



Payday Loan Marketers Who Allegedly Tricked Consumers into Buying Prepaid Debit Cards Will Pay More Than \$800,000 to Settle FTC Charges

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FOR RELEASE

Two men who operated a service matching borrowers with potential lenders will pay \$800,000 and the proceeds from the sale of a house to settle Federal Trade Commission charges that they tricked hundreds of thousands of payday loan applicants into paying for an unrelated debit card. The FTC is closely monitoring payday lending and other financial services in order to protect financially distressed consumers.

According to the FTC's [complaint](#), Matthew Patterson, Mark Benning, Jason Strober, and Swish Marketing, Inc., operated websites advertising short-term, or "payday," loan matching services. The websites included an online loan application form that allegedly tricked consumers into unknowingly ordering a debit card when they applied for a loan online. On many sites, clicking the button for submitting loan applications led to four product offers unrelated to the loan, each with tiny "Yes" and "No" buttons. "No" was pre-clicked for three of them; "Yes" was pre-clicked for a debit card, with fine-print disclosures asserting the consumers' consent to have their bank account debited. Consumers who simply clicked a prominent "Finish matching me with a payday loan provider!" button were charged for the debit card. Other websites touted the card as a "bonus" and disclosed the fee only in fine print below the submit button. As a result, the FTC alleged that consumers were improperly charged up to \$54.95 each.

In August 2009, the FTC charged Swish Marketing and VirtualWorks LLC, the seller of the debit card, and their principals with deceptive business practices. In April 2010, the FTC filed an [amended complaint](#) against the Swish Marketing defendants, adding allegations that they sold consumers' bank account information to VirtualWorks without the consumers' consent, and that Patterson, Benning, and Strober were aware of consumer complaints about the unauthorized debits. Strober and the VirtualWorks defendants previously [settled](#) the charges against them.

Under the [settlements](#) announced today, Patterson and Benning will be barred from:

- misrepresenting material facts about any product or service, such as the cost or the method for charging consumers;
- misrepresenting that a product or service is free or a "bonus" without disclosing all material terms and conditions;
- charging consumers without first disclosing what billing information will be used, the amount to be paid, how and on whose account the payment will be assessed, and all material terms and conditions; and
- failing to monitor their marketing affiliates to ensure that they are in compliance with the order.

The settlement order against Patterson also bans him from selling or advertising any product with a "negative-option" program, in which a consumer's silence or failure to reject a product is treated as an agreement to make a purchase, and

from maintaining any affiliation with Swish Marketing. He will also be required to obtain consumers' informed consent before he can use their personal information collected for a particular purpose for any other purpose, such as generating sales leads.

Both settlement orders impose a \$5.2 million judgment. The judgment against Patterson will be suspended once he first pays \$350,000 up-front, based on his current ability to pay, and then pays \$450,000 in 10 yearly installments. The judgment against Benning will be suspended when he surrenders proceeds from the sale of his home. The full judgments will be imposed immediately if the defendants have misrepresented their financial condition. In addition, if Patterson is late in paying any of the future yearly installments, the entire remaining balance will become due immediately.

The Commission vote to file the stipulated final judgments was 5-0. The documents were filed and entered in the U.S. District Court for the Northern District of California, San Jose Division. Litigation will continue against Swish Marketing.

Click [here](#) for information about payday loans.

NOTE: These stipulated final judgments are for settlement purposes only and do not constitute an admission by the defendants that the law has been violated. Stipulated final judgments have the force of law when approved and signed by the District Court judge.

The Federal Trade Commission works for consumers to prevent fraudulent, deceptive, and unfair business practices and to provide information to help spot, stop, and avoid them. To file a complaint in English or Spanish, visit the FTC's online [Complaint Assistant](#) or call 1-877-FTC-HELP (1-877-382-4357). The FTC enters complaints into Consumer Sentinel, a secure, online database available to more than 1,800 civil and criminal law enforcement agencies in the U.S. and abroad. The FTC's Web site provides free information on a variety of [consumer topics](#). "Like" the FTC on [Facebook](#) and "follow" us on [Twitter](#).

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(EverPrivate Card)

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