

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

STATE OF FLORIDA,
OFFICE OF THE ATTORNEY GENERAL,

Plaintiff,

v.

Case No. _____

EMAIL DISCOUNT NETWORK,
ITAI KATHEIN and EYAL YEZCHEKELL,

Defendants.

_____ /

COMPLAINT

Plaintiff STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, ("the Attorney General") sues Defendants EMAIL DISCOUNT NETWORK, ITAI KATHEIN and EYAL YEZCHEKELL, and alleges:

1. This is an action for damages on behalf of consumers, injunctive relief, civil penalties, attorney's fees and costs and other statutory relief pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2005).

2. The Attorney General is an enforcing authority of the Florida Deceptive and Unfair Trade Practices Act.

3. The Attorney General has determined that an enforcement action serves the public interest as required by Section 501.207.

4. This Court has jurisdiction pursuant to Section 501.207(3).

5. EMAIL DISCOUNT NETWORK, LLC, ("EDN") is a Florida corporation doing business at 1844 Nob Hill Road, No. 142, Plantation, Florida 33322.

6. ITAI KATHEIN ("KATHEIN"), whose address is 329 East 94th Street, New York, New York 10128, is the president of EDN.

7. EYAL YEZCHEKELL ("YEZCHEKELL"), whose address is 110 Hudson Avenue, Tenafly, New Jersey 07670, is an officer of EDN.

8. The injurious activities of EDN, KATHEIN AND YEZCHEKELL affect consumers in more than one judicial circuit in Florida as well as throughout the United States and in foreign countries.

DEFENDANTS' UNLAWFUL COURSE OF CONDUCT

Overview

9. EDN, KATHEIN and YEZCHEKELL tricked many thousands of consumers into paying them for services that the consumers did not want and did not use.

10. The scheme devised by KATHEIN and YEZCHEKELL, and utilized by EDN and other Internet businesses created by KATHEIN and YEZCHEKELL, affects nearly a million consumers and has netted KATHEIN and YEZCHEKELL millions of dollars.

11. Implemented in July 2004, their plan is still in effect and continues to victimize consumers.

12. The plan uses deception, lack of conspicuous disclosure and extraction of money from consumers in a manner they did not anticipate -- through their phone bills.

13. EDN, KATHEIN and YEZCHEKELL are able to obtain funds from consumers by failing to tell them clearly that they will be charged after they visit web pages maintained by EDN, KATHEIN and YEZCHEKELL.

14. The web pages maintained by EDN, KATHEIN and YEZCHEKELL do not request a credit card, check, money order, cash, Pay Pall or any other method of payment from consumers.

15. EDN, KATHEIN and YEZCHEKELL are able to use telephone numbers given to them by consumers to add charges to the consumers' phone bills.

16. Many consumers tricked by EDN, KATHEIN and YEZCHEKELL do not know that the charges are on their bills and inadvertently pay the charges month after month.

17. Some consumers who become aware of the charges are able to get the charges stopped by EDN, KATHEIN and YEZCHEKELL, but they lose the money they have already paid.

18. Other consumers who learn of the charges are able to get refunds or credits from EDN, KATHEIN and YEZCHEKELL or the telephone companies, but these consumers are soon replaced as new paying consumers are lured into EDN, KATHEIN and YEZCHEKELL's ongoing scheme.

19. By simply obtaining phone numbers, EDN, KATHEIN and YEZCHEKELL have billed even consumers who have never visited their web pages or expressed any interest in their services.

EDN's representations

20. KATHEIN and YEZCHEKELL began operating Email Discount Network on the Internet in July 2004.

21. Since July 2004, KATHEIN and YEZCHEKELL have set up many other Internet businesses; these include Consumer Email Service, Consumer Guard Network, Email Music

Network, Intelicom Messaging, Messaging Plus, Orbit Telecom, Residential Email, TDI Communications, Voice Connection USA and Voicemail Direct USA.

22. The Internet companies created by KATHEIN and YEZCHEKELL, which use the same deceitful business plan as EDN, have billed approximately 1 million consumers.

23. Consumers are exposed to EDN on the Internet in one of two ways.

24. First, consumers on the Internet are taken to EDN by other websites, which are paid by EDN, KATHEIN and YEZCHEKELL to convey consumers to them.

25. For example, the website Iwon.com, on which consumers can sign up for contests, automatically transports consumers to EDN if they make certain choices on the Iwon.com website, such as not asking for information about discounts from other companies identified on this website.

26. Upon landing at the EDN page, many consumers do not realize that they are no longer at the site sponsored by Iwon.com.

27. Until mid-2006, the EDN "landing page" at which such consumers arrived stated in large text, "\$1000.00 Worth of Online Coupons! Good for Major Brand Stores Such as... BARNES & NOBLE, Circuit City, JCPenney ... And More!" and "30 Day risk FREE Trial."

28. The representation that consumers who signed up for the coupons would be at no risk for 30 days was false.

29. Consumers who gave information to the EDN page would have had to cancel within 3 days, not 30 days, in order to avoid being charged by EDN, KATHEIN and YEZCHEKELL.

30. The landing page states in small, faint grey type:

I understand and agree that if I don't cancel my account within 72 hours, Email Discount Network (TM) will submit a \$12.95 non-refundable set up fee to my local telephone bill. Thereafter, if I do not cancel within 30 days, Email Discount Network (TM) will automatically submit the monthly service fee of \$14.95 to my local telephone bill each month until I cancel my account. All charges will appear on the Integretel bill page as charges on behalf of "Email Discount Network (TM)". For questions, comments or inquiries about the Email Discount Network or if you would like to terminate your membership, please contact us at 1-800-730-8199 or you may email us at Support@emaildiscountnetwork.com. You can also send us a letter to Email Discount Network, 1844 Nob Hill Road, #142, Plantation, FL 33322.

31. The faint block of information purportedly explaining the EDN payment plan is not clear and conspicuous and appears on the EDN web page underneath blank spaces for consumers' personal information; it would have been noticed, if at all, only after consumers decided to fill in the blanks.

32. The representation of a "30 Day risk FREE trial" on the landing page was removed by EDN, KATHEIN and YEZCHEKELL after the Attorney General told them it was deceptive in June 2006; by that time, however, EDN, KATHEIN and YEZCHEKELL had already enrolled more than 200,000 customers.

33. Consumers are also exposed to EDN when they go directly to its website, which offers "CASH BACK EVERY TIME YOU SHOP ONLINE" and "Get a Cash Bonus Prize of Up To \$50,000 Just For Signing up to Email Discount Network.... Once you sign up to be a member ... with a Risk-Free 30-Day Trial you ... are also automatically entered into Our Online Sweepstakes!"

34. The claim of 30 days "risk free" was still made on the EDN website as of September 21, 2006.

35. A link for signing up to EDN is at the top of the sweepstakes web page, but disclosure in small type of the phone-bill charges and requirement to cancel within 72 hours is not visible unless the consumer chooses to scroll down.

36. In addition to billing consumers who visit the EDN web pages, EDN, KATHEIN and YEZCHEKELL bill many consumers who have not visited these web pages and have not made contact with EDN in any manner.

EDN consumers

37. As of August 2006, close to 258,727 consumers had been enrolled as customers by EDN, KATHEIN and YEZCHEKELL.

38. Investigators for the Attorney General made thousands of calls to the EDN consumers, and not one person contacted by the Attorney General had knowingly signed up for a paid service from EDN.

39. Approximately one third of the EDN customers contacted by the Attorney General were not aware that EDN charges were appearing on their phone bills, in some cases for protracted periods of time.

40. When asked how EDN could have obtained personal information about themselves, such as their phone numbers, most consumers contacted by the Attorney General said they had no idea.

41. Some of the EDN consumers contacted by the Attorney General recalled having provided personal information including phone numbers somewhere on the Internet because they believed they were entering a contest, such as contests available at Iwon.com and the EDN sweepstakes.

42. Other EDN customers contacted by the Attorney General recalled having started to provide personal information at a website promising coupons; but these consumers believed that they did not press a location on the page labeled "submit" and that they did not submit their phone numbers at the site.

43. A heavy preponderance of the EDN customers terminated the EDN service soon after the first EDN charge appeared on their bills, indicating that many cancelled after realizing the EDN service was not free.

44. A huge proportion of EDN customers -- 100,562 of the total 258,727 -- asked for refunds, indicating strong dissatisfaction that EDN was billing them for something they did not intend to purchase.

45. About a third of the customers who asked for refunds were not able to get the "activation fee" of \$12.95 returned to them.

EDN "services"

46. EDN is a barebones operation, with few employees, and administrative functions are performed by inexpensive third parties, making costs low and profit margins high.

47. EDN paid minimal sums to provide the services promised to consumers.

48. The Attorney General requested evidence that the 258,727 customers purportedly signed up for EDN had used it, but EDN, KATHEIN and YEZCHEKELL provided no evidence that consumers had used its email service, no evidence that consumers had used its "cash back" program and information that consumers had used its coupon service that was found to be inaccurate by the Attorney General.

Email accounts

49. EDN advertises on the Internet that it provides email accounts.

50. EDN, KATHEIN and YEZCHEKELL were unable to provide evidence to the Attorney General that a single customer opened an email account.

Cash back

51. Along with email accounts, EDN advertises a second service on the Internet -- cash back on purchases that consumers make online from third parties such as Barnes & Noble and J.C. Penney.

52. EDN, KATHEIN and YEZCHEKELL were unable to provide evidence to the Attorney General that a single customer received cash back under the EDN program.

Coupons

53. EDN, KATHEIN and YEZCHEKELL claimed that 123, 408 of the 258,727 customers had been provided with coupons -- that is, by their own admission, less than half of EDN's customers had ever been provided with a service.

54. The Attorney General telephoned consumers who, according to EDN, KATHEIN and YEZCHEKELL, had received coupons.

55. Not one of the consumers contacted by the Attorney General who reportedly received coupons said they knew anything about EDN or recalled receiving coupons from EDN.

Charges on phone bills

56. Major phone companies in the United States place charges by third parties on consumers' phone bills.

57. The phone companies place charges on bills pursuant to agreements with companies called "billing aggregators," who in turn have agreements with companies such as EDN, which provide products or services and are called "product providers."

58. Under Florida and federal law, charges on consumers' phone bills must have been authorized by the consumers.

59. The phone companies and billing aggregators fail to monitor adequately whether product providers are seeking charges that were not authorized by the consumers who are billed.

60. A system of verifying whether consumers had authorized charges -- such as requiring product providers to obtain written or audio-taped permission -- has not been adopted.

61. Instead of determining in advance whether consumers have authorized charges, the phone companies, which are required by law to issue refunds or credits to consumers who have not authorized charges, merely wait for consumers to complain.

62. Telephone bills are usually complicated, with a wide assortment of charges and fees, and often vary from month to month in the total sums requested.

63. Many consumers who had not authorized charges by EDN did not complain because they were not aware that the charges were on their bills.

64. EDN, KATHEIN and YEZCHEKELL entered into agreements with billing aggregators who in turn entered into agreements with phone companies, and charges submitted by EDN, KATHEIN and YEZCHEKELL were added to the phone bills of hundreds of thousands of consumers.

65. According to consumers contacted by the Attorney General, EDN, KATHEIN and YEZCHEKELL charged many consumers who had never visited EDN web pages and who, in some instances, did not even own computers.

66. EDN, KATHEIN and YEZCHEKELL failed to verify whether the persons who entered information on their web pages were in fact phone subscribers at the phone numbers that were also entered on the web pages.

67. Some people who entered information made up phone numbers, with the result that the actual subscribers at those numbers were charged on their phone bills by EDN, KATHEIN and YEZCHEKELL.

68. By obtaining phone numbers, EDN, KATHEIN and YEZCHEKELL billed consumers who never visited their web pages or expressed any interest in their services.

69. Clearly false information was submitted to EDN, KATHEIN and YEZCHEKELL, yet they still used it to charge consumers on their phone bills, including customer names listed in EDN records as "The Daredevil" and "Jane Doe." These names do not correspond to the phone numbers that were billed.

COUNT ONE
DECEPTIVE AND UNFAIR TRADE PRACTICES
IN VIOLATION OF CHAPTER 501, PART II, FLORIDA STATUTES

70. The Attorney General re-alleges paragraphs 1 through 69.

71. "Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce" are unlawful under Section 501.204(1) of the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes (2005).

72. At all times material hereto, Defendants EDN, KATHEIN AND YEZCHEKELL engaged in "trade or commerce" as defined by Section 501.203(8), Florida Statutes.

73. EDN, KATHEIN AND YEZCHEKELL engaged and continue to engage in unfair and deceptive practices including:

- (a) charging consumers for services they had not authorized;

(b) failing to clearly and conspicuously disclose that EDN services required payment; that payment would be on phone bills; and that cancellation was required to avert charges;

(c) failing to put in place systems showing definitively that consumers had requested their services;

(d) failing to adopt procedures to prevent phone subscribers whose numbers were submitted by other people from being charged;

(e) failing to provide promised services; and

(f) failing to give full refunds to consumers who asked for their money back.

74. EDN, KATHEIN AND YEZCHEKELL knew or should have known that their conduct was unfair and deceptive.

75. All of the practices engaged in by EDN, KATHEIN AND YEZCHEKELL, as alleged herein, are unfair and deceptive to consumers in violation of the Florida Unfair and Deceptive Trade Practices Act.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General respectfully requests that this Court:

(a) Temporarily and permanently enjoin Defendants EDN, KATHEIN AND YEZCHEKELL from violating the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes;

(b) Order Defendants EDN, KATHEIN AND YEZCHEKELL to reimburse all consumers injured by their unfair and deceptive practices.

(c) Order Defendants EDN, KATHEIN AND YEZCHEKELL to pay fines of \$10,000 for each of their violations of the Florida Unfair and Deceptive Trade Practices Act;

(d) Award the Attorney General reasonable attorney's fees and costs; and

(e) Grant such other relief as this Court deems proper and just.

Respectfully submitted this _____ day of September 2006.

CHARLES J. CRIST, JR.
ATTORNEY GENERAL

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