

**IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
SIXTEENTH JUDICIAL CIRCUIT AT KANSAS CITY**

THOMAS AIKENS, individually, and on behalf of all others similarly situated,)
)
)
 Plaintiff,)
)
 v.)
)
)
 PACIFIC WEBWORKS, INC., a Nevada corporation, and JOHN DOE)
 DEFENDANT,)
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 Defendants.)
 _____)
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)
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Case No.

Hon.

CLASS ACTION COMPLAINT AND JURY DEMAND

FILED CIRCUIT COURT
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CLASS ACTION COMPLAINT

Plaintiff Thomas Aikens bring this Class Action Complaint against Defendants Pacific WebWorks, Inc., and John Doe Defendant (hereinafter collectively referred to as "Defendants") based upon Defendants' practice of deceptively marketing to and billing Plaintiff and similarly-situated others for unauthorized charges. Plaintiff, for his Class Action Complaint, alleges as follows upon personal knowledge as to himself and his own acts and experiences and, as to all other matters, upon information and belief, including investigation conducted by his own attorneys.

Parties

1. Plaintiff Thomas Aiken is a Missouri resident.
2. Defendant Pacific WebWorks is an online provider of work-at-home products marketed to consumers nationwide. Pacific WebWorks is a Nevada corporation headquartered

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in and having its principal place of business at 230 West 400 South, 1st Floor, Salt Lake City, Utah 84101. It does business in the State of Missouri and nationwide.

3. John Doe Defendant is an online advertising network that participates in the acts and practices that are the subject of Plaintiff's complaint. John Doe Defendant participated in the deceptive acts and practices that victimized Plaintiff. On information and belief, John Doe Defendant is one of the following corporations or corporate d/b/a's: (1) Tracking202, Inc.; (2) Media Trust LLC (Advaliant); (3) CyberPlex Inc. (CX Digital Media); (4) Coleadium, Inc. (Ads4Dough); (5) JAR Media LLC; (6) Sybtrack.com; (7) eSynergy Media LLC; (8) W4 Media LLC; (9) Bskytracking.com; (10) GMB Direct, Inc.; (11) Elite Clicks Media LLC; (12) Tracklead.net; (13) Track606.com; (14) Intermark Communications, Inc. (Copeac); (15) Zoomleads.net; (16) Vetrue Incorporated (Neverblue); (17) Lidango; and (18) Convert2Media LLC.

Jurisdiction and Venue

4. This Court has personal jurisdiction over this action pursuant to MO. ANN. STAT § 506.500 (West) because the Defendants do business in this state and because Plaintiff is a resident of Missouri.

5. Venue is proper in Jackson County because Defendant does business in Jackson County and/or because the cause of action arose here.

Facts Common to All Counts

6. With unemployment rising and wages stagnant, Americans are suffering through the worst economy in decades. In these hard times, ordinary consumers are more than ever subjected to a proliferation of work-at-home offers that promise the ability to easily make thousands of dollars from at-home businesses.

7. The offers hosted by Defendant Pacific WebWorks state that consumers will work directly with and be well-paid by the giant web search engine Google. The ability to work for this enormously successful company reasonably supports the promise of good income described in the offers from Defendants.

8. Defendants' offers begin as initial representations made through a common deceptive scheme constituting spam email offers, sponsored links, banner ads on internet search pages, and links in fake news articles and fake blogs. The purpose of each of these initial representations is to drive consumer traffic to credit card submit landing pages at which a purchase can be made.

9. These sponsored links, banner ads, fake news articles, and similar methods of gaining a consumer's attention are created and operated by a group of affiliate marketers and ad networks whose sole objective is to drive traffic to merchant landing pages such as those selling Defendant Pacific WebWorks's products. John Doe Defendant acts in this space as an ad network and/or affiliate marketer, and in that capacity, actively drives traffic to Pacific WebWorks websites for its own monetary gain. The relationship between Pacific WebWorks on the one hand, and John Doe Defendant on the other, is one of interdependence: Pacific WebWorks needs the ad network to market to and contract with affiliate publishers who further propagate the deception through fake news articles and blogs; likewise, John Doe Defendant needs Pacific WebWorks to monetize the consumer traffic through purchases and thereafter remit payment to the ad network.

10. Defendant Pacific WebWorks and John Doe Defendant work together to "optimize" transaction pages so as to drive ever-higher rates of purchase. Both are motivated to take this active role because the sales revenue generated on a Pacific WebWorks site is the only

way that Pacific WebWorks and the upstream ad networks are compensated. Therefore, John Doe Defendant has a vested interest in not only directing consumers to the product page, but also in actively ensuring that a consumer purchases the product. This optimization can include changing the design of ad pages in the order path including the color, words used, placement of words, font size, placement of the Terms of Service, and the use of “pressures” like “You Qualify for Instant Access!” and “...these kits are going FAST!,” or the use of running timers counting down the minutes left before an offer “expires.” Such pressures are simply fabrications and are dynamically inserted into the website at specified screen locations to further drive sales.

11. John Doe Defendant employees “affiliate managers” and other representative employees to communicate directly with the affiliate publishers who create deceptive advertising such as sponsored links and fake news articles and blogs, with the purpose of matching them with the highest converting merchant offers (usually the most deceptive), and help them optimize their advertising materials by providing templates and ad copy. At the same time, John Doe Defendant communicates with merchants like Pacific WebWorks so as to match their transaction pages with publishers’ advertising pages and optimize their own transaction pages for higher conversion rates (making them more deceptive). These affiliate managers have full visibility and knowledge of the deceptive advertisements used to drive traffic to work-at-home offers, and likewise, full knowledge and visibility of the deceptive nature of merchants’ transaction pages.

12. As a primary inducement, consumers are simply responding to the many initial representations and screenshots that appear to state a relationship with Google itself within order paths managed by John Doe Defendant. The use of Google’s name in this manner, and specifically the prospect of working for one of the world’s most successful companies, appears

as a primary non-price inducement to deceptively entice consumers to purchase the Pacific WebWorks product.

13. After a consumer is directed by John Doe Defendant to a Pacific WebWorks landing page displaying a work-at-home offer, Pacific WebWorks pushes a product, often a CD or software kit, purportedly designed to enable consumers to “Earn up to \$978 or more a day using GOOGLE,” “Work from Home & learn to make \$1000s a day using GOOGLE!,” and “Anyone with a computer and basic typing skills can make money using Google!”

14. These landing pages typically contain language describing their offering “As seen on: Fox News, CNN,” and “USAToday.” The website prominently features network logos without license from these media entities and are plainly designed to suggest to a consumer that the offering is supported by a reputable entity. Pacific WebWorks products have never been “seen on” or endorsed by any of the networks claimed on the website.

15. The initial landing page seen by a consumer is bright and welcoming, and promises “FAST CASH USING GOOGLE” and “HOME INCOME USING GOOGLE,” among other pleasing inducements. (See Exhibit B). Representations that drive consumers to these landing pages within the order paths managed by John Doe Defendant promise “\$7500 a month Working from Home Job: requires basic computer skills.” Banner ads even promise “scam free” offers that link to landing pages created by John Doe Defendant’s business partners on which consumers are promised Pacific WebWorks products at prices that are not, in fact, remotely close to the actual price charged by Pacific WebWorks.

16. Defendant’s landing pages contain a testimonial photo of a consumer that benefited from Defendant’s product. In fact, this photo is a fake, inasmuch as Defendant simply

uses a stock photo (commonly available at websites like iStockPhoto.com) and fabricates the testimonial.

17. In furtherance of the deception, Defendant's landing pages may be reached from embedded links in fake blog testimonials ("flogs") and fake news articles with, again, stock photos and testimonials purportedly representing actual consumers from one's own city or state. These consumers relate stories of terrific success using the Pacific WebWorks product. (See Exhibit A). Examples of these flogs and fake news articles deceptively used to sell Pacific WebWorks's products are:

a. "USA Online Journal-Finance News" in which "Mary Steadman"¹ tells how she "quit her boring job as a manufacturer's representative" and "now makes \$6,500+ a month" using Pacific WebWorks products.

b. "Consumer Weekly," which utilizes the same photo of the woman claiming to be "Mary Steadman" above, but in this instance she has the name "Elaine Love," also lost her "boring" manufacturing job and now makes thousands using Pacific WebWorks products.

¹ "Mary Steadman," the most widely used fake person in fake news articles selling work-at-home products, is also featured on the following fake news sites, and at least 90 more websites all across the internet:

www.SanFrancisco-Tribune.com, www.SanFranCiscoCityHerald.com, www.Sandiego-Tribune-News.com, www.SanDiego-Tribune.com, www.SanJose-Herald.com, www.SanJose-Times.com, www.TheLosAngelesJournal.com, www.LosAngelesTribuneNews.com, www.LosAngelesNews7.com, www.LosAngelesFinanceNews.com, www.Los-Angeles-Weekly.com, www.LosAngelesDispatch.com, www.4KAWeekIn3Steps.com, www.Action7Journal.com, www.AmericaFinanceNews.com, www.AmericaJobJournal.com, www.AmericaNewsDaily.com, www.B12-Media.com, www.BargainBoomer.com, www.Best-Job-In.com, www.BirminghamTribune.co.uk, www.Boston-BusinessNews.com, www.Boston-Tribune.com, www.BostonFinanceNews.com, www.BostonGazetteNews.com, www.OrlandoWebTimes.com, www.ReadSomeNews.com, www.Online-Job-News.com, www.NYGazetteNews.com, www.NewYorkPostHerald.com, www.NewYorkPostHerald.com.

c. “Chicago Job News” at which “Jerry Reynolds” describes how he “lost his boring job as an account representative for a manufacturing company” and “now makes \$5,500+ a month just by submitting small text ads online on Google.”

d. “Scott Hunter” on “wthguide.info,” a fake blog that states how Mr. Hunter also “lost his job as a boring account representative for a manufacturing company.” “Scott” makes “\$9,000+ a month just by submitting small text ads on Google.” Upon information and belief, “Scott Hunter” is the pseudonym of an affiliate marketer driving traffic to a Pacific WebWorks site.

18. Defendant Pacific WebWorks also derives sales from online traffic routed through fake consumer review sites. At these sites, alleged “advocates” for consumers endorse Pacific WebWorks’s products with laudatory language and within the body of the fake reviews link to deceptive transaction pages for those products. John Doe Defendant provides the necessary conduit between the publishers of fake advertising materials and Pacific WebWorks by contracting with both parties to drive deceived consumers from the initial misrepresentations to a credit card submit page.

19. The online order path leading to Defendant’s transaction pages are littered with pictures of individuals that testify to the success they have enjoyed using Pacific WebWorks’s product. The individuals in Defendant’s fake photos are not from the consumer’s city or state; in fact, the specific locale represented is dynamically generated by instructions contained in the underlying source code for the screen page presented. That is, “Sara Stanley” from “Chicago” is in fact simply a fictitious person whose city name is generated by source code that recognizes and responds to the (Chicago) IP address of the consumer’s computer.

20. A consumer is required to give Pacific WebWorks certain “personally identifying information” (PII) to “CHECK AVAILABILITY” of this “LIMITED TIME OFFER!” A consumer’s submission of his PII enables Pacific WebWorks to sell this information to other marketers of goods and products. (See Exhibit B). Thus, a consumer actually does not have to “qualify” for anything, but is instead submitting to a lead generation process by which their PII (a “lead”) is monetized by Pacific WebWorks and the consumer unknowingly “consents” to the receipt of additional email offers from an untold number of merchants, *i.e.*, anyone to whom Pacific WebWorks can sell this information.

21. The product offered by Pacific WebWorks is promised at the minimal price of \$2.00 or less, which is represented as covering all costs of the product.

22. Importantly, in order to cover this small charge, Pacific WebWorks requires that consumers give it a credit card number.

23. A consumer’s credit card number is entered into a credit card submit field on an online transaction page (the transaction page most often directly follows the landing page – the order path may be understood as starting with the initial representation that drives traffic to the landing path where a consumer’s PII is taken. A billing or transaction page completes the online order path). (See Exhibit C).

24. Materially, the only price representation clearly and conspicuously displayed on the credit card submit page or in proximity to the credit card submit box is a line that states “**Total: \$1.97.**”

25. Calls to action like “LIMITED TIME OFFER!” and “WORK FROM HOME, SET YOUR OWN HOURS, THEN LIVE YOUR LIFE!” are found on these pages. These

phrases are part of a static background image that are saved and displayed every time the page loads on a consumer's browser.

26. Compelling phrases including "Satisfaction Guaranteed," and "100% Trusted!" appear in large print scattered about the page.

27. Ultimately, a consumer reasonably understands that ordering the Pacific WebWorks product is an action that will cause them to incur a small charge on their credit card. In fact, this small price is simply bait for a credit card number that can then be used to impose additional charges on the consumer.

28. Though the actual price of a product is always material, in cooperating with each other, Pacific WebWorks and John Doe Defendant hide the real price of their product in small print on or under the transaction page or simply does not disclose it at all on this checkout page.

29. By simply submitting credit card information to Pacific WebWorks in payment of the discounted fee of \$1.97 (Defendant also offers identical products at \$.97, \$1.95, and \$2.95), a consumer unwittingly "agrees" to a monthly recurring charge of \$79.90 (also, in some instances, \$69.90) for access to a program purportedly containing information that enables a consumer to "Start Making Money Today!"

30. Materially, and wholly absent any clear and conspicuous price disclosure, consumers may also find that they have been billed \$24.90 by Defendant for another, unknown product. This charge is recurring in that it appears every month on a consumer's bill. This undisclosed negative option, deceptively tied to a consumer's agreement to pay a small amount for a Pacific WebWorks product, is charged to consumers entirely without their authorization.

31. Thus, a consumer reasonably expecting to pay \$1.97 for a Pacific WebWorks product will be charged that sum plus: 1) \$79.90, and 2) \$24.90 a month for as long as the consumer fails to notice this charge and object to it.

32. Only the charge of \$1.97 is clearly and conspicuously disclosed by Pacific WebWorks and John Doe Defendant to a consumer responding to the work-at-home offer.

33. Pacific WebWorks acts with John Doe Defendant to drive traffic to, promote, and sell its work-at-home product. Correspondingly, all Defendants optimize and continually oversee the creation of the deceptive advertisements concealing material terms and conditions, described herein, and all receive significant revenue from the sale of each poorly-disclosed Pacific WebWorks product.

34. Defendants know or should know that these ads and offers violate clearly established laws requiring, among other seminal concerns, that all material purchase terms be clearly and conspicuously disclosed to consumers.

35. Although Defendants use a number of specific paths and representations for their deception, each order path has a core, common underpinning; namely, that a consumer will only be charged \$1.97 for a work at home product sold by or directly associated with Google.

Facts Relating to the Plaintiff Thomas Aikens

36. During the relevant period, Plaintiff Thomas Aikens, an elderly, retired, United States Navy veteran living off Social Security, clicked on an advertisement located in an email solicitation. The link, which offered a work-at-home opportunity, was placed there by an affiliate publisher of John Doe Defendant or John Doe Defendant itself. That link led to a webpage, where Plaintiff read advertisements and testimonials supporting the product. This site contained a link to John Doe Defendant's server, which instantaneously routed Plaintiff to a

specific Pacific WebWorks's PII landing page, similar to the page described above. Plaintiff reasonably understood that he could receive the Pacific WebWorks product (onlinebizkit) for \$1.97 on this page, purportedly endorsed by a variety of media outlets.

37. Plaintiff did not know that the represented media outlets themselves had nothing to do with this product nor did Plaintiff reasonably understand that, by only agreeing to pay Defendant \$1.97, he also "consented" to be billed \$79.90.

38. Plaintiff only authorized Defendant to bill his debit card the charge of \$1.97. Nevertheless, and wholly without authorization from Plaintiff, Pacific WebWorks took from Plaintiff an additional \$79.90. Pacific WebWorks thereafter remitted a portion of that payment to John Doe Defendant for its role in obtaining Plaintiff's unauthorized payment.

39. Plaintiff called the tollfree number repeatedly to request a refund. Plaintiff finally did speak with a representative who he informed that he 1) never authorized Pacific WebWorks to bill his card the sum of \$79.90, 2) never received a work-at-home kit, and 3) wanted to cancel his order and receive a refund of the unauthorized charge of \$79.90.

40. Plaintiff told the Pacific WebWorks representative that he would not have agreed to pay \$79.90 for this product if he would have clearly understood that this was the actual price for the product offered. Defendant simply told Plaintiff that he "should have read the fine print." Defendant gave Plaintiff a cancellation number and informed him that that charge would be removed. Nevertheless, the charge remained on Plaintiff's account.

41. Plaintiff has *not* been given a refund from Pacific WebWorks.

Amount in Controversy

42. Plaintiff makes no specific allegation that the amount in controversy (including requests for attorneys' fees, injunctive relief, etc.) exceeds any specific amount. Specifically, Plaintiff makes no allegations that the amount in controversy exceeds \$5,000,000.

Class Allegations

43. Plaintiff brings this action pursuant to Missouri Supreme Court Rule 52.08 on behalf of himself, a Class, and one SubClass:

Pacific WebWorks Class: Plaintiff brings this action on behalf of himself and a Class of similarly situated individuals, defined as follows:

All Missouri residents who submitted payment information to Pacific WebWorks for the purpose of obtaining Pacific WebWorks's products or services, and who were charged any amount other than a stated shipping and handling or discounted fee.

John Doe Defendant SubClass: Plaintiff brings this action on behalf of himself and a SubClass of similarly situated individuals, defined as follows:

All Missouri residents who submitted credit card information to a Pacific WebWorks website for the purpose of obtaining Pacific WebWorks's products or services, who were charged any amount other than a stated shipping and handling or discounted fee, and that were traceably driven to a Pacific WebWorks website(s) by John Doe Defendant, or affiliate marketers acting through or in conjunction with John Doe Defendant.

Hereinafter, the above-described Class and SubClass may be stated as "Class" for purposes of this Complaint.

The following people are excluded from the Class and SubClass: 1) any Judge or Magistrate presiding over this action and members of their families; 2) Defendants, Defendants' subsidiaries, parents, successors, predecessors, and any entity in which the Defendant or its parents have a controlling interest and its current or former employees, officers and directors; and 3) persons who properly execute and file a timely request for exclusion from the class and 4) the legal representatives, successors or assigns of any such excluded persons.

44. **Numerosity:** The exact number of the members of the Class is unknown and not available to Plaintiff, but it is clear that individual joinder is impracticable. On information and belief, Defendants have deceived thousands of consumers who fall into the definition set forth in the Class. Members of the Class and SubClass can be identified through Defendants' records.

45. **Typicality:** Plaintiff's claims are typical of the claims of other members of the Class, as Plaintiff and other members sustained damages arising out of the wrongful conduct of Defendant, based upon the same transactions which were made uniformly to Plaintiff and the public.

46. **Adequate Representation:** Plaintiff will fairly and adequately represent and protect the interests of the Class, and has retained counsel competent and experienced in complex class actions. Plaintiff has no interest antagonistic to those of the Class and SubClass, and Defendants have no defenses unique to Plaintiff.

47. **Predominance and Superiority:** This class action is appropriate for certification because class proceedings are superior to all other available methods for the fair and efficient adjudication of this controversy, since joinder of all members is impracticable. The damages suffered by the individual members of the Class and SubClass will likely be relatively small, especially given the burden and expense of individual prosecution of the complex litigation necessitated by the actions of Defendant. It would be virtually impossible for the individual members of the Class and SubClass to obtain effective relief from the misconduct of Defendant. Even if members of the Class and SubClass themselves could sustain such individual litigation, it would still not be preferable to a class action, because individual litigation would increase the delay and expense to all parties due to the complex legal and factual controversies presented in this Complaint. By contrast, a class action presents far fewer management difficulties and

provides the benefits of single adjudication, economy of scale, and comprehensive supervision by a single Court. Economies of time, effort, and expense will be fostered and uniformity of decisions will be ensured.

48. **Commonality:** There are many questions of law and fact common to the claims of Plaintiff and the Class, and those questions predominate over any questions that may affect individual members of the Class. Common questions for the Class include, but are not limited to the following:

- (a) Whether Defendants' conduct described herein violates the Missouri Merchandising Practices Act (MO. ANN. STAT. § 407.020 (West));
- (b) Whether Defendants' conduct described herein constitutes Fraud in the Inducement;
- (c) Whether Defendants' conduct described herein constitutes Conspiracy to Commit Fraud in the Inducement;
- (d) Whether Defendant Pacific WebWorks's conduct described herein results in a breach of contract; and
- (e) Whether Defendants' conduct described herein results in unjust enrichment to Defendants.

COUNT I

Violation of the Missouri Merchandising Practices Act (MO. ANN. STAT. § 407.020) (On Behalf of Plaintiff and the Class)

49. Plaintiff incorporates by reference the foregoing allegations.

50. The Missouri Merchandising Practices Act ("MMPA") (MO. ANN. STAT. § 407.020) protects both consumers and competitors by promoting fair competition in commercial markets for goods and services.

51. The MMPA prohibits any unlawful, unfair or fraudulent business acts or practices including the employment of any deception, fraud, false pretense, false promise, misrepresentation, or the concealment, suppression, or omission of any material fact.

52. As described within, Defendants' continued utilization of unlawful and unconscionable marketing practices, and the continuing practice of charging consumers credit cards without authorization, constitutes a deceptive act or practice by Defendants in violation of the MMPA

53. In deceiving Plaintiff and the Class by creating and supporting advertising that fails to clearly and conspicuously disclose the actual price of its products, and inducing Plaintiff and the Class to proffer payment information based on that misrepresentation, Defendants have engaged in deceptive trade practices in violation of the MMPA.

54. The price of a consumer product is a material term of any transaction because it is likely to affect a consumer's choice of, or conduct regarding, whether to purchase a product. Any deception related to the price of a consumer product is materially misleading.

55. Defendants' misrepresentation of the price, in all phases of the marketing and sale of work-at-home products, is likely to mislead a reasonable consumer who is acting reasonably under the circumstances.

56. Defendants have violated the "unfair" prong of the MMPA in that they caused substantial injury to consumers by charging their credit cards without their consent after inducing them to submit their payment information through deceptive marketing. The injury caused by Defendants' conduct is not outweighed by any countervailing benefits to consumers or competition, and the injury is one that consumers themselves could not reasonably have avoided.

Defendants actively misrepresent and conceal the actual price(s) consumers are charged when they submit their credit card information.

64. Through a series of advertisements, representations and false statements regarding the efficacy, association, and price of work-at-home products, Defendants acted in concert to misrepresent the actual price a consumer would be charged. John Doe Defendant facilitated the widespread distribution of work-at-home offers by optimizing, directing and recruiting third party publishers to promote specific Pacific WebWorks landing pages that included deceptive terms. John Doe Defendant had knowledge of the deceptive nature of these work-at-home offers and still sought to actively drive consumers to them for its own monetary gain.

65. Pacific WebWorks, in conjunction with John Doe Defendant, took concrete and intentional steps to conceal the actual price ultimately placed on the credit cards of members of the Class and SubClass. Pacific WebWorks intentionally made all representations of the actual price difficult to locate and/or read, by hiding these representations on a separate page, or displaying these representations far from the payment fields in a miniscule font and in an indistinct color.

66. John Doe Defendant took concrete and intentional steps to conceal the actual price ultimately placed on the credit cards of members of the SubClass. John Doe Defendant intentionally made all representations of the actual price difficult to locate and/or read, by hiding the price representations in its advertising material on a separate page, or omitting it in its entirety. Further, John Doe Defendant and its affiliate marketers assisted in the design of Pacific WebWorks landing pages so as to display the price representations far from the payment fields in a miniscule font and in an indistinct color.

67. Pacific WebWorks and John Doe Defendant actively took part in optimizing the work-at-home transaction pages so as to increase the rate of conversions (sales) and have full knowledge and visibility of the website content and each transaction, including knowledge of the concealed prices. For example, John Doe Defendant pays its affiliate marketers and publishers an amount far exceeding the *de minimis* product price advertised to consumers (e.g., an ad network will offer an affiliate/publisher who drives traffic to a particular transaction page “\$32.00 / Sale.” The same page, posted for use by its stable of affiliates by John Doe Defendant, will state, “**Cost to Consumer: \$1.95**”). Thus, all Defendants clearly understand that the offer pages they create and post for publishers do not contain a clear and conspicuous disclosure of the actual price a consumer will be charged or, put differently, all know that a consumer will be charged a sum beyond \$1.95.

68. Defendants intentionally misrepresented the association their work-at-home products have with various media outlets by making representations that the products stem from these media outlets and have been endorsed by television networks. John Doe Defendant knew that Pacific WebWorks and their its own affiliate publishers were actively misusing the media outlets’ names and other trademarks to deceive consumers.

69. In furtherance of their fraudulent conduct, Defendants advertised and promoted their work-at-home products by using the word “free” and other variations of “free” where the actual charges, and/or any conditions placed on the offer were not clearly and conspicuously disclosed to the consumer at the time the offer was made. John Doe Defendant knew that Pacific WebWorks was actively misusing the word “free” to deceive consumers.

70. Defendants additionally promoted their products through a network of publishers operating fake news articles and fake blogs. These promotions and marketing

materials feature widespread use of the term “free” to describe Defendants' product. John Doe Defendant knew that their affiliate publishers were actively misusing the word “free” to deceive consumers.

71. By committing the acts alleged in this Complaint, Defendants have knowingly disseminated untrue and/or misleading statements through fraudulent advertising in order to sell or induce members of the public to purchase work-at-home products.

72. The price of a consumer product is a material term of any transaction because it directly affects a consumer's choice of, or conduct regarding, whether to purchase a product. Any deception or fraud related to the price of a consumer product is materially misleading.

73. The misrepresentation of the price of a product is likely to mislead a reasonable consumer who is acting reasonably under the circumstances.

74. Defendants knew or should have known of the falsity of the representations made regarding the work-at-home products they marketed.

75. Defendants intended that the deceptive and fraudulent representations would induce a consumer to rely and act based on those false representations.

76. Plaintiff and members of the Class and Subclass were all charged monies beyond what they authorized. Accordingly, Plaintiff and members of the Class have suffered injury in fact and lost money in justifiable reliance on Defendants' misrepresentations of material fact.

77. In deceiving Plaintiff and the Class by creating and supporting advertising that fails to clearly and conspicuously disclose the actual price of its products, and inducing Plaintiff and the Class to proffer payment information based on that misrepresentation, all Defendants have engaged in fraudulent practices designed to mislead and deceive consumers.

78. Plaintiff and the Class have suffered harm as a proximate result of the violations of law and wrongful conduct of the Defendants.

79. In deceiving Plaintiff and the SubClass by creating and supporting advertising that fails to clearly and conspicuously disclose the actual price of its products, and inducing Plaintiff and the Subclass to proffer payment information based on that misrepresentation, John Doe Defendant has engaged in fraudulent practices designed to mislead and deceive consumers.

80. Plaintiff and the Subclass have suffered harm as a proximate result of the violations of law and wrongful conduct of John Doe Defendant.

81. Plaintiff, on his own behalf, and on behalf of the Class and Subclass, seeks damages for Defendants' unlawful conduct.

COUNT III
Conspiracy to Commit Fraud in the Inducement
(On Behalf of Plaintiff and the SubClass)

82. Plaintiff incorporates by reference the foregoing allegations.

83. Defendants acted in concert as business partners and through a common enterprise to drive sales of work-at-home products, and cram consumers' credit card bills with unauthorized charges through fraudulent and deceptive marketing, as stated in Count II of this Complaint.

84. As a fundamental part of their business relationship, Defendants acted to deceive consumers regarding the actual price of the work-at-home products, thereby inducing consumers to submit their credit card information, on which Pacific WebWorks crammed unauthorized charges. Perpetrating the fraudulent activity described herein requires multiple identical representations from Defendants, each one reinforcing the legitimacy of the deceptive offer; therefore, it is imperative for Pacific WebWorks and John Doe Defendant to work cooperatively

and with knowledge of each other's marketing methods. John Doe Defendant plays the central role in creating a consistent appearance by ensuring that Pacific WebWorks transaction pages and their affiliate publishers' sponsored links, fake news articles and blogs all convey the same deceptive marketing message.

85. Defendants took overt acts in furtherance of their conspiracy across the nation, and specifically took overt acts in furtherance within Missouri. As described with particularity above, Defendants formed contracts with each other, created deceptive marketing, advertisements, websites, and other solicitation materials to drive consumers to the work-at-home transaction page with knowledge that the marketing contained therein was false and misleading, and with the intent that the marketing taken as a whole would be relied on by consumers. Defendants further partnered with affiliate marketers and publishers to increase the effectiveness of their deceptive and fraudulent marketing. Defendants, working together, and working with non-defendant affiliate marketers and publishers, formed a mutually beneficial network of deceptive and misleading marketing designed to induce consumers to submit a credit card number for the purchase of a work-at-home product.

86. Any single Defendant, acting alone, would be unable to accomplish the level of deception and misrepresentations accomplished by Defendants acting together. The combination of their joint deception, embodied in the "creative" benefits derived from this combination, reinforces the appearance of legitimacy presented to consumers, thereby increasing the likelihood that a consumer will submit their credit card number. Pacific WebWorks would not have the widespread reach to consumers across a wide variety of websites and would be unable to enroll customers with the same effectiveness without the direct involvement, assistance, and direction of John Doe Defendant.

87. Plaintiff and the SubClass have suffered harm in the form of monetary damages as a proximate result of the conspiracy and violations of law carried out by Defendants.

88. Plaintiff, on his own behalf, and on behalf of the SubClass, seeks damages for Defendants' unlawful conduct.

COUNT IV
Breach of Contract
(On Behalf of Plaintiff and the Pacific WebWorks Class)

89. Plaintiff incorporates by reference the foregoing allegations.

90. In reliance upon Defendants' misrepresentations and deceptive advertising, Plaintiff entered into a contract to receive a product from Pacific WebWorks at a genuinely discounted price, or for the cost of shipping and handling only. Because of these deceptive misrepresentations, Plaintiff and the Pacific WebWorks Class entered their credit card information with the understanding that they would only be charged a genuinely discounted price or the cost of shipping and handling in exchange for a product from Pacific WebWorks.

91. By cramming additional undisclosed charges on the credit/debit cards of Plaintiff and the members of the Pacific WebWorks Class, Pacific WebWorks breached the contract for the purchase of a product at the clearly disclosed price described above. Plaintiff and the members of the Pacific WebWorks Class did not assent to any additional charges and did not reasonably expect that the contract for purchase and sale would include such additional charges.

92. At all times relevant to this action, Pacific WebWorks acted willfully and with the intent to breach the contracts they entered into with Plaintiff and the Pacific WebWorks Class.

93. Plaintiff and the Pacific WebWorks Class have suffered damages as a direct result of Pacific WebWorks's acts and practices in the form of monies paid and lost.

94. Plaintiff, on his own behalf, and on behalf of the Pacific WebWorks Class, seeks damages for Defendant's breach of contract, as well as interest and attorney's fees and costs.

COUNT V

**Restitution/Unjust Enrichment (*in the alternative to Breach of Contract*)
(On Behalf of Plaintiff and the Pacific WebWorks Class)**

95. Plaintiff incorporates by reference the foregoing allegations.

96. Plaintiff and members of the Class conferred a monetary benefit on Defendant Pacific WebWorks. Defendant has received and retained money belonging to Plaintiff and the Class resulting from substantial and unauthorized charges placed on their credit card bills by Pacific WebWorks. Defendant profits from each individual purchase made by a consumer after being directed to Pacific WebWorks's transaction pages.

97. Defendant appreciates or has knowledge of such benefit.

98. Under principles of equity and good conscience, Defendant should not be permitted to retain the money belonging to Plaintiff and members of the Class, which Defendant has unjustly received as a result of its unlawful actions.

99. Plaintiff and other members of the Class suffered damages as a direct result of Defendant's conduct.

100. Plaintiff, on his own behalf, and on behalf of the Class, seeks restitution for Defendant's unlawful conduct, as well as interest and attorney's fees and costs.

COUNT VI

**Restitution/Unjust Enrichment
(On behalf of the Plaintiff and the SubClass)**

101. Plaintiff incorporates by reference the foregoing allegations.

102. Plaintiff and members of the SubClass conferred a monetary benefit on John Doe Defendant. Defendant has received and retained money belonging to Plaintiff and the SubClass resulting from substantial and unauthorized charges placed on their credit card bills by Pacific

WebWorks. John Doe Defendant profits from each individual purchase after they direct a consumer to a Pacific WebWorks transaction page.

103. John Doe Defendant appreciates or has knowledge of such benefit.

104. Under principles of equity and good conscience, Defendants should not be permitted to retain the money belonging to Plaintiff and members of the SubClass, which Defendants have unjustly received as a result of its unlawful actions.

105. Plaintiff and other members of the SubClass suffered damages as a direct result of Defendants' conduct.

106. Plaintiff, on his own behalf, and on behalf of the SubClass, seeks restitution for Defendants' unlawful conduct, as well as interest and attorney's fees and costs.

WHEREFORE, Plaintiff Thomas Aikens, on behalf of himself and members of the Class and SubClass, pray for the following relief:

- a. Certify this case as a class action on behalf of the Class and SubClass as defined above and appoint Thomas Aikens as class representative and undersigned counsel as lead counsel of this class action;
- b. Enter judgment against Pacific WebWorks, Inc. and John Doe Defendant, for all monetary, actual, consequential, and compensatory damages caused by its unlawful conduct;
- c. Award Plaintiff and the Class civil penalties and/or punitive damages for violations of the above-cited statutes and law;
- d. Award Plaintiff and the Class reasonable costs and attorneys' fees;
- e. Award Plaintiff and the Class pre- and post-judgment interest;
- f. Enter judgment for injunctive, statutory and/or declaratory relief as is necessary to protect the interests of Plaintiff and the Class; and,

- g. Award such other and further relief as equity and justice may require.

JURY DEMAND

Plaintiff requests trial by jury of all claims that can be so tried.

Dated: June 9, 2010

Law Offices of Bill Crowe, MBA, JD, LC

By:  _____

Williams G. Crowe (#46416)

One of the Attorneys for Plaintiff,
individually and on behalf of a class of
similarly situated individuals

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