the Telemarketing

Enterprise. As a Reloader, Defendant Casey was responsible for upselling and reloading by selling individuals “leads” for their business opportunity.

31. Beginning sometime in 2013 and continuing until July, 2015, Defendant Thomas Silha was a “Campaign Manager” for the backend rooms of the Telemarketing Enterprise. As a Campaign Manager for the backend rooms, Defendant Silha would provide those individuals who purchased leads from the Telemarketing Enterprise post-sale updates on their business opportunity, including information on the status of their leads and future commissions.

32. Beginning sometime in 2013 and continuing until July, 2015, Defendant Jennifer Hansen was a backend room administrator responsible for day-to-day operations of the Telemarketing Enterprise including, but not limited to, customer service, accounting, and assisting with coordinating frontend, backend and fulfillment operations.

33. Beginning on or about 2013 and continuing until on or about July, 2015, Defendant Dean Miller was a frontend room manager for the telemarketing operation with responsibilities over Rollers, Closers, and transferring deals from his frontend room to the backend room. Defendant Miller was responsible for his frontend call room’s day-to-day operations, which included, but was not limited to, managing the call room, keeping employees on task and on script, and hiring and firing employees.

34. Beginning on or about 2013 and continuing until on or about July, 2015, Defendant Michael Silver was a frontend room manager for the telemarketing operation with responsibilities over Rollers, Closers, and transferring deals from his frontend room to the backend room. Defendant Miller was responsible for his frontend call room’s day-to-day operations, which included, but was not limited to, managing the call room, keeping employees on task and on script, and hiring and firing employees.

35. Beginning on or about 2013 and continuing until on or about July, 2015, Defendant John Balleweg was a frontend room manager for the telemarketing operation with responsibilities over Rollers, Closers, and transferring deals from his frontend room to the backend room. Defendant Balleweg was responsible for his frontend call room's day-to-day operations, which included, but was not limited to, managing the call room, keeping employees on task and on script, and hiring and firing employees.

D. OPERATION OF THE TELEMARKETING ENTERPRISE

36. It was part of the joint scheme and artifice to defraud and the conspiracy that the defendants herein represented that they were offering business opportunities that would generate additional income for individuals when, in fact, they knew that business opportunities sold by the frontend and backend rooms of the Telemarketing Enterprise were false and fictitious and there was no real opportunity for the individual to make additional income in the manner represented.

37. It was further part of the scheme to defraud and the conspiracy that the defendants herein falsely represented they were with, connected to, contracting with or otherwise affiliated with MasterCard, Visa and FDIC insured banks when, in fact, they were not.

38. It was further part of the scheme to defraud and the conspiracy that the defendants represented to individuals that by becoming "referral agents" and/or by purchasing "leads" they could generate income from the business opportunity when, in fact, a "referral agent" was a meaningless designation. There was no legitimate entity connected to the Telemarketing Enterprise to refer business to. Moreover, the "leads" sold were fictitious and not as represented. Thus, there was no mechanism or opportunity within the Telemarketing Enterprise by which a lead purchased from the Telemarketing Enterprise could possibly generate a commission or be turned into income as represented.

39. It was further part of the scheme to defraud and the conspiracy that the Telemarketing Enterprise was designed to conceal the nature of their operation and the identities of individuals involved in the enterprise, including the involvement of the defendants herein. The Telemarketing Enterprise was able to conceal the nature of the Telemarketing Enterprise and those individuals in control of the enterprise by:

- a. creating a series of entities with no public or disclosed connection to an overarching Telemarketing Enterprise or apparent relationship to past and future entities of the Telemarketing Enterprise;
- b. using said entities to open bank and merchant accounts for the Telemarketing Enterprise in a manner designed not to reveal the nature of the business, the risks associated with the accounts, and the individuals directing, controlling and benefiting from the transactions engaged in by those entities;
- c. using false individual identities in telephone communications with individuals;
- d. using fictitious and misleading business addresses in communications and on sales documents, such as invoices, and other documents provided to individuals and third parties including, but not limited to, banks;
- e. using telephone numbers, including "customer service" numbers, which would only be in service or otherwise answered for a limited period of time; and
- f. using a fulfillment operation to contest merchant account charge-backs initiated by customers in a manner designed to further conceal and mislead individuals, banks and other third parties regarding the nature, operation and extent of the Telemarketing Enterprise as well as the products and services sold by the Telemarketing Enterprise.

The Frontend Pitch

40. It was further part of the scheme and conspiracy that the defendants, as part of the Telemarketing Enterprise, employed multiple frontend call rooms. A frontend call room consisted of “Rollers,” “Closers,” and a “Manager.”

41. Typically, the scheme and the execution of the scheme would begin with an initial telemarketing cold-call to an individual from a frontend call room location; the initial call would be made by a “Roller.” Rollers were responsible for making the initial interstate telephone solicitation and would work from a script provided by the frontend Manager. Rollers would make numerous interstate phone calls on a daily basis from phone numbers generated from a leads list or auto dialer.

42. The frontend Rollers of the Telemarketing Enterprise typically utilized a common script titled “BAD ASS OPENING SCRIPT!!!” At the beginning of the call, the Roller, typically using a name other than their own, would identify the company they represented. While the company name would change from month to month (even week to week) over the course of the scheme, the script used by the frontend rooms would essentially remain the same.

43. Thus, as part of the Telemarketing Enterprise, a frontend room interstate telephone call from a Roller would typically begin as follows:

HELLO _____, MY NAME IS _____, AND I'M
CALLING FROM, _____ WITH VISA & MASTERCARD.

THE REASON FOR THE CALL IS THAT WE RECENTLY HAD AN AGENT
REFERRAL POSITION BECOME AVAILABLE IN YOUR AREA AND
YOUR NAME CAME ACROSS MY DESK AS A PERSON INTERESTED IN
GENERATING ADDITIONAL INCOME.

44. After confirming the individual was interested in generating additional income, the Roller would attempt to gain information from the individual regarding their finances.

Typically, the Roller would make such inquiries as:

WHAT DO YOU CURRENTLY DO FOR A LIVING? RETIRED? HOW LONG? AND WHAT DID YOU DO PRIOR TO RETIREMENT?

NOW, OUT OF THE 4 MAJOR CREDIT CARDS, WHICH ONE GIVES YOU THE BEST REWARDS, PERSONALLY I LOVE MY DISCOVER

OKAY, IF I WERE TO WRITE YOU A CHECK TODAY TO ELIMINATE ALL OF YOUR CREDIT CARD DEBT, HOW MUCH WOULD THAT CHECK BE FOR? HOW MANY OF YOUR CARDS IS THAT DEBT ON?

THE REASON YOU'VE BEEN SELECTED IS . . . OUR RECORDS INDICATE YOU NORMALLY USE LESS THAN HALF OF YOUR AVAILABLE CREDIT. IS THAT STILL THE CASE?

IF YES – THEN YOU HAVE AT LEAST \$ _____ AVAILABLE NOW, CORRECT?

45. The Roller would generally describe the business opportunity being sold as an opportunity in merchant processing.

46. After playing a short audio presentation regarding the business opportunity, the initial frontend call would transition to efforts to close the frontend deal. After the audio presentation, the “Roller” would turn the call over to a “Closer.”

47. The frontend Closer would also use a common script. Typically, the Closer’s script would be titled “BAD ASS CLOSING SCRIPT!!!”

48. The Closer was responsible for persuading the individual to become a Referral Agent and purchase goods and services for the merchant processing business opportunity.

49. The Closer, typically using a name other than their own, would typically represent to the individual that he or she was a recruiting director with, or for, Visa and/or MasterCard or a

recruiting director with, or for, an affiliate of Visa and/or MasterCard. The Closer would then go on to explain the business opportunity to the individual by representing that:

a. A Referral Agent is someone that refers business names and their contact information to the Closer's company. The Closer's company would then contact those businesses and offer them a lower processing rate on their credit card transactions.

b. A Referral Agent would then get paid commissions on every referral that the Closer's company signed up. Referral agent commissions were related to credit card terminals, cash advance loans, and/or processing fees.

c. As part of the Business opportunity, the Referral Agent would be assigned a "Business Development Manager." The Business Development Manager would, in a future call, explain the entire business with an emphasis on the first 60 days of the business and generating commissions.

d. The Business Development Manager was an experienced individual and trained by Visa/MasterCard/Discover/American Express and that listening to the Business Development Manager was the "easiest way to make a ton of cash."

50. As part of the frontend call, and consistent with the Closer script, the Telemarketing Enterprise required and caused an individual to pay a set-up fee in order to become a Referral Agent and pursue the business opportunity.

51. Typically, the Closer would represent some variation on the following to solicit the set-up fee and close the frontend deal:

SO HERE'S HOW IT WORKS, THE SET UP FEE IS NORMALLY \$1,499, BUT I AM GOING TO SHOW YOU HOW TO SAVE A BUNCH OF MONEY AND I'M GOING TO SHOW YOU HOW YOU CAN GET SET UP WITH ZERO OUT OF POCKET COST. VISA/MASTERCARD WILL BACK YOU TO GET THE BUSINESS STARTED. WE'LL SIMPLY LEVERAGE THE COST OF THE BUSINESS USING ONE OF YOUR CREDIT CARDS. VISA

AND MASTERCARD HAVE A DEAL TODAY ONLY FOR \$695.00 WHERE THEY PAY OVER \$800 OF YOUR \$1499.

The Transition from the Frontend Pitch to the Backend Reload

52. As part of the Telemarketing Enterprise, it was further part of the joint scheme and artifice to defraud that closed frontend deals were transitioned and transferred to the backend rooms for upselling and reloading. Upon completion of a frontend pitch and a closed sale, backend room administrators would:

- a. prepare and deliver invoices;
- b. engage in customer service calls;
- c. initiate and process credit card information and charges;
- d. facilitate the execution of certain documents via emails, faxes and

EchoSign. EchoSign is a web-based program that enables its customers to prepare contracts and documents that can be signed electronically via email;

- e. create and assign an individual Referral Agent number; create and maintain an on-line dashboard specific to the individual Referral Agent; provide passcode and login information to the Referral Agent for their dashboard;

- f. ensure that frontend room Managers turn over the deals from their individual rooms to the backend room for the purpose of upselling and reloading;

- g. conduct follow-up calls and schedule appointments for the purpose of upselling and reloading; and

- h. collect and process payroll information for the front end rooms of the Telemarketing Enterprise.

Upselling and Reloading Based on the Sale of Leads

53. It was further part of the scheme and conspiracy that the Telemarketing Enterprise would employ backend room personnel for the purpose of upselling and reloading. Typically, upon receipt of a frontend deal, an administrator for the backend room would make an appointment for the individual Referral Agent to speak with their Business Development Manager (sometimes referred to as a “coach”). The Business Development Manager would be a “Reloader” for the Telemarketing Enterprise.

54. The objective of a “Reloader” was to re-contact individuals who had previously purchased goods and/or services as a result of the frontend pitch. The Referral Agent, who had already committed funds to this business opportunity, would be told by their Business Development Manager (the Reloader) that they were unlikely to make additional income pursuing the business on their own and would want, and need, to purchase “leads” to make money at their new business.

55. Thus, the purpose of the backend call with the Reloader was to reload or upsell the individual by persuading the individual to purchase “leads” through one or more entities of the Telemarketing Enterprise.

56. Prior to the call, the Business Development Manager’s assistant, an administrator for the Telemarketing Enterprise, would ask the individual background questions to determine the individual’s financial position with the objective of determining a target amount for the sale.

57. The Reloader would typically confirm and build on that financial background information before beginning the reload pitch. The Reloader would seek to determine and confirm information such as: whether the individual was retired or not; the financial portfolio of the individual including the extent of funds held in saving accounts, funds held in investment

and/or retirement accounts; and available credit on credit card accounts; the individual's average monthly income; and the individual's average monthly expenses.

58. As part of the scheme and artifice to defraud and conspiracy, the backend Reloader would typically and falsely represent:

a. that he presently had a large number of referral agents currently working under his direction and that those referral agents were presently making monthly commissions under his directions and guidance. Typically, the Reloader would falsely represent that the range of commission was between \$2,000 and 30,000 a month;

b. that, as the Referral Agent's Business Manager, he had a way for the individual's new business opportunity to succeed and it would not take any of the individual's time, effort, energy, and/or knowledge, but it would require a financial investment. The Reloader would then identify a specific investment amount and state that it would be used to purchase "leads." The investment amount initially identified by the Reloader was not tied to any real business cost or projection. Instead, the identified investment amount was based purely upon the funds the Reloader and the Telemarketing Enterprise determined the individual had access to or could potentially have access to;

c. that the individual's return on their investment would be quick and enable the individual to pay themselves back in a short time based upon the commissions they would receive in the first 60 days; and

d. that the return on investment would include residual income for the next 60 months.

59. Throughout the reload call, the Reloader would falsely state and emphasize that the opportunity and investment was connected with Visa and MasterCard, including such

statements as: “this is all MasterCard and Visa”; because it was with “Visa and MasterCard” it was not risky; and/or there is a scholarship/grant being offered by Visa and MasterCard by which MasterCard and/or Visa would pay half the cost of the leads or match the amount the individual paid to purchase leads; and/or MasterCard and/or Visa would “back” the individual in the business.

60. The Reloader would explain in detail that the investment involved purchasing “leads.” Specifically, the Reloader would explain that the individual, as a Referral Agent, would purchase a list of “leads” of small business owners who were interested in lowering their percentage rate on their merchant processing system(s) and who were also interested in a loan and/or cash advance for their small business. The Reloader would then explain the ways the purchased leads would make the individual money. Typically, the Reloader:

- a. would falsely represent that “we” (the entities of the Telemarketing Enterprise and/or MasterCard or Visa) make loans to small businesses ranging from \$50,000 to \$2.5 million with most loans between \$50,000 and \$300,000;
- b. would falsely represent that the Referral Agent who purchased the leads would receive 2% commission on each funded loan generated from their purchased lead, and that the average loan amount was approximately \$100,000;
- c. would falsely represent that Visa and/or MasterCard would be issuing the loans and that the Business Development Manager and his company (an entity of the Telemarketing Enterprise) represented Visa and MasterCard;
- d. would falsely represent that on loans issued, the agent would receive their commission check within 72 hours;

e. would falsely represent that the one way that “we” ensure the small business pays back the loan is that they have to sign a contract that they will do all their processing through “us” for the next 60 months; and

f. would falsely represent that the Referral Agent, in addition to commissions associated with loans, would receive 2% on all credit card transactions on a monthly basis. Thus, the agent would be receiving residual income for the next 60 months.

61. Regarding the origination and nature of the leads, the Reloader would falsely represent some variation of the following:

a. when a major bank’s loan department receives a business loan application from a small business and turns down the small business seeking a loan, major banks are now required to sell that information to a third party in order to broaden the opportunities for small businesses to obtain funding;

b. that we have an exclusive relationship with certain major banks who are now forced to create a file when they deny a small business a loan;

c. that we have the opportunity to purchase that major bank’s loan file in the form of a lead; in turn, we can pursue that lead and have the ability to make a loan to that same small business;

d. that when a Referral Agent purchases a lead file, that lead file goes out to our call center floor;

e. that our call center is staffed by a hundred people trained by the loan department at MasterCard and/or Visa;

f. that a trained and experienced individual from our call center simply re-contacts the small business owner who recently applied for, but was denied, a small business bank loan;

g. that the call center closes or converts lead files (in other words, closes loans) at a rate of 3% or more. Thus, a purchase of 1000 leads would typically generate 30 loans from which the Referral Agent would receive a commission;

h. that the Referral Agent has no involvement or responsibilities beyond purchasing the leads and that the Business Development Manger's company and call center will pursue the leads and close the loans;

k. that the Referral Agent will be able to track the progress of their lead files through their agent dashboard via their referral agent number; and

l. that the Referral Agent would be receiving a commission for each closed loan.

The Purchase of Leads

62. As part of the scheme and artifice to defraud and the conspiracy, individuals who purchased leads sold by Reloaders for the Telemarketing Enterprise would pay for their leads in multiple ways.

a. Some individuals purchased leads with their credit cards. The credit card transactions for the purchase of leads included transactions with and processed under the name of entities with merchant accounts, such as Quick Online Biz LLC, Biz Management Pros, and Smart Business Pros LLC.

b. Some individuals purchased leads by mailing a check or sending a wire payable to such entities as WJ Security Consulting LLC, RLR Enterprises LLC, Secured Drop LLC, and Alpha Lead Holdings LLC.

c. Some individuals, in order to purchase leads, would first apply for multiple credit cards and, upon receiving the new credit cards, purchase leads with cash advances from those credit cards.

After the Reload

63. It was further part of the scheme and conspiracy, that backend room administrators and managers for the Telemarketing Enterprise would:

a. provide wire and mailing information and track wires and mailings to ensure payments were received;

b. mail one or more discs containing leads and/or upload the leads to the Referral Agent's dashboard; the leads themselves were typically nothing more than a random list of business names, addresses and phone numbers; and

c. assign the referral agent a "Campaign Manager" and represent that the "Campaign Manager" would be responsible for updating the individual on the status of their leads files and commissions. The individual was also told that their agent dashboard would be updated to reflect the status of their leads and commissions.

64. The backend room would also present and sell additional products and services as part of the Telemarketing Enterprise such as LLC creation, tax services, web design, and so forth. While the upselling related to these ancillary products and services was typically done by Phoenix based members of the Telemarketing Enterprise, upon selling an ancillary product such

as LLC creation, tax services or web designs, the telemarketing operation would pass the customer along to the Las Vegas, Nevada based fulfillment operation for any future dealings.

65. These ancillary services were of no value to the individual as it related to their prospects for making money as a Referral Agent or by purchasing leads. Instead, they constituted an additional upselling component and revenue stream of the Telemarketing Enterprise.

66. As part of the conspiracy and scheme to defraud, the Telemarketing Enterprise utilized third parties to obtain, and attempt to obtain, what was described to the individual as “Corporate Credit.” Corporate credit was nothing more than a process by which a third party would, for a fee, assist an individual in applying for multiple credit cards at the same time. Thus, the individual would then take cash advances as soon as the credit was available in order to “invest” in the business opportunity by purchasing leads.

E. CORE AND COMMON MISREPRESENTATIONS MADE AS PART OF THE TELEMARKETING ENTERPRISE

67. The core and common misrepresentations made by the Telemarketing Enterprise, and the defendants herein, and as part of the conspiracy and the joint scheme and artifice to defraud included, but were not limited to, the following:

a. that there was an actual business opportunity in merchant processing available to individuals as offered through the Telemarketing Enterprise when, in fact: 1) there was no way to make money by becoming a Referral Agent for the entities used in the scheme and 2) that, over the course of the Telemarketing Enterprise, no one had made money by becoming a Referral Agent;

b. that the goods and services of the Telemarketing Enterprise constituted a business opportunity when, in fact, no service or product offered by the Telemarketing Enterprise could generate income or commissions as represented;

c. that the business opportunity had the backing, the support, an affiliation, or an association with MasterCard, Visa or any banking institution as represented when, in fact, no such connection existed;

d. that any entity of the Telemarketing Enterprise had any business relationship, contractual relationship, backing, support, affiliation, or association with MasterCard, Visa or any banking institution as represented when, in fact, no such connection existed;

e. that any leads sold by, and through, any entity of the Telemarketing Enterprise were: 1) of value to the business opportunity; 2) acquired from major banks; or 3) generated as a result of a small business seeking a loan or cash advances, as represented when, in fact, the leads were, in all material respects, fictitious;

f. that any entity of the Telemarketing Enterprise had at any time any Referral Agents making any commissions from leads sold by and through entities of the Telemarketing Enterprise when, in fact, no commissions were paid by or through the Telemarketing Enterprise to any Referral Agents;

g. that any entity of the Telemarketing Enterprise had any direct or indirect means to cause a small business loan to be offered, solicited, processed, underwritten or closed, as represented, when in fact, the Telemarketing Enterprise and its entities had no such means or capabilities;

h. that any entity of the Telemarketing Enterprise caused, attempted to cause, would attempt to cause, or had the capacity to cause any small business identified as a lead to: 1) install a credit card processing terminal; 2) enter into a merchant service processing contract of any duration; or 3) receive a loan or cash advance, as represented when, in fact, the business operations of the entities were fictitious and the entities themselves were created solely to serve the scheme and artifice to defraud and the conspiracy;

i. that the updates reflected on the agent dashboard and/or communicated over the phone by the Campaign Manager were accurate and that loans were being reviewed, in process, pre-qualified, in underwriting, or closed, as represented when, in fact, nothing happened with the leads after the leads were purchased and loaded onto the dashboard and/or mailed to the Referral Agent because there was no dedicated call center as represented;

j. that there was little or no financial risk involved in the business opportunity, with the purchase of leads, or with individual's use of their personal savings, retirement accounts and/or credit cards when, in fact, there was;

k. that the individual would quickly recoup their investment and/or be able to pay off their credit cards within 60-90 days with their commissions, when, in fact, they would not, at any time recoup their investment or receive a commission through the Telemarketing Enterprise;

l. that the entities referenced and used in frontend and backend calls were legitimate and ongoing businesses when, in fact, they were not. Specifically, the entities were:

i. newly created shell companies used in succession by the Telemarketing Enterprise;

ii. represented by individuals of the Telemarketing Enterprise who were utilizing false names and false business addresses and providing phone numbers, including designated customer service numbers, that would only be viable for a short period of time; and

iii. would inevitably become unreachable and disappear from public view, often within a matter of weeks after an individual had purchased leads and received his last update from the Campaign Manager.

m. that the entities in the Telemarketing Enterprise were in the business of merchant processing and that individuals could generate income as a Referral Agent to one or more of their companies when, in fact, the companies of the Telemarketing Enterprise had no merchant service products or services.

F. THE ROLE OF MERCHANT ACCOUNTS IN THE CONSPIRACY AND SCHEME

Overview

68. A merchant account is a bank account opened by a merchant through a bank or other financial institution that is a member of a major credit card network.

69. Common participants in merchant processing are the merchant, member banks (also known as acquiring banks), and third-party organizations.

70. A bank that contracts with merchants for the settlement of card transactions is a member bank. A member bank contracts, directly or indirectly, with merchants to process card transactions.

71. A third-party organization is any outside company with which the member bank contracts to provide merchant services, such as an Independent Selling Organization (“ISO”) or Member Service Provider (“MSP”).

72. An ISO/MSP solicits merchants and performs services for member banks such as processing merchant applications and charge-backs, detecting fraud, servicing merchant customers, providing accounting services, selling or leasing electronic terminals to merchants, processing transactions, authorizing purchases, and capturing data.

73. Member banks may be subject to exposure and losses through fraud, charge-back losses, and bank card association fines. If the merchant or third-party organization does not have the financial capacity to absorb the loss, the bank must absorb it.

74. A high-risk merchant account poses increased risk to banks through fraud, high charge-back rates, or poor credit history. Merchant account categories that may be deemed high risk include businesses where the products incur a high likelihood of consumer fraud.

75. A "charge-back" is generated when a cardholder disputes a transaction or when the merchant does not follow proper procedures. The card issuer and member bank research the facts to determine which party is responsible for the transaction. Charge-backs become a credit exposure to the member bank if the merchant is unable or unwilling to pay legitimate charge-backs. In that case, the member bank is obligated to honor the charge-back and pay the card-issuing bank which could result in a loss to the member bank.

76. A member bank is potentially liable for losses caused by merchant fraud, including merchants engaged in deceptive or misleading practices. Thus, member banks typically have a formal merchant underwriting and approval policy to control risk. The underwriting policy typically designates the types of merchants with which the member bank is willing to conduct business as well as the criteria for selecting merchants such as time in business, location, and sales volumes. In addition, the member banks typically dictate what

information each merchant application should contain, such as type of business, location, and Social Security number/tax identification number for the business entity and principal owners.

77. Merchant underwriting provides an opportunity to reject a merchant that the member bank determines has an unacceptable history of charge-back volumes, has a weak financial condition, is not operating a valid business, or is otherwise not acceptable for the member bank's program.

78. It was a further part of the scheme to defraud and the conspiracy that the defendants and Telemarketing Enterprise falsely represented their merchant accounts to individuals, third parties and FDIC insured banks. Specifically, merchant account applications, as well as documents submitted for underwriting purposes and in response to initiated charge-backs, contained false and misleading information and, thereby, caused banks to: 1) fail to identify and assess the risks associated with the merchant accounts used by the Telemarketing Enterprise; 2) process transactions through a merchant account for a business other than the specific business submitted for underwriting review; 3) provide settlement funds to the merchant which were subject to legitimate charge-back claims; and 4) hold and disperse reserve funds to the merchant derived from sales of the Telemarketing Enterprise.

79. The merchant account applications submitted to member banks, via ISOs/MSPs and/or agents for ISOs/MSPs, necessarily contained: false and misleading information regarding the ownership, location and control of the business; the nature of the business the merchant was involved in; the nature of the charges that would be processed through the account; and the connections, affiliations and common control of the merchant accounts by the defendants and the Telemarketing Enterprise.

80. As part of the scheme, the Telemarketing Enterprise concealed from ISOs, MSPs, and member banks that new entities for which they sought merchant accounts were affiliated with, and under the control of, the Telemarketing Enterprise and were intended to replace merchant accounts of the Telemarketing Enterprise that had been previously closed for reasons related to risk, such as excessive charge-backs including charge-backs arising from claims of fraud and misleading sales practices.

G. ADDITIONAL ACTS IN FURTHERANCE OF THE SCHEME AND CONSPIRACY RELATED TO SMART BUSINESS PROS LLC AND ALPHA LEAD HOLDINGS LLC

81. In furtherance of the joint scheme and artifice to defraud and the conspiracy, the Telemarketing Enterprise and the defendants herein:

a. on or before June 4, 2014, recruited and caused an individual residing in the Eastern District of Missouri to form a Delaware limited liability company in the name of Smart Business Pros LLC, with a stated business address in Warson Woods, Missouri, for use in the Telemarketing Enterprise.

b. between on or about June 4, 2014 and July 21, 2014, directed said individual to establish bank accounts in the Eastern District of Missouri at a branch of US Bank.

c. beginning on or before July 3, 2014, caused and attempted to cause one and more merchant accounts to be opened in the name of Smart Business Pros LLC for use by the Telemarketing Enterprise for both frontend and backend credit card transactions. US Bank account, account no. xxxx5401, established in the Eastern District of Missouri, in the name of Smart Business Pros LLC was the bank account designated to receive settlement deposits from Smart Business Pros LLC's merchant accounts.

82. Beginning on or about June 4, 2014, members of the Telemarketing Enterprise, located both in Phoenix, Arizona and Las Vegas, Nevada, exchanged email communications with said individual in the Eastern District of Missouri regarding Smart Business Pros LLC. Specifically, those email communications concerned:

a. establishing the entity Smart Business Pros LLC, opening bank accounts in the name of Smart Business Pros LLC, and applying for merchant accounts with FDIC insured banks;

b. providing the Telemarketing Enterprise access and control over the Smart Business Pros LLC bank accounts, including account login and password information, ordering checks for the Smart Business Pros LLC bank accounts, and having said checks delivered to the Telemarketing Enterprise in Arizona;

c. providing the Telemarketing Enterprise with a signature stamp for use with said checks; and

d. directions regarding charge-backs notification.

83. The emails exchanged included the following:

a. on or about June 4, 2015 an email was sent from Phoenix, Arizona to Las Vegas, Nevada with attachments identified as "formation docs" for Smart Business Pros LLC and stating "...both the Articles and Operating Agreement will be needed to open bank accounts. The website is live at www.smartbusinesspros.com and I am still working on his bank statements." The email was then forwarded, along with two attachments: "Smart Business Pros LLC Articles of Organization" and "Smart Business Pros LLC Operating Agreement," to said individual in the Eastern District of Missouri;

b. on or about June 9, 2014, an email communication between Las Vegas, Nevada and St. Louis, Missouri regarding both merchant account applications for Smart Business Pros LLC and opening bank accounts for Smart Business Pros LLC;

c. on or about June 9, 2014, an email communication between Las Vegas, Nevada and St. Louis, Missouri regarding applications for high risk merchant accounts for Smart Business Pros LLC;

d. on or about July 2, 2014, an email communication from St. Louis, Missouri to an email account utilized by the Telemarketing Enterprise in Phoenix, Arizona containing an attachment consisting of a notification from the Department of the Treasury, Internal Revenue Service, that Smart Business Pros LLC had been assigned an Employer Identification Number;

e. on or about July 3, 2014 an email communication from St. Louis, Missouri to an email account utilized by the Telemarketing Enterprise in Phoenix, Arizona containing six (6) attachments consisting of a W-9 form and five (5) documents consisting of, or pertaining to, merchant account applications for Smart Business Pros LLC;

f. on or about July 7, 2014, an email communication was received in St. Louis, Missouri from an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona containing instructions for filling out and signing merchant account applications;

g. on or about July 15, 2014, an email was received in St. Louis, Missouri from an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona with the Subject identified as "Merchant Account," and in reference to Smart Business Pros LLC, which stated:

I just got the login for your merchant account, so we are ready to start processing. Can you tell me where we are with the bank accounts, checks, signature stamps, etc.? I don't think I ever got the bank account logins from you. Let me know at your earliest convenience please;

h. on or about July 15, 2014, an email was sent from St. Louis, Missouri, to an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona providing login, password and security question information for the Smart Business Pros LLC bank accounts at US Bank;

i. on or about July 22, 2014, an email was sent to St. Louis, Missouri, from an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona stating:

The merchant drops look like they are coming in on schedule, and the bank accounts are set up just right...please order 500 checks for the payroll account, the one ending in 4859...Rather than ordering them to your location and then mailing them to us, you could have them sent to our payroll department:

*CC Payroll Services
3116 S Mill Ave
Tempe, AZ 85282*

Also, we will need the debit card from the same payroll account and a signature stamp that we can use with the checks mailed to same address at your earliest convenience. You can get a signature stamp made at any Office Max, Staples, etc.;

j. on or about July 31, 2014, an email was sent to St. Louis, Missouri, from an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona forwarding an email regarding charge-back notification for Smart Business Pros LLC with the subject designated as "CB Alerts Application for Smart Business Pros";

k. on or about July 24, 2014, an email was sent to St. Louis, Missouri, from an email account and address utilized by the Telemarketing Enterprise in Phoenix, Arizona directing that the signatory on the Smart Business Pros LLC account, account no. xxxx4859, to

send a wire from the Eastern District of Missouri in the amount of \$16,500 from the Smart Business Pros LLC bank account, account no. xxxx4859, at US Bank, to the bank account of CC Payroll Services LLC, account no. xxxx3554, at Wells Fargo, Tempe, Arizona for the benefit of the Telemarketing Enterprise; and

1. on or about August 1, 2014, an email was sent to St. Louis, Missouri, from an email account and address utilized by the Telemarketing Enterprise, Phoenix, Arizona directing that the signatory on the Smart Business Pros LLC bank account, account no. xxxx4859, to send a wire from the Eastern District of Missouri in the amount of \$35,000 from the Smart Business Pros LLC bank account, account no. xxxx4859, at US Bank, to a bank account of CC Payroll Services LLC, account no. xxxx3554, at Wells Fargo, Tempe, Arizona for the benefit of the Telemarketing Enterprise.

84. Between on or about January and February, 2015, an individual member of the Telemarketing Enterprise established bank accounts at Bank of America and Wells Fargo in the name of Alpha Lead Holdings LLC.

85. On or about July 3, 2014, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895 between P.S., a resident of Aurora, Colorado, and Internet Biz System, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise and in furtherance of the scheme to defraud; thereafter, on or about July 18, 2014, P.S. paid, by credit card, \$7,500 to Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

86. On or about January 29, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$695.00 between S.H., a resident of Montagne, Michigan, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about February 10, 2015, S.H. paid, by check, \$50,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

87. On or about January 26, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between L.H., a resident of Vienna, Virginia, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about February 2, 2015, L.H. paid, by wire, \$40,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud

88. On or about January 27, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between L.D., a resident of Golden, Colorado, and Smart Business Pros LLC, a merchant of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about March 3, 2015, L.D. paid, by wire, \$50,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing

Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

89. On or about January 10, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of a \$895.00 between S.T., a resident of Center Point, Iowa, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about March 19, 2015, S.T. paid, by check, \$35,000 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

90. On or about March 5, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between F.S., a resident of Springfield, Illinois, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about March 24, 2015, F.S. paid, by check, \$70,000 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

91. On or about March 11, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between L.C., a resident of Northglenn, Colorado, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about March 20,

2015, L.C. paid, by check, \$101,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

92. On or about February 17, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between M.F., a resident of Monona, Wisconsin, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about March 12, 2015, M.F. paid, by check, \$65,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

93. On or about January 16, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between S.L., a resident of Milwaukee, Wisconsin, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about January 22, 2015, S.L. paid, by wire, \$20,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

94. On or about March 10, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$495.00 between J.C., a resident of Rochester, New York, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing

Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about April 1, 2015, J.C. paid, by check, \$101,000 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

95. On or about February 23, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between H.G., a resident of Pensacola, Florida, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, between on or about March 1, 2015 and on or about April 14, 2015, H.G. paid, by one and more checks, totaling \$41,000.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

96. On or about January 26, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between K.M., a resident of Sylvan Lake, Alberta, Canada, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about February, 2015, K.M. paid, by one and more wires, \$39,980.00 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

97. On or about February 13, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between

P.M., a resident of Providence, Rhode island, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about February 23, 2015, P.M. paid, by wire, \$10,000 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

98. On or about October 23, 2014, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between K.F., a resident of Luling, Louisiana, and Internet Market Master LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about November 6, 2014, K.F. paid, by wire, \$10,000 to Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

99. On or about March 19, 2015, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$695.00 between R.S., a resident of Nashville, Tennessee, and Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, on or about April 14, 2015, R.S. paid, by check, \$110,000 to Alpha Lead Holdings LLC, an entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

100. On or about October 25, 2014, in furtherance of the scheme and conspiracy, the Telemarketing Enterprise initiated a credit card transaction in the amount of \$895.00 between J.G., a resident of South Bend, Indiana, and Internet Market Master LLC, a merchant and entity of the Telemarketing Enterprise, representing a closed frontend sale of the Telemarketing Enterprise as part and in furtherance of the scheme to defraud; thereafter, or about November 12, 2014, J.G. paid, by check, \$20,000 to Smart Business Pros LLC, a merchant and entity of the Telemarketing Enterprise, for the purchase of leads with said payment representing a backend reload as part and in furtherance of the scheme to defraud.

H. ADDITIONAL ACTS IN FURTHERANCE OF THE SCHEME AND CONSPIRACY SPECIFIC TO QUICK ONLINE BIZ LLC, BIZ MANAGEMENT PROS AND RLR ENTERPRISES LLC

101. As part of the conspiracy and scheme and artifice to defraud, and in order to execute the scheme and artifice to defraud, and to attempt to execute the scheme and artifice to defraud, the Telemarketing Enterprise and the defendants herein:

- a. on or about November 5, 2013, established bank accounts at Wells Fargo in the name of H&R Investments LLC which received deposits on behalf of merchant Biz Management Pros;
- b. on or about December 16, 2013, established bank accounts at Wells Fargo in the name of Quick Online Biz LLC;
- c. between on or about September 1, 2013 and October 17, 2013, established bank accounts at Bank of America and Wells Fargo in the name of RLR enterprises LLC;
- d. on or about June, 2013, applied for and opened merchant accounts in the name of, and/or used by, Biz Management Pros; and

e. on or about November, 2013, applied for and opened merchant accounts in the name of Quick Online Biz LLC.

102. On or about December 23, 2013, a frontend call room of the Phoenix, Arizona based Telemarketing Enterprise contacted M.K., an individual residing in Pompano Beach, Florida, at home by one or more interstate telephone calls regarding the business opportunity as set forth above. Based upon representations made to M.K. consistent with the frontend script of the Telemarketing Enterprise, M.K. agreed to purchase and invest in the business opportunity and pay, by credit card, the start-up fee of \$695.00 and did, in fact, receive an invoice to execute from a merchant of the Telemarketing Enterprise, Biz Management Pros, as part of the Telemarketing Enterprise.

103. On or about December 20, 2013, a frontend call room of the Phoenix, Arizona based Telemarketing Enterprise contacted L.B. and E.B., a husband and wife, residing in Chesterfield, Missouri, in the Eastern District of Missouri, at home by one or more interstate telephone calls regarding the business opportunity set forth above. Based upon representations made to L.B. and E.B. consistent with the frontend scripts of the Telemarketing Enterprise, L.B. and E.B. agreed to purchase and invest in the business opportunity and pay, by credit card, the start-up fee of \$695.00 and E.B.'s credit card was, in fact, charged by a merchant of the Telemarketing Enterprise, Biz Management Pros, as part of the Telemarketing Enterprise.

104. Beginning on or about January 2, 2014, a Reloader for the Telemarketing Enterprise contacted M.K. by interstate telephone call and, thereafter, convinced M.K. to purchase leads as part of the business opportunity offered by the Telemarketing Enterprise. Based upon the representations by the Reloader, consistent with those set forth above, M.K. did, in fact, purchase leads from RLR Enterprises LLC, an entity of the Telemarketing Enterprise,

and per the instructions provided by the Telemarketing Enterprise, paid \$20,000 by personal check, check no. 303, made payable to RLR Enterprises LLC and said personal check was, in fact, deposited on or about January 29, 2014 into a bank account at Bank of America held in the name of RLR Enterprises LLC.

105. On or about January 2, 2014, the same Reloader who contacted M.K. contacted and convinced L.B. and E.B. to purchase leads as part of the business opportunity offered by the Telemarketing Enterprise. Based upon representations by the Reloader, consistent with those set forth above, L.B. and E.B. did, in fact, purchase leads from Quick Online Biz LLC and Biz Management Pros, both entities and merchants of the Telemarketing Enterprise. L.B. used a credit card and was charged \$7,500.00 for the purchase of leads from Biz Management Pros; E.B. used two credit cards and was charged \$9,000.00 for the purchase of leads from Biz Management Pros and \$3,500.00 for the purchase of leads from Quick Online Biz LLC.

I. THE WIRE

106. On or about January 2, 2014, in the Eastern District of Missouri and elsewhere, the defendants herein, having devised and intending to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing this scheme to defraud and in attempting to do so, and in connection with telemarketing that victimized ten or more persons over the age of 55 and targeted persons over the age of 55, caused to be transmitted by means of wire communication in interstate commerce, certain signs, signals and sounds, that is, one and more interstate telephone calls between a backend room Reloader of the Telemarketing Enterprise in Phoenix, Arizona and L.B. and E.B. at their residence in Chesterfield, Missouri as part of a backend reload sales pitch which, in fact, resulted in L.B. and E.B. agreeing to purchase

leads as represented from the Reloader and the Telemarketing Enterprise and engaging in credit card transactions processed through merchants accounts in the name of Quick Online Biz LLC and Biz Management Pros totaling \$20,000.

In violation of Title 18, United States Code, Sections 1343, 2326 and 2.

COUNT 3
Wire Fraud, Telemarketing, Aiding and Abetting
18 U.S.C. §§ 1343, 2326 and 2

The Grand Jury further charges:

1. The allegations of Paragraphs 1 through 105 of Count 2 are incorporated by reference as if fully set forth herein.
2. On or about June 9, 2014, in the Eastern District of Missouri and elsewhere,

MICHAEL McNEILL,
JOSHUA FLYNN,
TIMOTHY MURPHY,
SHAWN CASEY,
THOMAS SILHA,
JENNIFER HANSEN,
DEAN MILLER,
MICHAEL SILVER, and
JOHN BALLEWEG,

the defendants herein, and other persons known and unknown to the Grand Jury, for the purpose of executing this scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations and promises, and in attempting to do so, and in connection with telemarketing that victimized ten or more persons over the age of 55 and targeted persons over the age of 55, caused to be transmitted by means of wire communication in interstate commerce, certain signs, signals and sounds, that is, an email communication between Nevada and Missouri regarding applications for high risk merchant accounts for Smart Business Pros LLC.

In violation of Title 18, United States Code, Sections 1343, 2326 and 2.

COUNT 4
Mail Fraud, Telemarketing, Aiding and Abetting
18 U.S.C. §§ 1341, 2326 and 2

The Grand Jury further charges:

1. The allegations of Paragraphs 1 through 105 of Count 2 are incorporated by reference as if fully set forth herein.

2. On or about November 12, 2014, in the Eastern District of Missouri and elsewhere,

MICHAEL McNEILL,
JOSHUA FLYNN,
TIMOTHY MURPHY,
SHAWN CASEY,
THOMAS SILHA,
JENNIFER HANSEN,
DEAN MILLER,
MICHAEL SILVER, and
JOHN BALLEWEG,

the defendants herein, having devised and intending to devise a scheme and artifice to defraud, and to obtain money and property by means of materially false and fraudulent pretenses, representations, and promises, and for the purpose of executing this scheme to defraud and in attempting to do so, and in connection with telemarketing that victimized ten or more persons over the age of 55 and targeted persons over the age of 55, did knowingly cause to be sent and delivered by mail: check no. 7822, drawn on an account in the name of J.G., account no. xxxx1114, with Teachers Credit Union, payable to Smart Business Pros LLC, in the amount of \$20,000, from Indiana to Missouri, with such funds representing the purchase of leads from the Telemarketing Enterprise as represented by a Reloader of the Telemarketing Enterprise.

In violation of Title 18, United States Code, Sections 1341, 2326 and 2.

COUNT 5
Money Laundering (proceeds)
18 U.S.C. § 1957

The Grand Jury further charges:

1. Between on or about July 24, 2105 and July 25, 2015, in the Eastern District of Missouri,

TIMOTHY MURPHY,

the defendant herein, did knowingly engage and attempt to engage in a monetary transaction, affecting interstate commerce, in criminally derived property of a value greater than \$10,000, that is, the wire transfer of funds from a bank account of Smart Business Pros LLC, at US Bank, St. Louis, Missouri, a financial institution, in the amount of \$16,500, into a bank account of CC Payroll Services LLC, at Wells Fargo Bank, Tempe, Arizona, a financial institution, such property having been derived from a specified unlawful activity, that is, mail fraud, in violation of Title 18, United States Code, Section 1341; wire fraud, in violation of Title 18, United States Code, Section 1343; and bank fraud, in violation of Title 18, United States Code, Section 1344.

In violation of Title 18, United States Code, Sections 1957 and 2.

FORFEITURE ALLEGATION

The Grand Jury further finds by probable cause that:

1. Pursuant to Title 18, United States Code, Sections 981(a) and Title 28, United States Code, Section 2461(c), upon conviction of an offense in violation of Title 18, United States Code, Section 1349 as set forth in this Indictment, the defendant(s) shall forfeit to the United States of America any property, real or personal, constituting or derived from any proceeds traceable to such violation(s).

2. Subject to forfeiture is a sum of money equal to the total value of any property, real or personal, constituting or derived from any proceeds traceable to such violation(s).

3. Pursuant to Title 18, United States Code, Section 982(a), upon conviction of an offense in violation of Title 18, United States Code, Section 1341 or 1343 as set forth in this Indictment, the defendant(s) shall forfeit to the United States of America any real or personal property used or intended to be used to commit, to facilitate, or to promote the commission of said offense, and any real or personal property constituting, derived from, or traceable to gross proceeds that the defendant(s) obtained directly or indirectly as a result of said offense.

4. Subject to forfeiture is a sum of money equal to the total value of any real or personal property used or intended to be used to commit, to facilitate, or to promote the commission of said offense, and any real or personal property constituting, derived from, or traceable to gross proceeds that the defendant(s) obtained directly or indirectly as a result of the offense.

5. Pursuant to Title 18, United States Code, Sections 982(a), upon conviction of an offense in violation of Title 18, United States Code, Section 1957, as set forth in this Indictment, the defendant(s) shall forfeit to the United States of America any property, real or personal, involved in such offense, and any property traceable to such property.

6. Subject to forfeiture is a sum of money equal to the total value of any property, real or personal, involved in such offense, or any property traceable to such property.

7. If any of the property described above, as a result of any act or omission of the defendant:

- a. cannot be located upon the exercise of due diligence;
- b. has been transferred or sold to, or deposited with, a third party;

- c. has been placed beyond the jurisdiction of the court;
- d. has been substantially diminished in value; or
- e. has been commingled with other property which cannot be divided without difficulty,

the United States of America will be entitled to the forfeiture of substitute property pursuant to Title 21, United States Code, Section 853(p).

A TRUE BILL.

FOREPERSON

RICHARD G. CALLAHAN
United States Attorney

CHARLES S. BIRMINGHAM, #47134MO
Assistant United States Attorney