

ORIGINAL



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FILED
 SUPERIOR COURT
 COUNTY OF SAN BERNARDINO
 SAN BERNARDINO DISTRICT

JAN 06 2011

By Arlene [Signature]
 Deputy

9 Attorneys for Plaintiff and the Class

11 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 12 **FOR THE COUNTY OF SAN BERNARDINO**

14 HEIDI WALKER, individually, and on behalf of
 15 all others similarly situated,

16 Plaintiff,

17 vs.

18 THE NEW ENGLAND MINT; LIPENWALD,
 19 INC.; and DOES 1-100, Inclusive,

20 Defendants.

CIVDS 1100756

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

\$395.00 110106-3795

22 **I. INTRODUCTION**

23 The "New England Mint" and Lipenwald, Inc. ("Defendants") are private companies that use
 24 deceptive practices to sell normal \$2 Bills at grossly inflated prices. Defendants' tactics include
 25 tricking consumers into believing that the "National Park \$2 Bills" they sell are unique bills with
 26 decorative print produced by the U.S. Government, and that they are rare. In, reality, they are just
 27 normal \$2 bills that are commonly available, with a cheap sticker placed on one side. In an effort to
 28 further deceive consumers into believing that they are making a wise purchase, Defendants offer their

1 “National Park \$2 Bills” with another “free” product, typically a second \$2 Bill with a “National Park”
2 sticker. In addition, Defendants have artificially “lowered” the price of their “products,” only to make
3 an inflated profit by charging excessive and illegal shipping and handling fees, and tricking consumers
4 into thinking they are getting something for free. This practice is illegal.

5 Accordingly, Heidi Walker brings this lawsuit to enjoin the ongoing defrauding of thousands of
6 California consumers by Defendants, and to recover the money taken by this deceptive practice.

7 **II. THE PARTIES**

8 **A. Plaintiff.**

9 1. Plaintiff Heidi Walker (“Plaintiff”) is a resident of California who purchased “National
10 Park \$2 Bills” in California in 2010.

11 **B. “New England Mint” Defendant.**

12 2. Plaintiff is informed and believes, and upon such information and belief alleges, that
13 the “New England Mint” is a Connecticut company that does business in California.

14 **C. Lipenwald, Inc. Defendant.**

15 3. Plaintiff is informed and believes, and upon such information and belief alleges, that
16 Lipenwald, Inc. is the parent company of the “New England Mint,” and is a Connecticut corporation
17 that does business in California.

18 **D. Doe Defendants.**

19 4. Plaintiff does not know the true names or capacities of the persons or entities sued
20 herein as DOES 1 to 100, inclusive, and therefore sues such defendants by such fictitious names.
21 Plaintiff is informed and believes and thereon alleges that each of the DOE defendants is in some
22 manner legally responsible for the damages suffered by Plaintiff and the members of the class as
23 alleged herein. Plaintiff will amend this Complaint to set forth the true names and capacities of these
24 defendants when they have been ascertained, along with appropriate charging allegations, as may be
25 necessary.

26 **III. JURISDICTION AND VENUE**

27 5. This Court has jurisdiction over all causes of action asserted herein.
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2 6. Venue is proper in this Court because Defendants have received substantial
3 compensation from sales in this County. Specifically, Defendants knowingly engage in activities
4 directed at consumers in this County, and Defendants obtain substantial benefits from their scheme
5 perpetrated in this County.

6 7. Defendants and other out-of-state participants can be brought before this Court pursuant
7 to California's "long-arm" jurisdictional statute.

8 IV. FACTS

9 8. The "New England Mint" and Lipenwald, Inc. ("Defendants") are private companies
10 that sell normal \$2 Bills, worth exactly two dollars, at grossly inflated prices by using deceptive and
11 unethical practices.

12 9. Lipenwald, Inc. is a self described "direct response marketing company" that focuses
13 largely on the less regulated internet advertising forum. They frequently engage in practices such as
14 "negative option marketing," which has recently come under the scrutiny of Congress in the Restore
15 Online Shoppers' Confidence Act, which is set to be signed into law shortly.

16 10. In the present case, Defendants first trick consumers into believing that the "National
17 Park \$2 Bills" they sell are unique bills with decorative print produced by the U.S. Government, and
18 that they are rare. In seeming random fashion, Defendants go so far as to tell consumers that two of
19 their \$2 Bills have a combined value of \$60. In, reality, they are just normal \$2 Bills that are
20 commonly available, with a cheap sticker of a national park scene placed on one side.

21 11. Second, Defendants offer their "National Park \$2 Bills" with another "free" product,
22 typically a second \$2 Bill with a "National Park" sticker. Of course, nothing is really "free," since the
23 grossly inflated price more than covers the two cheap products that consumers are misled into
24 believing are of high value.

25 12. Third, Defendants artificially "discount" the price of their "products," only to make up
26 that money by charging excessive and illegal shipping and handling fees.

27 13. In reality, Defendants are deceptively pushing cheap products at a grossly inflated
28 price, while charging illegal fees, and tricking consumers into thinking they are getting something
valuable for free.

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2 14. Defendants' primary marketing tool for their "National Park \$2 Bills" is their website
3 www.parkbillstv.com/flare/next. (the "website") (See Exhibit 1). As the website opens, the viewer
4 first sees the misleading banner: "UNITED STATES \$2 BILLS Honoring America's National Parks
5 Are Sweeping the Nation" (See screenshot of Exhibit 1 below).



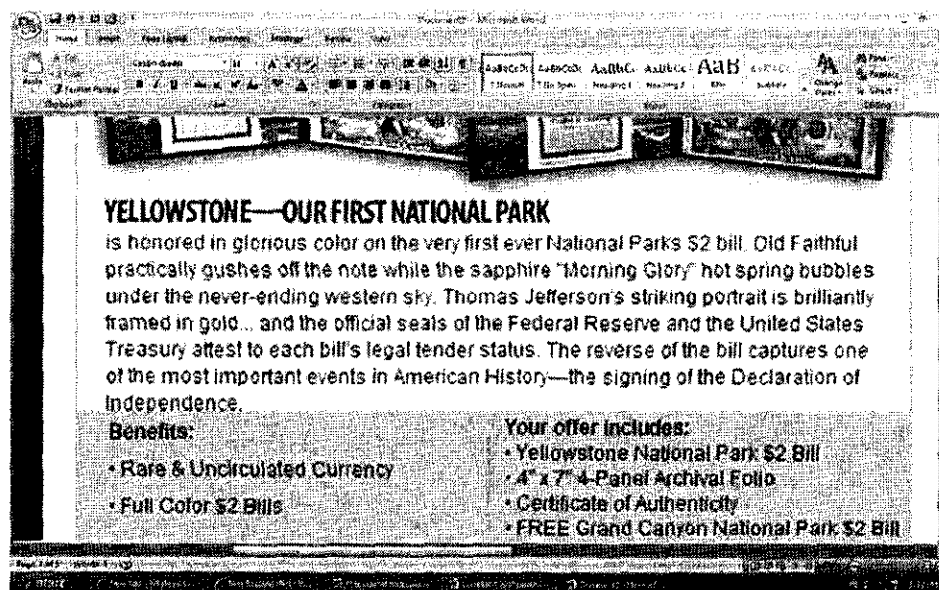
20 15. Also prominently featured on the website is the promotional statement "BUY ONE
21 GET ONE FREE," with the word "FREE" most prominently displayed, as well as the statement that
22 consumers can "Buy the Yellowstone National Park \$2 Bill & Get the Grand Canyon \$2 Bill FREE!"
23 (See screenshot of Exhibit 1 above). While the purchase price is supposedly only \$10, both copies of
24 the \$2 Bill carry an additional \$5.95 processing and handling charge, for a total of \$21.90. (See
25 Exhibit 1).

26 16. In promoting the Yellowstone National Park "\$2 Bill," Defendants use the following
27 text on their website:
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“YELLOWSTONE – OUR FIRST NATIONAL PARK is honored in glorious color on the very first ever National Parks \$2 bill. Old Faithful practically gushes off the note while the sapphire “Morning Glory” hot spring bubbles under the never-ending western sky. Thomas Jefferson’s striking portrait is brilliantly framed in gold... and the official seals of the Federal Reserve and the United States Treasury attest to each bill’s legal tender status. The reverse of the bill captures one of the most important events in American History—the signing of the Declaration of Independence.” (See screenshot of Exhibit 1 below).

Notice that Defendants do not distinguish for the reader which of these “characteristics” appears on the actual \$2 Bill, and which are specific to a *sticker* that is applied to the \$2 Bill. Thus, as far as the consumer is aware, “the sapphire ‘Morning Glory’ hot spring bubbles,” are a characteristic of the actual \$2 Bill they sell, in the same way that “The reverse of the bill captures one of the most important events in American History—the signing of the Declaration of Independence.” In the same vein, the text points out that “the official seals of the Federal Reserve and the United States Treasury attest to each bill’s legal tender status.” This also leads consumers to believe that the \$2 Bills at issue here are unique and different from normal and common \$2 Bills.



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2 17. Defendants also deceive consumers about the actual value of this product by declaring
3 that the “Benefits” are that it is “Rare & Uncirculated Currency” and consists of “Full Color \$2 Bills.”
4 In reality, \$2 Bills are not rare, and are commonly used in circulation. Moreover, there is no such
5 thing as “Full Color \$2 Bills.” Rather, Defendants simply place a sticker on normal, common \$2 Bills.
6 (See screenshot of Exhibit 1 above).

7 18. When consumers open the website, a promotional video begins streaming automatically
8 as well. Set to the background music of America the Beautiful, along with images of picturesque
9 National Park landscapes, a narrator uses deceptive tactics to urge consumers to purchase the
10 “National Park \$2 Bill.”

11 19. The video leads in with the line “America’s national parks are now being honored on
12 genuine U.S. \$2 Bills” and “Don’t miss this incredible opportunity to acquire the very first \$2 Bills
13 honoring America’s national parks.” Of course, this is highly deceptive, since the \$2 Bills were not
14 printed in any unique manner to honor any national parks.

15 20. As in the text highlighted above, the video also refers interchangeably to features on the
16 actual \$2 Bill and features of the sticker placed on the \$2 Bill, without recognizing that distinction or
17 providing any context. (The features described on the video are the same as those identified above in
18 Paragraph 16). Therefore, consumers are again misled into thinking that the \$2 Bill for sale is itself
19 unique.

20 21. Defendants further attempt to deceive consumers about the value of their “product” by
21 describing it on the video as a “once in a lifetime opportunity” “now available to the American
22 public,” and that “\$2 Bills are among the rarest U.S. currencies,” and that “these crisp uncirculated \$2
23 Bills are now being released through this special offer from the new England mint” and come with a
24 “certificate of authenticity.”

25 22. With the assistance of all of the deceitful communications outlined above, Defendants
26 hoped that consumers would be misled into believing it was a good deal to purchase the “Yellowstone
27 \$2 Bill” for \$10, since they would also get the “Grand Canyon 2 Bill” “free.” (See Exhibit 1). Of
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1 course, Defendants have applied a \$5.95 shipping and handling fee to *each* "\$2 Bill", for a total of
2 **\$21.90**. This in spite of the fact that together they constitute a single order. (See Exhibit 2).¹

3 23. Defendants do not want consumers to realize that the **\$10** price tag is a fraud. Yet on
4 Defendants other website, www.newenglandmintcoins.com, they sell the same two products (the
5 "Yellowstone \$2 Bill" together with the "free" "Grand Canyon 2 Bill") for **\$14.95**, plus \$6.95 for
6 shipping and handling, for the same total of **\$21.90**. Therefore, Defendants deceptive claim to offer
7 the "products" for \$10 is thinly veiled. A double shipping and handling fee quickly brings that actual
8 cost back up to **\$21.90**. The second shipping and handling fee is excessive, redundant, and illegal.

9 24. It is common practice between the two websites to put forth many of the same false and
10 misleading assertions to deceive consumers into thinking that the "National Park \$2 Bill" products are
11 unique and valuable, and to offer a supposed "free" item with a purchase. For instance, on the
12 www.newenglandmintcoins.com website consumers are also advised that when they order the
13 "Yellowstone \$2 Bill," they will receive the "Grand Canyon \$2 Bill" for free as a bonus (as in the
14 offer discussed above on www.parkbillstv.com/flare/next). Likewise, consumers are encouraged to
15 sign up for the "National Parks \$2 Bill" Collection, whereby they will purchase each new "National
16 Park \$2 Bill." In exchange for signing up for this "program," consumers receive the "Yellowstone
17 National Park State Quarters" for free.

18 25. In sum, by deceiving consumers into having grossly inflated notions of the value of the
19 "National Parks \$2 Bills," and by supposed "deals" of receiving "free" items (that consumers actually
20 pay for in the form of hugely inflated prices for normal \$2 Bills with stickers on them), Defendants
21 have conned consumers out of hundreds of thousands of dollars. In addition, Defendants have
22 deceived consumers by artificially "discounting" the price of their "product," and then charging
23 redundant, excessive, and illegal shipping and handling fees to quickly bolster their profits.

24 26. Ms. Walker ordered and purchased the "Yellowstone \$2 Bill," and the supposedly
25 "free" accompanying "Grand Canyon \$2 Bill." In addition to these products, Defendants randomly
26 added ten other \$2 Bills to her order, for which they charged a further \$119.50. On top of that,

27 _____
28 ¹ While the advertised price is \$10, the price in the invoice in Exhibit 2 is \$14, which reflects a \$2 folio upsell option on each \$2 bill.

1 Defendants charged Ms. Walker \$25.80 in shipping and handling fees in an illegal and excessive
2 manner. (See Exhibit 2).

3 27. Accordingly, Ms. Walker brings this lawsuit to enjoin the ongoing defrauding of
4 thousands of California consumers by Defendants "New England Mint" and Lipenwald, Inc., and to
5 recover the money taken by this illegal practice.

6 **V. CLASS ACTION ALLEGATIONS**

7 28. Plaintiff brings this class action for damages and other monetary relief on behalf of the
8 following class:

9 All persons located within California who purchased any "National
10 Parks \$2 Bill" product at any time during the four years preceding the
11 filing of this Complaint (the "Class").

12 29. Excluded from the Class are governmental entities, Defendants, any entity in which
13 defendants have a controlling interest, and Defendants' officers, directors, affiliates, legal
14 representatives, employees, co-conspirators, successors, subsidiaries, and assigns. Also excluded from
15 the Class is any judge, justice, or judicial officer presiding over this matter and the members of their
16 immediate families and judicial staff.

17 30. The proposed Class is so numerous that individual joinder of all its members is
18 impracticable. Due to the nature of the trade and commerce involved, however, Plaintiff believes that
19 the total number of Class members is at least in the tens of thousands and members of the Class are
20 numerous and geographically dispersed across California. While the exact number and identities of
21 the Class members are unknown at this time, such information can be ascertained through appropriate
22 investigation and discovery. The disposition of the claims of the Class members in a single class
23 action will provide substantial benefits to all parties and to the Court.

24 31. There is a well-defined community of interest in the questions of law and fact involved
25 affecting the plaintiff class and these common questions predominate over any questions that may
26 affect individual Class members. Common questions of fact and law include, but are not limited to,
27 the following:
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2 (a) Whether Defendants' have violated Business & Professions Code § 17537 by
3 charging excessive and illegal fees and charges for their "Free" products, or by
4 offering a majority of their sales in conjunction with the offer of a "free" item.

5 32. Plaintiff's claims are typical of the claims of the members of the Class. Plaintiff and all
6 members of the Class have been similarly affected by Defendant's common course of conduct since
7 every class member paid Defendants excessive amounts of money to receive a product advertised as
8 "Free."

9 33. Plaintiff will fairly and adequately represent and protect the interests of the Class.
10 Plaintiff has retained counsel with substantial experience in handling complex class action litigation.
11 Plaintiff and her counsel are committed to vigorously prosecuting this action on behalf of the Class
12 and have the financial resources to do so. Plaintiff has retained a law firm that is widely recognized as
13 one of the most successful and effective class action litigators in California, and whose victories have
14 been publicized on CNN, Fox News, MSNBC, and nearly every major California newspaper. The
15 firm has also been certified as lead class counsel in similar class actions.

16 34. Plaintiff and the members of the Class suffered, and will continue to suffer, harm as a
17 result of Defendants' unlawful and wrongful conduct. A class action is superior to other available
18 methods for the fair and efficient adjudication of the present controversy. Individual joinder of all
19 members of the class is impracticable. Even if individual class members had the resources to pursue
20 individual litigation, it would be unduly burdensome to the courts in which the individual litigation
21 would proceed. Individual litigation magnifies the delay and expense to all parties in the court system
22 of resolving the controversies engendered by Defendants' common course of conduct. The class
23 action device allows a single court to provide the benefits of unitary adjudication, judicial economy,
24 and the fair and efficient handling of all class members' claims in a single forum. The conduct of this
25 action as a class action conserves the resources of the parties and of the judicial system and protects
26 the rights of the class members. Furthermore, for many, if not most, a class action is the only feasible
27 mechanism that allows an opportunity for legal redress and justice.

28 35. Adjudication of individual class members' claims with respect to the Defendants
would, as a practical matter, be dispositive of the interests of other members not parties to the

1 adjudication, and could substantially impair or impede the ability of other class members to protect
2 their interests.

3
4 **VI. CAUSE OF ACTION**
5 **VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS**
6 **CODE SECTION 17537**

7 **(By Plaintiff and On Behalf of the Class as against All Defendants)**

8 36. Plaintiff incorporates by this reference the allegations contained in paragraphs 1
9 through 35 above as if fully set forth herein.

10 37. Defendants' business practices constitute unlawful advertising within the meaning of
11 California Business and Professions Code section 17537 ("§ 17537").

12 38. Defendants have:

- 13 a. Used the term "free" and other terms similar to "prize" or "gift" in a manner
14 that is untrue and misleading. (*See* § 17537(a));
15 b. Charged class members a shipping charge that "exceeds the average cost of
16 postage or the average charge of a delivery service in the business of delivering
17 goods of like size, weight, and kind for shippers other than the offeror of the gift
18 for the geographic area in which the gift is being distributed." (*See* § 17537
19 (c)(1)); and
20 c. Charged class members a handling charge that, "(A) is not reasonable, or (B)
21 exceeds the actual cost of handling, or (C) exceeds the greater of three dollars
22 (\$3) in any transaction or 80 percent of the actual cost of the gift item to the
23 offeror or its agent." (*See* § 17537 (c)(2)).

24 39. Moreover, Defendants are in per se violation of Section 17537(c)(4) because a majority
25 of their relevant sales in the last year and during the class period were "made in conjunction with the
26 offer of a gift" in violation of Section 17537(c)(4)).

27 40. Pursuant to § 17537 of the California Business and Professions Code, Plaintiff and the
28 Class seek an order of this court enjoining Defendants from continuing to engage in unlawful
advertising and any other act prohibited by law, including those set forth in the complaint. Plaintiff

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and the Class also seek an order requiring Defendants to make full restitution of all moneys it wrongfully obtained from Plaintiff and the Class, and to pay a fine of \$2,500 for each violation of § 17537.


PRAYER FOR RELIEF

Wherefore, Plaintiff and members of the Class request that the Court enter an order or judgment against Defendants as follows:

- 1. Certification of the proposed classes and notice thereto to be paid by Defendants;
- 2. Adjudge and decree that Defendants have engaged in the conduct alleged herein;
- 3. For restitution and disgorgement;
- 4. For an injunction ordering Defendants to cease and desist from engaging in the unlawful practices alleged in the Complaint;
- 5. For compensatory, general, statutory, exemplary, punitive, and any other damages legally available;
- 6. For both pre and post-judgment interest at the maximum allowable rate on any amounts awarded;
- 7. Costs of the proceedings herein;
- 8. Reasonable attorneys' fees as allowed by statute; and
- 9. Any and all such other and further relief that this Court may deem just and proper.

Dated: January 6, 2011

NEWPORT TRIAL GROUP
A Professional Corporation
Scott J. Ferrell

By: 
Scott J. Ferrell

Attorney for Plaintiff and the Class

New England Mint's Yellowstone National Park \$2 Bill - Official Site parkbills.com - Windows Internet Explorer

http://parkbills.com

Norton

Google

New England Mint's Yellowstone National Park \$2 Bill

UNITED STATES \$2 BILLS
Honoring America's National Parks Are Sweeping the Nation...

BUY ONE | GET ONE FREE

OFFICIAL RELEASE
Americans from all over the country are rushing to obtain the new Genuine Yellowstone Two Dollar bill, while they last. But now when you purchase Yellowstone, you get the magnificent Grand Canyon National Park two dollar bill as a bonus!

ORDER NOW!



New England Mint's Yellowstone National Park \$2 Bill - Official Site parkbills.com - Windows Internet Explorer

http://parkbills.com

Norton

Google

New England Mint's Yellowstone National Park \$2 Bill

YELLOWSTONE—OUR FIRST NATIONAL PARK
is honored in glorious color on the very first ever National Park \$2 bill. Old Faithful practically gushes off the note while the sapphire "Flaming Glory" hot spring bubbles under the never-ending western sky. Thomas Jefferson's stirring portrait is brilliantly framed in gold... and the capital seal of the Federal Reserve and the United States Treasury attest to each bill's legal tender status. The reverse of the bill captures one of the most important events in American history—the signing of the Declaration of Independence.

Benefits:

- Rare & Uncollected Currency
- Full Color \$2 bills

Your offer includes:

- Yellowstone National Park \$2 Bill
- 4x 4x Paper Archival Folio
- Certificate of Authenticity
- FREE Grand Canyon National Park \$2 Bill

GRAND CANYON NATIONAL PARK
ARIZONA - ESTABLISHED: 1895

ORDER NOW!

MONEY BACK GUARANTEE

Other Details: Each authorized Yellowstone National Park \$2 Bill order for only \$10.00. CT Residents add sales tax to your total price.

Customer Service & Privacy Policy

CT Residents add sales tax to your total price.

Subscribe Now

Yes No



Buy, the Smarter Way

Now how you can get access to direct insider prices on over 700 of your favorite brands all at one exclusive club. This information retailers don't want you to see!

Order Confirmation

Shipping Information
Heidi Walker
388 W 44th Street
San Bernardino9, CA 92407
heidi-walker@hotmail.com

Billing Information
Heidi Walker
388 W 44th Street
San Bernardino9, CA 92407
heidi-walker@hotmail.com



Print page for your records

Product Name	No. of Payments	Price	Quantity	Total
Yellowstone National Park \$2 Bill & Grand Canyon National Park \$2 Bill	1	14.00	1	14.00
Set of 5 Yellowstone National Park \$2 Bills	1	59.75	1	59.75
Set of 5 Grand Canyon National Park \$2 Bills	1	59.75	1	59.75

Subtotal \$133.50
Shipping Amount \$25.80
Tax Amount \$0.00
Total Amount \$159.30

Thank you for your order! It is being processed and will be shipped promptly!

[Customer Service](#) | [Privacy Policy](#)

CT residents add sales tax to your total order. Continental U.S., AK, HI, PR, VI & GU orders only. Please allow 2-3 weeks for delivery. All products have a 30-Day Money Back Guarantee (Minus P&H).

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Your friend's email goes here.