

## Florida District Court Issues Contempt Order Against Telemarketers at FTC's Request

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A Florida court recently held two individuals in contempt for a deceptive marketing scheme, pursuant to a request from the Federal Trade Commission. Defendants were already subject to a 2008 settlement with the FTC, which barred them from making a range of misrepresentations to consumers, billing consumers without their authorization, and failing to make required disclosures. Within months of that settlement, according to the FTC's motion for contempt, the two individuals had developed and implemented a new scheme to defraud consumers under a different business name, Membership Services, LLC. This new company offered a "negative option" membership service – providing a catalog of products available only to program members and automatically renewing membership until the consumer affirmatively cancelled. Defendants targeted recent pay day loan applicants through online and telephone solicitations, then obtained their billing information from a third-party's initial loan application and sent messages indicating that the consumers had been "approved" for a loan or line of credit. Instead, the defendants enrolled these consumers in the Membership Services negative option program and debited their accounts for an initial fee and recurring monthly maintenance fees. Information about the program could only be found in a much smaller print in a shaded box with less contrast, or on different screens. The contempt order requires that defendants pay \$14.75 million in revenue illegally taken from consumers as part of this second scheme.

**Tip: Product or service offers must accurately and truthfully portray the nature of the offer, including all material terms. Over-promising or omitting material terms may mislead consumers by improperly exaggerating what consumers can expect to receive. Moreover, this case emphasizes the FTC's willingness to take action for violations of an existing FTC order.**

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