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NEVADA RESIDENT SENTENCED FOR ROLE IN FRAUDULENT TELEMARKETING SCHEME

A. Courtney Cox, United States Attorney for the Southern District of Illinois, announced today that on September 5, 2008, **KYLE KIMOTO**, age 33, at the time a resident of St. George, Utah, and now residing in Las Vegas, Nevada, through his company, Assail, Inc., a Nevada Corporation whose principal place of business was St. George, Utah, and doing business with the public under the names of First Financial Solutions, First Choice Solutions, Advantage Capital, Capital First, Premier One, Bay Area Business Council and American Leisure Card, was sentenced to a term of imprisonment of 350 months and was ordered to pay restitution in the amount of $34,915,321.31. When he is released from prison, he will also have to serve a term of supervised release of 5 years.

Kimoto was found guilty by a jury after a 2 week trial which ended on April 18, 2008. Kimoto was convicted of all counts in a 14 count indictment charging him with various offenses arising out of an alleged telemarketing scheme which victimized over 300,000 consumers throughout the United States out of approximately $43 million. The indictment alleges that the scheme operated out of Utah and utilized a network of U.S. outbound call centers Kimoto organized in Utah, Kansas, Oregon, Idaho, Arizona, Virginia, Florida;Carribean outbound call centers in Grenada, St. Lucia, St. Vincents; an outbound call center in Toronto, Canada; and outbound call centers in India. The indictment alleged that the scheme was so pervasive, there were victims in 34 of the 38 counties comprising the Southern District of Illinois.

At the sentencing hearing, the government estimated that Kimoto's telemarketing scam made over 12 million telephone calls to consumers in the United States in an attempt to defraud them, a rate of one call for every 22.6 adults in the United States.

The indictment alleged that the defendant, and his co-conspirators, obtained lead lists of consumers who had applied for and had been turned down for credit cards. Utilizing these lists, a cold call was made to consumers by telemarketers. According to the indictment, the telemarketer would begin the conversation by telling the consumer that "our records indicate that within the past 12 months, you filed an application for a credit card and you are now eligible to receive your MasterCard.,"implying that the caller was calling from the consumer's financial institution. The telemarketer would then ask the consumer questions about her monthly income "to verify that my records are still correct." After the consumer provided the information, he/she would be put on hold "for computer authorization" after which the consumer would be told that she was to receive a "MasterCard." The consumer was further told that the card would improve the consumer's credit rating, specifically through Equifax. After paying what was characterized as a "one time" processing fee of anywhere from $159 to several hundred dollars, the consumers generally received a "benefits package." Rather than containing a credit card as promised, the package contained an application for a stored value MasterCard, a form of debit card that had no credit line and which had to be "loaded" with funds before it could be used. For several of the programs sold by Kimoto, that application, the indictment alleges, had to be submitted with an *additional* fee of $15.00 to receive a debit card which had no money loaded on the card.

The defendant was convicted of one count of Conspiracy to Commit Mail Fraud, Wire Fraud and Money Laundering, one count of Mail Fraud, and twelve counts of Wire Fraud. The violations took place from about January, 2001 through approximately October 25, 2002 in 34 of the 38 counties comprising the Southern District of Illinois and other locations throughout the United States.

The Federal Trade Commission, in a related civil enforcement action, obtained an injunction against Kimoto and Assail on September 22, 2003, in the United States District Court for the Western District of Texas in Waco, banning Kimoto and Assail permanently from engaging in any telemarketing activities in the future. That same court entered a monetary judgement against Kimoto and Assail and in favor of the Federal Trade Commission in the amount of $105.7 million on September 24, 2004. A co-defendant, who is alleged in the indictment to have conspired with Kimoto, entered a plea of guilty to a 19 count indictment arising out of the same investigation. He was sentenced on October 29. 2007 to a term of imprisonment of 156 months.

The case was investigated by the U.S. Postal Inspection Service, and Internal Revenue Service Criminal Investigation in Reno, Nevada, with substantial assistance from the Federal Trade Commission in Chicago and Washington, DC. The case was prosecuted by Assistant U.S. Attorney Bruce E. Reppert.