

**UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT**

Consumer Financial Protection
Bureau,

Plaintiff,

v.

Affinion Group Holdings, Inc.,
Affinion Group Inc., Affinion Group,
LLC, Affinion Benefits Group, LLC,
Trilegiant Corporation, Watchguard
Registration Services, Inc., and
Global Protection Solutions, LLC,

Defendants.

Civil Action No.

COMPLAINT

Complaint

The Consumer Financial Protection Bureau (“Bureau”) brings this action against Affinion Group Holdings, Inc., Affinion Group, Inc., Affinion Group, LLC, Affinion Benefits Group, LLC, Trilegiant Corporation, Watchguard Registration Services, Inc., and Global Protection Solutions, LLC (collectively, “Defendants”) under §§ 1031, 1036, 1054, and 1055 of the Consumer Financial Protection Act of 2010 (“CFPA”), 12 U.S.C. §§ 5531, 5536, 5564, and 5565, to obtain permanent injunctive relief, restitution, disgorgement for unjust enrichment, civil money penalties, and other appropriate relief for Defendants’ acts or practices in violation of the CFPA in connection with their marketing, sales, enrollment, billing, and administration of identity theft protection products sold to customers of partnering financial institutions.

Jurisdiction and Venue

1. This Court has subject-matter jurisdiction over this action because it is “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a)(1); presents a federal question, 28 U.S.C. § 1331; and is brought by an agency of the United States, 28 U.S.C. § 1345.

2. Venue is proper in this district because Defendants do business in this district, and because a substantial part of the events or omissions giving rise to the claims occurred in this district. 28 U.S.C. § 1391(b) and 12 U.S.C. § 5564(f).

Parties

3. The Bureau is an agency of the United States charged with regulating the offering and provision of consumer financial products and services under Federal consumer financial law. 12 U.S.C. § 5491(a). It has independent litigating authority to enforce the CFPB and Federal consumer financial laws. 12 U.S.C. § 5564.

4. Trilegiant Corporation (“Trilegiant”) is a Delaware corporation and a wholly-owned subsidiary of Affinion Group, LLC. Trilegiant transacts business in this district and throughout the United States, and is based in Stamford, CT.

5. Watchguard Registration Services, Inc. (“Watchguard”) is a Delaware corporation and a wholly-owned subsidiary of Trilegiant. Watchguard transacts business in this district and throughout the United States, and is based in Stamford, CT.

6. Global Protection Solutions, LLC (“GPS”) is a Delaware corporation and a wholly-owned subsidiary of Trilegiant. GPS transacts business in this district and throughout the United States, and is based in Franklin, TN.

7. Affinion Group Holdings, Inc. (“AGH”) is a Delaware corporation that transacts business in this district and throughout the United States, and is based in Stamford, CT. It is the parent company of Affinion Group Inc. and is under common control with all Defendants.

8. Affinion Group Inc. (“AGI”) is a Delaware corporation and a wholly-owned subsidiary of AGH. AGI transacts business in this district and throughout the United States, and is based in Stamford, CT.

9. Affinion Group, LLC (“AGL”) is a Delaware corporation and a wholly-owned subsidiary of AGI. AGL transacts business in this district and throughout the United States, and is based in Stamford, CT.

10. Affinion Benefits Group, LLC (“ABG”) is a Delaware corporation and a wholly-owned subsidiary of AGL. ABG transacts business in this district and throughout the United States, and is based in Franklin, TN.

11. The identity theft protection products offered or provided to customers of partnering financial institutions by Defendants included the following benefits: credit information (credit reports and monitoring), and financial advisory services (Credit Information Hotline service). These benefits are “consumer financial products or services” under the CFPA. 12 U.S.C. § 5481(5); 12 U.S.C. § 5481(15)(A)(i), (viii), (ix). Defendants’ identity theft protection products were offered in connection with these benefits, as well as in connection with credit cards or other consumer financial products or services offered by partnering financial institutions.

12. Defendants are “covered persons” under the CFPA because they offered or provided consumer financial products or services. 12 U.S.C. § 5481(6).

13. Defendants are “service providers” under the CFPA. 12 U.S.C.

§ 5481(26)(A).

14. Defendants are “affiliates” of each other under the CFPA because they control, are controlled by, or are under common control with each other. 12 U.S.C. § 5481(1).

Facts

15. At all times material to this complaint, Defendants have offered or provided financial advisory services through their Credit Information Hotline service, and analyzed, maintained and provided consumer report information through credit report, credit score, and credit monitoring benefits. These benefits were offered with other identity theft protection benefits as product bundles (Protection Products).

16. Defendants use codes called PDEF’s to identify specific Protection Product bundles.

17. The following PDEF’s are defined as “Specified Protection Products”: ITY54, ITY56, PGP120AF, ITY100, PGP151, PGPA60, ITY102, PGP144, ITYSC11, PGPA50, ITY73, PGPA85AF, PGPA86, ITY33, ITY72AF, ITY91AF, ITY70, PGP146AF, PGPA81AF, PGP113, PGP114, PGP124, PGP125, PGP137AF, PGP138, PGP139AF, PGP140, PGP168, PGP170, PGPA53AF, PGPA54AF, and PGPA94AF.

18. Trilegiant, ABG, GPS, and Watchguard (collectively, the “Affinion Subsidiaries”) advertised, sold and delivered Protection Products to consumers by establishing marketing and service agreements with financial institutions (“Marketing Partners”).

19. The Affinion Subsidiaries sold Protection Products to the Marketing Partners’ customers in connection with the Marketing Partners’ offer or servicing of a credit card, checking account, or home mortgage loan, or as stand-alone products to the customers of those Marketing Partners.

20. Consumers enrolling in Protection Products were billed a monthly or annual fee for the cost of their membership until they contacted Defendants to cancel.

21. Consumers generally paid between \$6.95 and \$15.99 per month (or an equivalent annualized amount) for Affinion's Protection Products, which typically were billed directly to the consumer's credit card account or deposit account.

22. The Affinion Subsidiaries provided material services to Marketing Partners in connection with the offering or provision of Protection Products by those financial institutions, including by participating in the design, operation, administration, or maintenance of the Protection Products.

23. AGH, AGI, and AGL provided material services to the Affinion Subsidiaries in connection with the offering or provision of Protection Products, including by participating in the design, operation, administration, or maintenance of the Protection Products.

24. AGH and AGI shared the same board of directors, which provided oversight for the Affinion Subsidiaries' Protection Product operations.

25. AGL provided corporate client marketing services on behalf of the Affinion Subsidiaries.

26. Defendants conducted the business practices described in this complaint through an interrelated network of companies.

27. Defendants share common control, ownership, officers, managers, office locations, marketing and advertising.

Incoming Telephone Calls Requesting Cancellation

28. Since at least 2010, Defendants handled telephone calls from

consumers wishing to cancel their Protection Product membership.

29. Defendants evaluated their employees who handled incoming cancellation calls primarily on their ability to prevent consumers from cancelling the product membership.

30. Defendants referred to calls in which their employees prevented a consumer from cancelling as “saves.”

31. Defendants rewarded employees with positive evaluations and bonuses for maintaining a save percentage above a certain threshold.

32. Defendants’ employees who failed to maintain the minimum threshold were subject to discipline leading up to termination.

33. During telephone calls in which consumers requested cancellation of their Protection Product membership, Defendants claimed that product credit scores came “from” one or three of the major credit reporting agencies, when those scores were not developed by any of the major credit reporting agencies.

34. During telephone calls in which consumers requested cancellation of their Protection Product membership, Defendants claimed that its identity theft insurance benefit covered “any” or “all” expenses caused by identity theft. In reality, the Protection Products had material coverage limitations and exclusions and did not cover “any” or “all” identity theft-related expenses.

35. During telephone calls in which consumers requested cancellation of Protection Products, Defendants claimed that the identity theft insurance benefit covered specific related expenses, such as legal fees, court costs and lost wages. Defendants failed to disclose during the calls that the Protection Products had material coverage limitations and exclusions in connection with those expenses.

36. During telephone calls in which consumers requested cancellation of Protection Products, Defendants expressly claimed or implied that the identity theft insurance benefit provided a broader range of coverage than available. Defendants failed to disclose significant coverage exclusions and limitations.

37. During telephone calls in which consumers requested cancellation of Protection Products, Defendants claimed its Credit Information Hotline service could improve the consumer's credit score by directly removing inaccurate information from the consumer's credit reports. In fact, Defendants lacked the ability to directly remove inaccurate information from a consumer's credit report or ensure improvement to the consumer's credit score by removal of such inaccurate information.

38. During telephone calls in which consumers requested cancellation of Protection Products, Defendants emphasized that the fraud liability protection benefit provided \$5,000 coverage for unauthorized use of a member's credit or debit cards. But Defendants failed to disclose that federal law significantly limited the amount of liability a consumer could actually incur for unauthorized use of their credit or debit cards.

39. Defendants' misrepresentations and omissions relating to Protection Product benefits during retention calls resulted in a significant overstatement of product value.

Credit Information Billing Practices

40. From at least July 2, 2010 through August 20, 2012, Defendants and their Marketing Partners enrolled consumers in Protection Products with benefits that purported to provide the consumers with credit monitoring, credit report retrieval, or both.

41. To access the consumers' credit files at the major credit

reporting agencies so as to provide these benefits, Defendants needed the consumer's written authorization, which in turn authorized the credit reporting agencies to release the credit information to Defendants under the Fair Credit Reporting Act, 15 U.S.C. § 1681b(a)(2).

42. For consumers who enrolled over the telephone, Defendants and their Marketing Partners attempted to obtain the consumer's written authorization after the enrollment call by mail.

43. In many cases, however, significant time elapsed before Defendants or their Marketing Partners obtained the consumer's authorization, or Defendants or their Marketing Partners never obtained the consumer's authorization at all.

44. Defendants and their Marketing Partners billed numerous Specified Protection Product consumers the full product fee despite not receiving the consumer's written authorization and not providing full credit monitoring or credit report retrieval services.

45. Even when they had obtained the consumer's written authorization, Defendants and their Marketing Partners often failed to deliver full credit monitoring and credit report retrieval services in certain circumstances, including when the consumer's personal information did not match the information on file at one or more of the credit reporting agencies, when the consumer did not have a credit file at one or more of the credit reporting agencies, or when Defendants unilaterally withheld services when they determined the consumer lacked sufficient credit history to warrant activation of credit monitoring or credit report retrieval services.

46. Defendants and their Marketing Partners billed the full product fee to Specified Protection Product members who were not receiving full credit monitoring or credit report retrieval services in those circumstances.

47. For consumers enrolled in Specified Protection Products between July 2, 2010 and August 20, 2012, Defendants and their Marketing Partners billed full product fees to at least 73,000 accounts when Defendants and their Marketing Partners failed to provide the full credit monitoring or credit report retrieval services offered, and failed to provide corresponding refunds.

Count I

(Violations of CFPA's Prohibition of Deceptive Acts or Practices)

48. The Bureau incorporates by reference the allegations of ¶¶ 1-47.

49. In numerous instances, in connection with transactions with consumers for a consumer financial product or service, or the offering of a consumer financial product or service, Defendants misrepresented, directly or by implication, during telephone calls with consumers attempting to cancel their Protection Product memberships:

- a. that the credit score benefit provided came "from" one or all three major credit reporting agencies;
- b. that the identity theft insurance benefit provided covered "any" or "all" expenses caused by identity theft;
- c. that the identity theft insurance benefit provided covered specific related expenses, such as legal fees, court costs and lost wages, without disclosing material coverage limitations and exclusions;
- d. that the identity theft insurance benefit provided a broader range of coverage than actually available;
- e. that the Credit Information Hotline benefit would improve the consumer's credit score by directly removing inaccurate information from the consumer's credit reports; and

- f. that the fraud liability protection benefit included \$5,000 coverage for unauthorized use of credit or debit cards without disclosing material information that would convey to consumers that their potential individual liability for unauthorized use of credit or debit cards was much less than what Defendants suggested.

50. The representations set forth in ¶ 49 were false or misleading and were material to consumer decisions to eschew cancelation of their product membership. Defendants' acts and practices are deceptive under the CFPA. Because each Defendant is a "covered person" or "service provider," their conduct is unlawful under §§ 1031(a) and 1036(a)(1) of the CFPA. 12 U.S.C. §§ 5531(a), 5536(a)(1).

Count II

(Violations of CFPA Prohibition of Unfair Acts or Practices)

51. The Bureau incorporates by reference the allegations of ¶¶ 1-50.

52. In numerous instances, in connection with transactions with consumers for a consumer financial product or service, or the offering of a consumer financial product or service, Defendants billed consumers for full Specified Protection Product fees while failing to provide full credit monitoring or credit report retrieval services.

53. These acts and practices caused or were likely to cause substantial injury to consumers. This injury was not reasonably avoidable by consumers and is not outweighed by countervailing benefits to consumers or to competition.

54. Defendants' acts and practices are unfair under the CFPA. Because each Defendant is a "covered person" or "service provider," their

conduct is unlawful under §§ 1031(a) and 1036(a)(1) of the CFPA. 12 U.S.C. §§ 5531(a), 5536(a)(1).

Request for Relief

55. The Bureau requests that the Court:
- a. permanently enjoin Defendants from committing future violations of the CFPA;
 - b. award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the CFPA, including, but not limited to, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and payment of damages;
 - c. award Plaintiff civil money penalties; and
 - d. award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

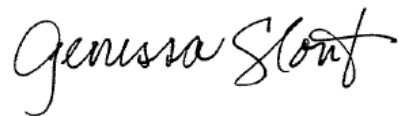
Dated: July 1, 2015

Respectfully submitted,

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Washington, DC 20552

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION

2015 JUL -1 A 10: 38

Consumer Financial Protection Bureau,)
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 Plaintiff,)
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 v.)
)
 Intersections Inc.,)
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 Defendant.)
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CLERK US DISTRICT COURT
ALEXANDRIA, VIRGINIA

Civil Action No. 1:15 cv 835

COMPLAINT

The Consumer Financial Protection Bureau (Bureau) alleges the following against Intersections Inc. (Intersections):

INTRODUCTION

1. The Bureau brings this action under the Consumer Financial Protection Act of 2010 (CFPA), 12 U.S.C. §§ 5531(a), 5536, 5564, and 5565, based on unfair acts or practices related to the billing and administration of certain identity theft and credit monitoring products, typically sold as add-ons to other consumer financial products and services. The Bureau seeks to obtain permanent injunctive relief, restitution, civil money penalties, and other relief as set forth below.

2. The Bureau previously issued consent orders against some of Intersections’ clients for engaging in unfair acts or practices relating to the billing and administration of Intersections’ products. *See, e.g., In re Bank of America, N.A., et al.*, ¶¶ 1, 4(o), 4(t) (2014-CFPB-0004) (finding that Intersections was a service provider to Bank of America).

JURISDICTION AND VENUE

3. This Court has subject-matter jurisdiction over this action because it is “brought under Federal consumer financial law,” 12 U.S.C. § 5565(a)(1), presents a federal question, 28 U.S.C. § 1331, and is brought by an agency of the United States, 28 U.S.C. § 1345.

4. Venue is proper in this district because Intersections is located, resides, and does business in this district, and because a substantial part of the events or omissions giving rise to the claims occurred in this district. 28 U.S.C. § 1391(b); 12 U.S.C. § 5564(f).

PARTIES

5. The Consumer Financial Protection Bureau is an independent agency of the United States charged with regulating the offering and provision of consumer financial products and services under Federal consumer financial law, including the CFPA. 12 U.S.C. §§ 5481(14); 5491(a); 5531(a). The Bureau has independent litigating authority to enforce Federal consumer financial laws. 12 U.S.C. §§ 5564(a), (b).

6. Defendant Intersections, Inc. is a Delaware corporation headquartered in Chantilly, Virginia.

7. Originally founded in 1996 as CreditComm, LLC, Intersections offers identity theft and credit information management solutions, including credit monitoring services, to consumers primarily through its depository institution clients.

8. Intersections “engages in the offering or providing of a consumer financial product or service,” and it is therefore a “covered person” under the CFPA. 12 U.S.C. § 5481(6).

9. Intersections is also a “service provider” under the CFPA since it provided a material service to its depository institution clients in connection with the offering or provision of consumer financial products or services. 12 U.S.C. § 5481(26).

FACTUAL ALLEGATIONS

Intersections’ Products

10. Intersections has provided credit monitoring and identity theft services to millions of consumers primarily through direct, indirect, or shared marketing arrangements with approximately 35 depository institution clients. These products were usually ancillary, “add-on” products to other consumer financial products or services, typically credit cards.

11. Although the precise features of its credit monitoring and identity theft products varied by depository institution client, Intersections’ products generally purported to provide consumers with credit monitoring services from all three major

credit reporting agencies, access to their credit reports, access to a credit score, email or phone alerts when new credit accounts were opened, and access to phone representatives who could respond to questions about credit reports.

12. Consumers generally paid between \$8 and \$13 per month for Intersections' credit monitoring and identity theft products, which typically were billed directly to the consumer's credit card. The exact price of Intersections' products varied by depository institution client.

Intersections' Enrollment Process

13. Intersections' depository institution clients generally enrolled consumers in Intersections' products.

14. When enrolling consumers, Intersections or its depository institution clients generally would orally disclose certain terms of enrollment and solicit a consumer's oral authorization to enroll in the product.

15. After enrollment, the depository institution client would send Intersections a data file that contained the enrolled consumer's personal information, as well as a recording of each consumer's purported oral authorization to purchase the Intersections product.

16. Intersections typically had responsibility for maintaining the list of customers to be charged for its identity theft and credit monitoring products, and providing that list to its depository institution clients.

17. Each month, Intersections would send a data file to many of its depository institution clients telling them which consumers to charge for the company's services. The depository institution, or an entity working on its behalf, would then bill the consumer for Intersections' product.

18. The depository institutions depended on Intersections to identify which consumers to bill for Intersections' services.

Service Gaps Related to Intersections' Enrollment Process

19. Many consumers signed up for an Intersections product but could not receive the benefits of the product. This was typically caused by, among other things, the failure to obtain valid authorization from the consumer, fraud alerts on a consumer's credit file preventing Intersections from obtaining information necessary to provide full product services, or incomplete social security information.

20. Consumers experiencing these problems often did not receive the full identity theft and credit monitoring services they purchased during the period in which the problem persisted.

21. When Intersections identified an error in a consumer's enrollment, it could take Intersections anywhere from a few hours to a few years to resolve the issue.

22. Despite these enrollment issues, Intersections billed or instructed its depository institution clients to bill affected consumers for its identity theft and credit monitoring products knowing those consumers were not receiving full product benefits.

23. As a result, many consumers paid for Intersections' products for months or years even though these consumers were not receiving all the service benefits for which they paid.

24. From January 1, 2009 through February 28, 2013, Intersections authorized approximately \$32 million in billings for approximately 300,000 consumers who were experiencing a service gap.

COUNT I

(Unfair Acts or Practices)

25. The allegations in Paragraphs 1 to 24 are incorporated by reference.

26. Intersections caused substantial injury to consumers by causing the consumers to be billed for services that the consumers were not receiving.

27. Consumers could not reasonably avoid these injuries.

28. The substantial injury to consumers was not outweighed by countervailing benefits to consumers or to competition.

29. Therefore, Intersections engaged in unfair acts or practices in violation of sections 1036(a)(1)(B) and 1031(c)(1) of the CFPA. 12 U.S.C. §§ 5536(a)(1)(B) and 5531(c)(1).

COUNT II

(Substantial Assistance to Depository Institution Clients)

30. The allegations in Paragraphs 1 to 24 are incorporated by reference.

31. The CFPA prohibits any person from knowingly or recklessly providing substantial assistance to any covered person in violation of the CFPA's prohibition on unfair, deceptive, or abusive conduct. 12 U.S.C. § 5536(a)(3). The CFPA provides that

any such person “shall be deemed to be in violation of [12 U.S.C. § 5531] to the same extent as the person to whom such assistance is provided.” 12 U.S.C. § 5536(a)(3).

32. Intersections’ depository institution clients were engaged in “offering or providing a consumer financial product or service,” and were therefore “covered persons” under the CFPA. 12 U.S.C. 5481(5), (6), (15)(A)(iv).

33. Intersections’ depository institution clients billed, either directly or through Intersections, consumers for identity theft and credit monitoring products when those consumers were not receiving full product benefits. This constituted an unfair practice in violation of the CFPA. 12 U.S.C. §§ 5536(a)(1)(B) and 5531(c).

34. Intersections instructed its depository institution clients to bill affected consumers during the period of time when the enrollment problem persisted knowing those consumers were not receiving full product benefits.

35. Intersections knowingly or recklessly provided substantial assistance to these depository institution clients in violation of the provisions of section 1031 of the CFPA in violation of section 1036(a)(3) of the CFPA. 12 U.S.C. § 5536(a)(3).

THE COURT’S POWER TO GRANT RELIEF

36. The CFPA empowers this Court to grant any appropriate legal or equitable relief with respect to violations of Federal consumer financial law, including, without limitation, permanent or temporary injunction, rescission or reformation of contracts, the refund of moneys paid, restitution, disgorgement or compensation for unjust enrichment, and civil money penalties. 12 U.S.C. § 5565.

PRAYER FOR RELIEF


WHEREFORE, the Bureau requests that the Court:

- A. Permanently enjoin Intersections from committing future violations of the CFPA;
- B. Order Intersections to pay restitution to consumers harmed by its unlawful conduct;
- C. Impose civil money penalties against Intersections;
- D. Order Intersections to pay the Bureau’s costs incurred in connection with proceeding with this action; and
- E. Award additional relief as the Court may determine to be just and proper.

Respectfully submitted,

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