

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS

FILED

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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

UNITED STATES OF AMERICA,)
)
Plaintiff,)
)
vs.)
)
CHRISTOPHER D. COWART,)
)
CRIS D. SAGNELLI)
)
Defendants.)

Case No: 10 CR 30199-GPM

Title 18
United States Code
Section 1342

INFORMATION

THE UNITED STATES ATTORNEY CHARGES:

I. Introductory Statement

1. Between sometime in June, 2007, until on or about the 15th day of May, 2009, in St. Clair, Madison, Clay, Clinton, Fayette, Jackson, Jefferson, Jersey, Johnson, Marion, Randolph, Richland, Saline, Washington, Wayne, and Williamson Counties, within the Southern District of Illinois, and elsewhere, CHRISTOPHER D. COWART and CRIS D. SAGNELLI, and others known and unknown, doing business as Transcontinental Warranty (“Transcontinental”), conducted an automobile “warranty” telemarketing scheme targeting consumers nationwide. Transcontinental telemarketers falsely implied that they were calling from, or were affiliated with automobile manufacturers, represented that the consumer’s factory warranty had expired or was about to expire, and offered consumers the opportunity to extend or reinstate their factory warranty. In fact, Transcontinental Warranty had no affiliation, directly or indirectly, with any

of the automobile manufacturers, in most cases had no objective basis to assert that the consumer's factory warranty had expired or was about to expire, and had no ability to extend or reinstate a manufacturer's warranty. What Transcontinental Warranty sold instead were vehicle service contracts on behalf of independent third party companies, contracts which provided some coverage for automobile repairs similar to, but not identical to, that of a factory warranty.

2. In a roughly twenty three month period, Transcontinental took in approximately \$40 million from over 15,000 consumers in all fifty states, the District of Columbia and Puerto Rico, from consumers in two Canadian provinces, Ontario and British Columbia, and from consumers in fifteen (15) of the thirty eight (38) counties that comprise the Southern District of Illinois.

II. Background and Participants

3 Christopher Cowart is a Florida resident and was the owner and President of Transcontinental Warranty, Inc. ("Transcontinental"). He controlled and directed the activities of Transcontinental Warranty as described in this Information.

4 Cris D. Sagnelli, who also used the alias "Chris Sage," was the Vice President and General Manager of Transcontinental. He, together with Cowart, controlled and directed the activities of Transcontinental's telemarketers

5. Transcontinental Warranty, Inc is a Delaware Corporation which had its principal place of business in Fort Lauderdale, Florida. Transcontinental was formerly known as Transamerica Warranty, but was forced to change its name because the name Transamerica misled customers to believe it had an affiliation with a legitimate insurance company by that name.

6. Trancontinental was a direct marketer of vehicle service contracts and automobile product additives provided by third party administrators. A “vehicle service contract” is like an insurance policy and covers certain listed vehicle repairs. Although similar in some respects to an automobile factory warranty, there are many differences and vehicle service contracts do not generally afford the same coverage for repairs that are afforded by factory warranties.

Trancontinental had contracts to telemarket vehicle service contracts provided by a dozen independent companies referred to in the industry as “administrators.” The “administrators” had no relationship with automobile manufacturers and were not “administrators” for anyone.

Administrators were independent companies that actually provided the vehicle service contracts to customers, including Trancontinental customers, and received and paid automobile repair claims covered by the particular terms of their contract. Trancontinental doubled or tripled the cost charged by the companies providing the contracts and kept the difference as its profit.

7. Trancontinental and the administrators with whom it had contracts also had contracts with finance companies which specialized in financing consumer vehicle service contracts. Most vehicle service contracts sold by direct marketers were financed by these finance companies.

8. Trancontinental, as the direct marketer of vehicle service contracts, in turn had contracts with a Florida corporation which will hereinafter be referred to as VT, Inc. (“VT”). VT was located in Daytona Beach, Florida, and was engaged in the business of blasting automated telephone calls to consumers throughout the United States with a pre recorded message regarding purported automobile “warranties.” This was a service that was variously known as “voice broadcasting” or “robocalling.” (hereinafter “robocalling”). VT, and other companies engaged

in robocalling, utilized equipment that could automatically dial every telephone number in an area code, play a pre-recorded message related to the purported expiration of the factory warranty on the consumer's automobile, and then transfer the call to an auto "warranty" direct marketer, like Transcontinental. Consumers, businesses and government offices throughout the United States were inundated by a tsunami of unsolicited and unwanted calls pitching auto "warranties." The calls were relentless and the recipients of these calls for the most part found it impossible to make them stop. Many received a dozen or more of these unwanted calls per week. Robo dialers blasted residential, business phones, and cell phones alike. The robocalling equipment did not discriminate between those with automobiles and those without, and many consumers who did not even own a vehicle were plagued with pre recorded messages advising them that the factory warranty on their automobile was about to expire. One robodialer for Transcontinental bragged that his company could dial every telephone in the United States in three hours.

9. None of the companies whose vehicle service contracts were being sold by Transcontinental described their coverage as a "warranty." Instead, they were described as "vehicle service contracts," or "service contracts," or words of similar import. Presumably, the vehicle service contracts were not described by their issuers as "warranties" because they weren't in fact "warranties." "Warranty" is defined in federal law, the Magnuson Moss Warranty Act, 15 U.S.C. §2301 *et seq*, as a written promise made *in connection with the sale of a consumer product by a supplier* to a buyer which relates to the nature of the material or workmanship or a promise by that supplier to repair or take other remedial action in the event the product does not meet the specifications of the agreement between the consumer and the supplier. Under the Uniform Commercial Code, in effect in 49 of the 50 states of the United States, a "warranty" is

something given by the “seller” of goods. In both cases, a “warranty” is given by either the manufacturer of the product or the seller of the product, or both. The word “warranty” is not commonly used in any other sense under either federal or state law. The word “warranty” was used by direct marketers of vehicle service contracts, including Transcontinental, in order to confuse and deceive consumers into believing that what was being sold was an extension or reinstatement of a factory warranty by the manufacturer, rather than the sale of a vehicle service contract that was offered by an independent third party not necessarily backed by a major corporation or insurance company, and was different than the factory warranty.

10. Telemarketing is a regulated business and is subject to many statutes, rules and regulations. The Federal Telemarketing Sales Rule requires, among its many provisions, that a telemarketer disclose “promptly” the true identity of the seller. Similarly, under Florida law, governing the conduct of Transcontinental’s Florida telemarketing call centers, a telemarketer is required to disclose the identity of the company for whom the solicitation is made within the first thirty seconds of the call. Contracts between Transcontinental and the administrators, whose vehicle service contracts Transcontinental was selling, variously required that Transcontinental familiarize itself with applicable state and federal law, which included the Telemarketing Sales Rule, and follow those rules. In one such contract, the specific requirements of the Federal Trade Commission’s telemarketing sales rule, and its application to the sale of vehicle service contracts, were spelled out in detail for Transcontinental including specifically the need to disclose the caller’s true identity and the need to avoid confusion in the mind of the consumers as to whether they were dealing directly with the automobile manufacturer or an independent third party. Notwithstanding those legal and contractual requirements, Transcontinental telemarketers

utilized sales scripts that identified neither Transcontinental's name nor the name of the individual administrator whose contract Transcontinental was pitching over the phone. Instead, Transcontinental telemarketing scripts called for its telemarketer to represent that they were calling from the "Warranty Service Center," a false and fictitious name intended to mislead consumers into thinking that they were being called from the manufacturer of their vehicle.

11. On May 15, 2009, Transcontinental Warranty, Inc was placed in receivership by order of a U.S. District Judge in the Northern District of Illinois. Transcontinental remains in receivership.

III. The Scheme

12. Transcontinental's principal method of making initial contact with consumers was voice blasting and robodialing. Robodialers operating at the behest of Transcontinental blasted millions of automated telemarketing calls to consumers throughout the United States with various pre-recorded messages which warned the consumer that the factory warranty on their vehicle was about to expire. Neither the robodialer nor Transcontinental had any objective basis to assert that the recipient of the robo-call even had an automobile, much less one with a factory warranty that was about to expire. The robo-calls did not disclose the name of telemarketer or the company on whose behalf they were calling.

13. The robo-call generally gave the consumer the option to press "1" to be connected with a warranty specialist and to press "2" to be placed on a company do not call list. Many who received these calls were already on the national Do Not Call Registry established by the Federal Trade Commission and the Federal Communications Commission under authority granted to

them by Congress in the Telephone Consumer Protection Act of 1991, the Telemarketing and Consumer Fraud and Abuse Prevention Act of 1994 and the Do Not Call Implementation Act of 2003.

14. When the consumer pressed "1" to be connected to a so called "warranty specialist," often in an attempt to speak to a live person in order to make the robo-calls stop, they spoke to a Transcontinental telemarketer equipped with a telemarketing script. The script directed the telemarketer to introduce themselves by saying "Good (morning/afternoon/evening), *Warranty Service Center*, this is _____ speaking." "Warranty Service Center" was not a business name for Transcontinental or any of its vehicle service contract providers and was intended to convey the impression that the call was from the "warranty service center" of the automobile manufacturer.

15. After requesting the consumer to provide the year, model and mileage of the vehicle, the telemarketer was instructed to say to the consumer: "[p]lease allow me to put you on hold while I pull up your information." This statement was intended to imply that the telemarketer already had information pertaining to the consumers's vehicle and thus create the impression that the caller had a pre-existing business relationship with the consumer, namely, that they were from the manufacturer or automobile dealer, or were affiliated with or acting on behalf of the manufacturer or dealer. This statement was also intended to falsely imply that the telemarketer actually had specific information about the consumer's factory warranty and knew that the consumer's warranty had expired or about to expire.

16. After purportedly pulling up the information about the consumer's vehicle, the telemarketer was instructed to tell the consumer that the consumer had been sent several pieces

of mail advising them that their warranty was about to expire or had expired. According to the telemarketer, the purpose of the call was to give them “one last courtesy call to extend your warranty or reinstate it.” In so far as Transcontinental had no relationship whatsoever with either the automobile manufacturer or the dealer who sold the consumer his or her car, it was both legally and factually impossible for Transcontinental to either “extend” or “reinstate” the automobile manufacturer’s factory warranty. In fact, no administrator whose vehicle service contract was being hawked by Transcontinental purported to be able to “extend” or “reinstate” the consumer’s factory warranty and Transcontinental’s characterizing of the vehicle service contracts they were selling was totally fraudulent.

17. After advising the consumer that they were getting “one last courtesy call” to “extend” or “reinstate” their factory warranty, the telemarketer was instructed to inform the consumer that their “warranty” would be honored at a named automobile manufacturer’s dealerships. Thus someone with a Ford vehicle would be told that “your warranty will be honored at all Ford dealerships.” Since neither Transcontinental nor any of the vehicle service contract providers whose contracts Transcontinental was selling had any relationship with Ford, there was no way that they could guarantee that Ford or any Ford dealership would “honor” the vehicle service contract they were passing off as an extended or reinstated Ford factory warranty.

18. Ford’s name, or the name of the other respective automobile manufacturers, was the only name, other than “Warranty Service Center,” that was disclosed to the consumer in the sales scripts. The name of the automobile manufacturer, though appearing in the context of where the so called “warranty” would be honored, was intended to further strengthen the association in the consumer’s mind between the manufacturer of their vehicle and the

telemarketer on the phone. Given the lack of disclosure of any other name other than “Warranty Service Center” and “Ford,” or the name of other respective automobile manufacturers, the clear intent of the sale script was to mislead consumers into believing that they were being called by the manufacturer or someone directly associated with the manufacturer.

19. Instead of receiving a reinstatement or extension of the factory warranty as the telemarketing suggested, what the consumer was provided was a vehicle service contract backed in many cases by a self funded “risk retention group,” something other than a major automobile manufacturer or even a major rated insurance company.

20. Vehicle service contracts in most cases had a waiting period, typically 30 days and 1,000 miles. Thus the representation that Transcontinental was “reinstating” or “extending” coverage was especially false, in that there would be a break in coverage if the factory warranty had already elapsed. As to those customers with pre-existing conditions, the consumer may have had no coverage for major repairs notwithstanding the representation that their “warranty” was to be “extended” or “reinstated.”

21. If the factory warranty had not already lapsed, vehicle service contracts typically excluded reimbursement for repairs already covered by an existing factory warranty. Accordingly, a customer who was persuaded to purchase a vehicle service contract under the guise that it was an “extension” of a factory warranty would receive coverage that was unneeded and worthless while the factory warranty was still in effect.

22. In addition to the waiting period, vehicle service contracts typically had multiple exclusions or conditions. Contracts provided for newer cars typically had fewer exclusions than those for older cars, but the Transcontinental sales scripts omitted any mention that there were

any exclusions or conditions. Instead, the scripts represented that the consumer's "warranty" covered "all repairs" or "your entire engine" "including," followed by a long list of components. But they listed no exclusions or conditions of coverage. The sales scripts did not fairly characterize any contract sold by Transcontinental on behalf of any vehicle service contract provider.

23. Throughout the sales pitch, the contract was represented to be a "warranty." Yet there were differences between a manufacturer's factory warranty and a third party vehicle service contract. While the differences varied by individual manufacturer and individual vehicle service contract ("VSC"), in general, there existed the following differences:

- VCS typically had deductibles; factory warranties did not
- VCS had waiting periods; factory warranties did not
- VCS allowed use of replacement parts from junk yards; factory warranty repairs typically used original equipment manufacturer ("OEM") parts.
- Factory warranties were backed by a major automobile company; VCS were often backed only by self funded risk retention groups and not even by rated insurance companies
- VCS often had exclusions that factory warranties did not have, for instance excluding any repairs occasioned by vehicle overheating whatever the cause, and excluding repairs for wear and tear. Moreover, some VCSs required that the consumer establish the *cause* of the failure before the contract would be honored.
- Because some repair shops had difficulty in getting paid by independent third party vehicle service contract providers, there was no guarantee that a repair shop

would even honor the vehicle service contract.

24. Transcontinental and the Defendants used the United States Mail and caused the United States Mail to be used in order to send copies of vehicle service contracts to consumers, which was incidental to an essential part of the scheme.

25. Transcontinental and Defendants utilized sales scripts that in the circumstances in which they were used created an appearance which was false and deceptive and calculated to induce a false belief as to the true facts.

26. Transcontinental and Defendants intended to deceive consumers for the purpose of obtaining a financial gain, that is, their markup and profit on the sale of vehicle service contracts

27. Transcontinental and Defendants engaged in a scheme intended to deprive consumers of money and property, including the right of consumers to determine with whom they wanted to contract.

28. Defendants' scheme involved deceit and trickery in order to gain an unfair and dishonest advantage over thousands of consumers located in the Southern District of Illinois and elsewhere throughout the United States and Canada.

IV. Violation of Fictitious Name Statute

18 U.S.C. §1342

29. The use of "Warranty Service Center" was a "fictitious," "false," and "assumed" name as that term is used in 18 U.S.C. §1342.

30. The right to control with whom one will do business and the right to control how


one's money is spent is a property right cognizable under 18 U.S.C. §1341.

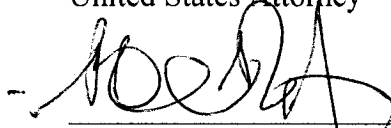
31. Defendants used a fictitious, false and assumed name, "Warranty Service Center," *inter alia*, to make it appear as if they had some connection to an automobile manufacturer, which they did not, in order to deprive consumers of their right to decide with whom they would do business and the right to control how one's money is spent, all part of a mail fraud scheme in violation of 18 U.S.C. §1341.

32. Transcontinental Warranty, Inc. and the defendants, for the purpose of conducting, promoting and carrying on by means of the Postal Service a mail fraud scheme, used and assumed a fictitious, false and assumed name other than Transcontinental's own proper name.

All in violation of Title 18, United States Code, Sections 1342 and 2.

The offense occurred in connection with the conduct of telemarketing, in violation of the SCAMS Act, punishable under Title 18, United States Code, Section 2326(1).


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