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8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**

9 **IN AND FOR THE COUNTY OF MARICOPA**

10 STATE OF ARIZONA, *ex rel.* THOMAS C.
11 HORNE, Attorney General,

11 Plaintiff,

12 vs.

13 GINO NICCOLI, a single man; NATIONAL
14 BANKCARD MONITOR, LLC, an Arizona
15 limited liability company; and FINANCIAL
16 INTEREST STRATEGIES, LLC, f/k/a
17 FEDERAL INTEREST SAVINGS, LLC, an
18 Arizona limited liability company,

17 Defendants,

18 GLOBAL PAYMENTS, INC.,

19 Relief Defendant.

Case No.:

CV 2013-010992

COMPLAINT

21 Plaintiff, State of Arizona, *ex rel.* Thomas C. Horne, Attorney General, alleges as
22 follows:

23 **I. NATURE OF CLAIMS**

24 1. Defendant Gino Niccoli and his companies National Bankcard Monitor LLC and
25 Financial Interest Strategies LLC formerly known as Federal Interest Savings LLC, operating
26

1 from Arizona, utilized call centers throughout the United States and Canada to telemarket offers
2 to save consumers from \$2,000 to \$5,000 in interest on their credit cards.

3 2. Defendants convinced consumers to purchase their services by offering to help
4 them obtain new lower interest rate credit cards and to negotiate with the credit card companies
5 on their behalf for lower interest rates. The actual product provided was a self-help financial kit
6 or an accelerated payoff plan.

7 3. A customer who agreed to make a purchase from Defendants' telemarketers was
8 immediately charged a fee of \$599.00 to \$1,499.00 or more via credit card, reassured by the
9 offer of a money-back guarantee if the promised savings did not materialize.

10 4. Defendants claim that they met their guarantee because the payoff plan, if
11 followed, would save consumers the promised amount of \$2,000.00 to \$5,000.00 in interest
12 payments over time.

13 5. Defendants did not comply with provisions of Arizona law that required
14 telemarketers to register, obtain bonds, provide certain helpful disclosures to consumers,
15 including notices on how to cancel, and provide a mandatory time period allowing cancellation
16 and refunds.

17 **II. JURISDICTION AND VENUE**

18 6. This action is brought pursuant to the Arizona Consumer Fraud Act and the
19 Arizona Telephone Solicitations Act to obtain injunctive relief to prevent the unlawful acts and
20 practices alleged in this Complaint and other relief, including restitution, civil penalties, costs of
21 investigation and attorney's fees.

22 7. This Court has jurisdiction to enter appropriate orders both prior to and following
23 a determination of liability pursuant to the Arizona Consumer Fraud Act, A.R.S. § 44-1528.

24 8. Venue is appropriate in Maricopa County pursuant to A.R.S. § 12-401.

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1 **III. PARTIES**

2 9. Plaintiff is the State of Arizona, upon relation to Thomas C. Horne, its Attorney
3 General.

4 10. Defendant Gino Niccoli, a resident of Pinal County, Arizona, is the sole manager
5 and member of Defendant National Bankcard Monitor, LLC and the sole manager and
6 member of Defendant Financial Interest Strategies, LLC f/k/a Federal Interest Savings, LLC,
7 which are Arizona limited liability companies located in Maricopa County, Arizona.

8 11. Defendant National Bankcard Monitor, LLC is an Arizona limited liability
9 company located in Maricopa County, Arizona.

10 12. Defendant Financial Interest Strategies, LLC f/k/a Federal Interest Savings, LLC
11 is an Arizona limited liability company located in Pinal County, Arizona.

12 13. Relief Defendant Global Payments, Inc., a Georgia corporation that conducts
13 business in Maricopa County, Arizona, is named as a Defendant solely because it is in
14 possession of proceeds of the consumer fraud alleged herein. Any reference to "Defendants"
15 in this Complaint does not include Global Payments Inc.

16 **IV. FACTUAL BACKGROUND**

17 14. From on or about April 2010 to January 2013, Defendants telemarketed credit
18 card interest rate reduction services to consumers in the United States from locations within
19 Arizona, the United States and Canada.

20 15. Defendants claimed to have the ability to substantially reduce consumers' credit
21 card interest rates.

22 16. Defendants claimed that their interest rate reduction services would provide
23 substantial savings to consumers, typically at least \$2,000.00, in a short period of time, and
24 would enable consumers to pay off their debt much faster without increasing their monthly
25 payments.

1 17. Defendants guaranteed that if they could not show consumers savings,
2 consumers would receive a full refund of the cost of Defendants' services.

3 18. In some instances, Defendants' sales personnel informed consumers that they
4 qualified for this program because of their history of timely credit card payments, although
5 Defendants did not have actual access to consumers' credit history.

6 19. Defendants charged consumers a fee ranging from \$599.00 to \$1,499.00 for their
7 services. Defendants typically placed this charge on consumers' credit cards during or
8 immediately following the telemarketing calls. Defendants typically represented that there
9 were no "out of pocket" expense because the costs would be quickly offset by savings
10 achieved through reduced interest rates.

11 20. After consumers paid Defendants' fee, Defendants usually sent consumers forms
12 to complete and return listing all of the consumers' credit card account information and other
13 sensitive personal information such as date of birth and Social Security Number.

14 21. In some instances, after consumers completed and returned Defendants' forms,
15 Defendants initiated three-way telephone calls with the consumers and the customer service
16 departments of credit card companies that consumers listed on the forms. These three-way
17 telephone calls merely consist of Defendants verbally requesting (or prompting consumers to
18 verbally request) that the credit card companies reduce the consumers' credit card interest
19 rates. This is a task consumers could easily perform themselves.

20 22. In numerous instances Defendants failed to provide consumers with a reduction
21 in credit card interest rates, or new lower interest rate credit accounts.

22 23. Defendants claimed that they met the minimum savings promised during the
23 initial telephone call by providing an accelerated payoff plan suggesting the consumer pay off
24 their higher interest rate debt first and continue to make the same total payment amount as the
25 debts are paid off. Defendants claimed that this plan provides the promised savings.
26

1 24. Defendants claimed that they met their guaranteed interest rate savings by
2 providing the accelerated payoff plan when consumers were expecting their actual credit card
3 interest rates to be lowered.

4 **V. VIOLATIONS OF THE ARIZONA CONSUMER FRAUD ACT**

5 25. The State re-alleges the prior allegations of this Complaint as though fully set
6 forth herein.

7 26. Beginning in April 2010 and continuing until January 2013, Defendants, in
8 connection with the sale and advertisement of merchandise, as described in the above
9 allegations, used or employed deception, deceptive acts or practices, fraud, false pretenses,
10 false promises, misrepresentations or concealment, suppression or omission of material fact
11 with the intent that others rely on such concealment and/or suppression or omission in
12 violation of A.R.S. § 44-1522(A).

13 27. In all matters alleged in the preceding paragraphs, Defendants acted willfully,
14 subjecting themselves to enforcement and penalties as provided in A.R.S. § 44-1531(A).

15 **VI. VIOLATIONS OF THE ARIZONA TELEPHONE SOLICITATIONS ACT**

16 28. From on or about April 2010 to November 2012, Defendant Niccoli's
17 companies, Defendant National Bankcard Monitor LLC, followed by Defendant Financial
18 Interest Strategies, LLC f/k/a Federal Interest Savings, LLC, telemarketed credit card interest
19 rate reduction services to consumers in the United States

20 29. Defendants Niccoli, National Bankcard Monitor LLC and Financial Interest
21 Strategies LLC were "sellers" as defined under the Arizona Telephone Solicitations Act,
22 A.R.S. § 44-1271, et seq. As "sellers" Defendants were required to comply with the mandates
23 of the Act.

24 30. Defendants Niccoli, National Bankcard Monitor LLC and Financial Interest
25 Strategies LLC solicited consumers by telephone without filing a verified registration
26 statement with the Arizona Secretary of State as set forth in A.R.S. §44-1272.

1 31. Defendants Niccoli, National Bankcard Monitor LLC and Financial Interest
2 Strategies LLC solicited consumers by telephone without first filing a bond in the amount of
3 one hundred thousand dollars (\$100,000.00) with the Arizona State Treasurer as required in
4 A.R.S. § 44-1274.

5 32. Defendants Niccoli, National Bankcard Monitor LLC and Financial Interest
6 Strategies LLC did not provide the Notice of Cancellation mandated by A.R.S. 44-1276(D) or
7 honor consumers' right to cancel as mandated by A.R.S. § 44-1276 (C).

8 33. Defendants Niccoli, National Bankcard Monitor LLC and Financial Interest
9 Strategies LLC did not honor consumers' right to rescind a sale by an unregistered seller at
10 any time pursuant to A.R.S. § 44-1279.

11 34. While engaging in the acts and practices alleged above, Defendants Niccoli,
12 National Bankcard Monitor LLC and Financial Interest Strategies LLC acted willfully as
13 defined by A.R.S. § 44-1531(B).

14 35. The actions described in paragraphs 28-34 above, constitute violations of the
15 Arizona Telephone Solicitations Statute, A.R.S. § 44-1271, *et seq.* and unlawful practices
16 under the Arizona Consumer Fraud Act, A.R.S. § 44-1522 *et seq.*

17 **PRAYER FOR RELIEF**

18 WHEREFORE, Plaintiff respectfully requests that the Court:

19 1. Prohibit Defendants from violating the Arizona Consumer Fraud Act,
20 A.R.S. § 44-1521 *et seq.*

21 2. Prohibit Defendants from violating the Arizona Telephone Solicitations Act,
22 A.R.S. § 44-1271, *et seq.*

23 3. Prohibit Defendants and all persons in active concert or participation with them
24 from engaging in the course of conduct alleged herein.

25 4. Prohibit Defendants from engaging in, receiving any remuneration of any kind
26 whatsoever from, holding any ownership interest, share or stock in, or serving as an officer

1 director, employee or trustee of any business entity engaged, in whole or in part, in the
2 advertisement and/or sale of any service or merchandise that uses outbound telemarketing as a
3 means to generate sales from a location in Arizona or to any consumer located in Arizona.

4 5. Order Defendants to restore to all persons any money that was acquired by any
5 means or practice alleged herein to be in violation of any of the above-mentioned acts,
6 pursuant to A.R.S. § 44-1528.

7 6. Order Defendants to pay the State of Arizona a civil penalty of up to ten
8 thousand dollars (\$10,000.00) for each violation of the Consumer Fraud Act pursuant to
9 A.R.S. § 44-1531.

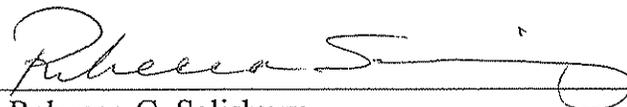
10 7. Order Defendants to pay the State of Arizona its investigative and attorneys'
11 costs and fees relating to this lawsuit.

12 8. Order Relief Defendant Global Payments, Inc. to pay to the State monies held in
13 Defendants' reserve account(s) for payment of consumer restitution, attorneys' fees and civil
14 penalties.

15 9. Order other and further relief as the Court may deem just and proper.

16 RESPECTFULLY SUBMITTED this 13th day of August, 2013.

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18 Thomas C. Horne
Attorney General

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20 Rebecca C. Salisbury
Assistant Attorney General
21 Attorneys for Plaintiff
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