

**DECLARATION OF MICHAEL B. GOLDSTEIN
PURSUANT TO 28 U.S.C. § 1746**

I, Michael B. Goldstein, hereby state that I have personal knowledge of the facts as set forth below. If called as a witness, I could and would testify as follows:

1. I am a citizen of the United States and am over eighteen (18) years of age. I am a Federal Trade Investigator (“investigator”) for the Federal Trade Commission (“FTC” or “Commission”). I am presently assigned to the Enforcement Division of the FTC’s Bureau of Consumer Protection in Washington, D.C. My work address is 600 Pennsylvania Avenue, N.W., M-8102B, Washington, D.C. 20580. As an investigator with the FTC, my duties include researching and investigating possible violations of the FTC Act and violations of federal court orders obtained by the Commission. I have been an investigator with the FTC since April 2010. During that time, I have investigated five separate matters involving the unauthorized billing of consumer accounts. In addition, I have investigated, or participated in the investigation of, eight other matters that involved merchants engaged in, or suspected of engaging in, deceptive marketing practices.

2. In April 2012, I became a Certified Fraud Examiner (“CFE”). This certification is awarded by the Association of Certified Fraud Examiners. To become a CFE, I had to pass an exam which tested four subject areas: (1) fraud prevention and deterrence; (2) fraudulent financial transactions; (3) fraud investigations; and (4) legal elements of fraud.

3. I was assigned to work on the Commission’s investigation of Ideal Financial Solutions, Inc. (“Ideal”); Ascot Crossing, LLC (“Ascot Crossing”); Bracknell Shore, Ltd. (“Bracknell Shore”); Chandon Group, Inc. (“Chandon Group”); Fiscal Fitness, LLC (“Fiscal Fitness”); Avanix, LLC (“Avanix”); Steven L. Sunyich (“Steven Sunyich” or “Steve Sunyich”); Melissa Sunyich Gardner (“Sunyich Gardner”); Christopher Tolman Sunyich (“Chris Sunyich”);

FTC 1

Michael Edwin Sunyich (“Michael Sunyich” or “Mike Sunyich,”); Shawn Steven Sunyich (“Shawn Sunyich”); and Kent Brown (“Brown”) (collectively “Defendants”). Steven Sunyich, Chris Sunyich, Michael Sunyich, Shawn Sunyich, Sunyich Gardner, and Brown are collectively referred to as “the individual defendants.”

4. As part of my investigation, I received and reviewed a variety of documents. As detailed in the sections below, these documents show that Defendants obtain consumer bank and credit card account information and use that information to make debits from consumer accounts or charge consumer credit cards. As discussed in the “Analysis” section below, the evidence that I have reviewed indicate that Defendants make these debits or charges without the consumers’ consent.

5. In this declaration, I first describe the tools and sources that I used to collect and preserve evidence related to this investigation. In the section entitled “Structure of the Scheme and Business Formations,” I present evidence showing the layers of business formations and other steps Defendants used to attempt to distance themselves from the scheme. In the section entitled “Defendants’ Billing Campaigns,” I provide evidence showing how Defendants organized and implemented their campaigns to debit and charge consumer financial accounts. In “Defendants’ Chargeback and Return Rates,” I present evidence showing the large numbers of charges and debits that Defendants made to consumer accounts and the subsequent chargebacks on credit cards and returns on ACH debits and remotely-created checks. I also present evidence of industry standards for chargebacks and return rates. In the section entitled “Consumer Complaints,” I present evidence of the volume of consumer complaints the FTC has received regarding the defendants from consumers, the Better Business Bureau (“BBB”), and other law enforcement agencies. Finally, in the section entitled “Analysis,” I analyze the evidence

presented and demonstrate how it shows that defendants are engaged in a scheme to defraud consumers.

I. DESCRIPTION OF INVESTIGATIVE TOOLS AND SOURCES OF EVIDENCE

A. Adobe Acrobat Pro 9 Web Capture Tool

6. In conducting my investigation, I captured evidence from the Internet using a software program called Adobe Acrobat Pro 9 to record single webpages, or entire websites, as they existed on the day of the recording. Adobe's program, while having other functions, also has a tool that converts webpages or websites into portable document format ("pdf") files.

B. Teleport Pro Web Capture Tool

7. I also used a software program called Teleport Pro to capture certain websites. Teleport Pro downloads and saves all the files that would normally be downloaded by a website visitor. The website can then be viewed as it existed at the time of the capture.

C. Domain Name Database at Domaintools.com

8. I obtained information from a database of domain names maintained by DomainTools, LLC at www.domaintools.com. By way of background, every website has a unique domain name (*i.e.*, GoDaddy.com). That domain name is leased for a contracted period of time from the registrar to the registrant. The DomainTools database allows users to identify a domain name's current and former registrars and registrants, Internet Protocol address ("IP address"), and administrative and technical contacts for the website. This information is referred to as a domain name's "*whois* record." In addition to obtaining the *whois* record for a domain name, the website also allows users to conduct a reverse IP address search. The results of a reverse IP address search show what other websites or domain names are hosted on the same server. I used the DomainTools database to obtain the *whois* records for websites affiliated with Defendants.

D. Consumer Sentinel Complaints

9. I obtained information from Consumer Sentinel, a consumer complaint database owned and administered by the FTC. This database receives consumer complaints from two main sources. One source is consumers who directly contact the FTC, by mail, telephone, or through the FTC's website (www.ftc.gov). The other source is the FTC's partnership with other law enforcement agencies and consumer protection organizations around the world. I used the Consumer Sentinel database to obtain consumer complaints filed against Defendants. I have not attached copies of consumer complaints to this declaration. The complaints, however, will be kept on file at the FTC and can be made available for examination, copying, or both at a reasonable time and place.

E. Better Business Bureau Complaints

10. The BBB is an umbrella organization of numerous regional BBBs. Each regional BBB collects consumer complaints on the businesses located in their respective regions. For example, the BBB of Nevada collects and addresses all complaints against Nevada businesses, regardless of the location of the complaining consumer. When a consumer submits a complaint to the BBB against a business, the regional BBB will then send a copy of the complaint to the business and ask for that business to respond to the allegations. As part of the investigation into the defendants, the FTC obtained consumer complaints, supporting documents, and Defendants' responses from the BBBs of Nevada and Utah. I have not attached these complaints to this declaration. The complaints, however, will be kept on file at the FTC and can be made available for examination, copying, or both at a reasonable time and place.

F. Civil Investigative Demands

11. Spurred by consumer complaints related to Defendants action, FTC staff drafted and the Commission issued Civil Investigative Demands (“CIDs”) to banks, credit card companies, website registrars, telecommunications companies, and other entities. As part of my investigation, I reviewed the documents received in response to these CIDs.

G. Public Records

12. FTC Staff sent requests to the Nevada Secretary of State for official records of business entities formed in Nevada. I reviewed the documents that the FTC received in response to these requests.

13. Business entities in Nevada are formed by filing either “Articles of Incorporation” or “Articles of Organization” with the Nevada Secretary of State. These documents list the registered agent’s name and address, name and address of the incorporator or organizer, and the names and addresses of any directors, officers, managers, or members. Thereafter, registered entities submit an “Annual List” to the Secretary of State, with the same information, noting any changes. I received and reviewed certified copies of Defendants’ business filings with the Secretary of State. Additionally, I visited the Nevada Secretary of State website and obtained business entity registration data for those Defendants’ entities for which the FTC did not receive certified copies. *True and correct copies of pertinent excerpts of Defendants’ filings with the Secretary of State, are appended hereto as Attachment A.*

14. FTC Staff also requested from Clark County, Nevada certified copies of the registrations of fictitious business names in that county. I reviewed the certified copies of these registrations that the FTC received in response to the request. In addition, I reviewed documents downloaded

from the county website at <https://aivitals.co.clark.nv.us/WebPIInternet/>, which listed other fictitious names registered by Defendants, but for which the FTC had not received certified copies. *True and correct copies of Defendants' filings with Clark County as well as additional downloaded documents are appended hereto as Attachment B.*

15. In addition, on December 20, 2012, I obtained and reviewed records from the website of the Utah Division of Corporations and Commercial Code at secure.utah.gov/bes. *True and correct copies of records downloaded from the Utah state website are appended hereto as Attachment C.*

16. I also obtained records about Ideal from the federal Securities and Exchange Commission ("SEC"). According to these documents, Ideal is a publicly-traded company and files certain reports with the SEC, which maintains a publicly available database called the Electronic Data Gathering, Analysis, and Retrieval System ("EDGAR") that houses required company submissions. On December 13, 2012 and January 9, 2013, I accessed EDGAR from my FTC computer and downloaded select filings submitted by Ideal to the SEC. *True and correct copies of Ideal's SEC filings are appended hereto as Attachment D.*

II. STRUCTURE OF THE SCHEME AND BUSINESS FORMATIONS

17. As detailed in subsections A, C, and D below, the Defendants formed dozens of businesses to handle the operational requirements of their scheme. They also registered multiple fictitious names, or DBAs, for these businesses.¹ *See supra, Attachment B.* Some of these entities and DBAs became the front, or public face, of the scheme, acquiring consumer financial account information from lead providers, opening merchant accounts with payment processors,

¹ Fictitious names are sometimes referred to DBAs, which stands for "Doing Business As." The State of Nevada requires businesses to register DBAs with the county in which the business is located. In addition, to obtain a merchant account, payment processors and banks typically require businesses to list on their application any DBAs that will be used to bill customers.

taking consumers' money by debiting their bank accounts or charging their credit cards, and responding to consumer complaints. *See infra, Sections III and IV.* Defendants used variations of the fictitious names for many of the billing descriptors placed next to debits or charges on consumers' bank and credit card statements or to fill in the "Pay to the Order of" line on the remotely created checks ("RCCs"). *See infra, Sections II and III.*

18. Defendants also took numerous steps to separate and shield the operational businesses and the individual defendants from the front companies and fictitious names. These steps included using over 50 different billing descriptors, hundreds of websites, auto-forwarding of email, over 30 different addresses, over 50 phone numbers (many of which were toll-free telephone numbers to handle consumer complaints), and internet privacy services. *See infra, Section II.B.*

A. The Corporate Defendants and Ideal Financial's Subsidiaries

i. Ideal Financial

19. Ideal, a Nevada corporation, was initially formed in 1993 as Jaguar Gaming Corporation. The documents appear to show that Steve Sunyich became President and Director in July 2004. In August 2004, Jaguar Gaming Corporation changed its name to Ideal Financial Solutions, Inc. and merged with a company called Ideal Financial Solutions Corporation. *See supra, Attachment A.*

20. On February 27, 2009, Ideal filed its Annual List. This filing listed the officers as Steven Sunyich, Chris Sunyich and Brown. The address for all of the officers was listed as 5940 Rainbow Boulevard, Las Vegas, Nevada. *See supra, Attachment A.*

21. The Annual List filed on January 13, 2012 listed defendants Steven Sunyich, Chris Sunyich, and non-defendant Scott Manson as officers. The same 5940 Rainbow Boulevard address was again listed for all of the officers. *See supra, Attachment A.*

22. According to its SEC filings, Ideal was located at 906 N 1400 West Street, St. George, Utah. *See supra, Attachment D.*

23. In its filings with the SEC, Ideal names the following companies as its subsidiaries: Ascot Crossing; Chandon Group; Bracknell Shore; Debt Elimination Systems, LLC; US Debt Relief, LLC; Money Mastery, LLC; US Debt Assistance Corp.; IWB Services (a St. Kitts corporation); Financial Fitness, LLC; Debt to Wealth, LLC (a St. Kitts limited liability company); Debt to Wealth, LLC (Nevada); Ideal Goodness, LLC; and Dollars West, LLC. *See supra, Attachment D.*

24. In addition, Defendants have established email accounts for Avanix, Bracknell Shore, Chandon Group, Debt to Wealth, Fiscal Fitness, Funding Guarantee, Newport Sails, Shaw Shank, and Membership Care that automatically forward to other Ideal email accounts. Thus, any email sent to those accounts would be sent to and accessed by employees of Ideal. *A true and correct copy of GoDaddy's Email forwarding list is appended hereto as Attachment E.*

25. In its SEC filings, Ideal states that it sells to consumers "a suite of online, subscription-based software solutions for debt elimination, cash management, bill payment and wealth creation." *See Attachment D.* Ideal also states on its website (*idealfsi.com*) that it sells financial management education and tools to consumer. I captured *idealfsi.com* on June 28, 2012 using Adobe's web capture function. Ideal registered this website on December 22, 2001. *True and accurate copies of pertinent pages of idealfsi.com and domain name registration information are appended hereto as Attachment F.*

26. At *idealpsi.com*, Ideal identifies ILenderAssistance as one of its brands. A consumer declaration and other consumer complaints state that their bank accounts were debited for ILenderAssistance (or a variation, such as ILenderAssist) without authorization. See *Exhibit 4, Declaration of Christa Allen; see also, Section V*.

27. According to information produced in response to a CID by InContact, a telecommunications provider, Ideal obtained telephone service for (888) 881-1070. A true and correct copy of InContact's March 21, 2012 email to FTC staff containing a screenshot of the subscriber information for 888-881-1070 is appended hereto as **Attachment G**. This number is the contact number provided on Defendants' membershipcare.net.com. See *infra, paragraphs 81 through 85*. It is also the contact number provided on Defendants' website Ibuildwealthclub.com. I captured the website Ibuildwealthclub.com on September 20, 2011. A true and correct copy of the website capture is appended hereto as **Attachment H**. Paul Currie and Chandon registered the domain name membershipcare.net on February 4, 2009, and the domain name ibuildwealthclub.com on August 25, 2009. See *infra, Attachment K*.

28. According to a former employee of Ideal, Defendants used Ideal to hire employees for a telephone call center used for their billing campaigns. See *Exhibit 23, Declaration by Jeffrey Russell Stevens*.

29. According to an October 2010 SEC filing, Ideal also acquires consumer information for its campaigns from XM Brands and other firms that provide consumer information. These firms are often called lead providers. According to Ideal, "[d]uring the first quarter of 2010, over 82% of our new client revenue was the result of customers referred to us by XM Brands." See *supra, Attachment D*. XM Brands is a lead provider sued by Florida and North Dakota for unauthorized billing. True and correct copies of the complaint filed against XM by North Dakota, and the

press release by the State of Florida regarding its suit against XM are appended hereto as Attachment I.

30. Ideal provided the address 5940 S. Rainbow Blvd. Las Vegas, Nevada in its state business filings. On December 20, 2012, I visited *davincivirtual.com*. According to the website, in addition to providing virtual office services, DaVinci Virtual Offices (“DaVinci”) is a Commercial Mail Receiving Agency (“CMRA”) or “mail drop.” DaVinci offers a variety of business services, including mail receipt and mail forwarding. I looked up DaVinci’s list of addresses in Nevada. The website identified the 5940 S. Rainbow Blvd. address as a mail drop owned by DaVinci Virtual Offices. *A true and correct copy of the website capture of davincivirtual.com home page, and Nevada address listings is appended hereto as Attachment J.*

ii. Bracknell Shore

31. Defendants formed Bracknell Shore, Ltd., a subsidiary of Ideal, in Nevada on May 8, 2008. On March 4, 2009, the Annual List showed Mike Sunyich as the sole manager in the Initial List of Managers, with an address at 1812 West Sunset Boulevard, Suite 1-323, Las Vegas, Nevada. Mike Sunyich has remained as the sole manager through September 23, 2011. Bracknell’s registered agent is listed as Spiegel & Utrera, P.A. located at 1785 East Sahara Avenue, Suite 490, Las Vegas, Nevada. *See supra, Attachment A.*

32. According to a former employee of Ideal, Bracknell pays the wages of Ideal’s employees. *See Exhibit 23, Declaration of Jeffrey Russell Stevens.*

33. An investigator for the Utah Division of Consumer Protection (“Utah investigators”) interviewed Michael Sunyich and Kent Brown on June 7, 2012. During that interview, Michael Sunyich and Brown stated that Bracknell conducted customer service for Avanix, one of the Defendants’ front companies. *See Exhibit 2, Declaration of Glen Minson.*

34. Bracknell also registered “Debt to Wealth” and “Cash Savers” as fictitious names in Clark County, Nevada. *See supra, Attachment B.*

35. According to documents obtained by the Utah investigators, Bracknell is physically located in an office building at 908 N. 1400 W. St. George, Utah. *See Exhibit 2, Declaration of Glen Minson.*

iii. Chandon Group

36. Chandon Group, Inc., a subsidiary of Ideal, was incorporated in Nevada on January 6, 2009. The Initial List of Managers listed an individual named Paul Currie as the sole officer. On October 21, 2011, Shawn Sunyich was listed as the sole officer of the company, with an address at 1238 West 300 North, St. George, Utah. The company’s address on the initial list was another DaVinci mail drop at 8670 West Cheyenne Avenue, Las Vegas, Nevada. On February 8, 2012, a subsequent filing listed the sole officer as non-defendant Kristi Sunyich. *See supra, Attachment A.*

37. According to documents from GoDaddy.com, Chandon registered many of the domain names used in the scheme and purchased email auto-forwarding and other internet services. *A true and correct copy of domain names purchased by Chandon from GoDaddy is appended hereto as Attachment K.*

38. Sunfirst Bank produced documents in response to a CID that show that Chandon processed consumer debits through Elite Debit and SunFirst Bank. I will discuss these debits in more detail in the section of this declaration titled *Chargebacks and Return Rates*. *See infra, Section IV.*

39. Chandon registered fictitious names, including “Debt 2 Wealth,” “insta-cash,” “short-term-funding,” “lend quick,” “easy cash network,” “payday loan security,” “ilender network,”

“ilender network 101,” “ilender assistance,” “extra cash network,” and “payment security” with Clark County, Nevada. *See supra, Attachment B.*

iv. Ascot Crossing

40. Defendants formed Ascot Crossing, LLC, a subsidiary of Ideal, on May 8, 2008. On March 4, 2009, the Initial List of Managers was filed, naming Sunyich Gardner as the sole manager, with an address at 2925 East Riggs Road, Suite 8-207, Chandler, Arizona. Spiegel & Utrera was listed as the registered agent. The last Annual List obtained by the FTC, filed on July 25, 2011, listed non-defendant Brian Jensen as the sole manager. The corporate address listed is the DaVinci mail drop at 5940 Rainbow Boulevard, Suite 3010, Las Vegas, Nevada. *See supra, Attachment A.*

41. According to documents submitted by Landmark Clearing, Inc. (“Landmark”), in response to a CID, Ascot Crossing processed consumer debits through Landmark and Fifth Third Bank. I discuss these debits in more detail in the section of this declaration titled *Chargebacks and Return Rates*. *See infra, Section IV.*

42. Bank documents produced by US Bank to the FTC in response to a CID show that in September 2011, Ascot Crossing made hundreds of small payments of around \$0.03 and \$0.04 each. It appears that these payments were refunds to hundreds of consumer debits made for Defendants’ Funding Assurance, Payment Assistance, and Payment Protection campaigns. I discuss these campaigns in the *Defendants’ Billing Campaigns* and *Defendants’ Chargebacks and Return Rates* sections below. *See infra, Sections III and IV.* The records produced by US Bank are voluminous, and as a result, I have not attached them to this declaration. They will be kept on file at the FTC and will be made available for examination, copying, or both at a reasonable time and place.

43. These bank records also show that Ascot has used proceeds from Defendants' campaigns to pay hundreds of thousands of dollars to Integrity Lead Group, LLC, a firm that provides consumer information, also known in marketing as a lead provider. For example, in December 2011, Voltage Pay, a payment processor, made six deposits totaling \$518,878 into a Chandon Group account. Within days, Defendants transferred all but \$500 into other accounts held by Chandon Group and one held Ascot Crossing, which paid Integrity Lead Group \$141,000 from that account that same month. I captured the webpages for Integrity Lead Group, LLC, and Voltage Pay on January 2, 2013. *True and correct copies of the Integrity Lead Group and Voltage Pay websites, as well as the December 2011 bank statements showing payments to these entities, are appended hereto as Attachment L.*

44. Ascot registered fictitious names, including "extra cash networks," "866-291-7782 free up cash," "866-285-3741 create wealth," "866-237-2006 Build wealth," "866-235-1441 debt free," "866-233-7344 debt2wealth," "target debt," "payment assurance," and "payday loan assurance," with Clark County, Nevada. *See supra, Attachment B.*

45. According to Ideal's SEC filings, Ascot Crossing leased office space at 902 N. 1400 W. Street, St. George, Utah, which is next door to, and in the same building as, Ideal's address at 906 N. 1400 W. Street and in the same small office building as Bracknell Shore's physical address of 908 N. 1400 W. Street. *See supra, Attachment D.*

v. Fiscal Fitness

46. Fiscal Fitness, LLC, was organized on June 23, 2010 in Nevada by non-defendant Elsie Sanchez. Non-defendant Benjamin Larsen ("Larsen") was the sole named member. He reported his address as the DaVinci mail drop at 8670 West Cheyenne Avenue, Las Vegas, Nevada. *See*

supra, Attachment A. Larsen was chief financial officer of Ideal from November 2009 to August 2011. *See supra*, Attachment D.

47. On November 23, 2010, Larsen's name was removed as a member of Fiscal Fitness, and the sole listed member became non-defendant Brian Godfrey, with an address at 5544 Nine Mile Road, Maryville, Tennessee. In a subsequent filing on July 28, 2011, the registered agent's address was listed as 1489 West Warm Springs Road #110, Las Vegas, Nevada. *See supra*, Attachment A.

48. Fifth Third Bank and NACHA-the Electronic Payments Association ("NACHA") produced documents in response to a CID showing that Fiscal Fitness processed consumer debits through Payment Data Systems and Fifth Third Bank. I discuss Fiscal Fitness's activities in greater detail in *Defendants' Billing Campaigns* and *Defendants' Chargebacks and Return Rates* sections below. *See infra*, Sections III and Section IV.

49. Fiscal Fitness registered fictitious names, including "Fiscal Fitness CDs," "Easy Cash Networking," "Payday Loan Alliance," "Funding Assurance," and "Payment Alliance," with Clark County, Nevada. *See supra*, Attachment B.

vi. AvaniX

50. AvaniX, LLC, was formed in Nevada on February 8, 2012, with Kadin Hannig as the sole listed officer. On February 13, 2012, the first Annual List replaced Hannig with Kaysha Sandberg, at "220 North 200 East, USA[sic]." AvaniX, LLC, was listed as the registered agent, at 219 Redfield Parkway, # 204, Reno, NV 89509, another DaVinci mail drop. A few days before, on February 8, 2012, Hannig leased the mail drop and instructed DaVinci that all mail be forwarded to 929 W. Sunset Blvd, #21-143, St. George, UT 84770. *See supra*, Attachment A.

51. According to the Utah investigators, this 929 W. Sunset Blvd #21-143 address is a mailbox provided by Neighborhood Postal Centers, also a CMRA or mail drop. Documents produced to the Utah investigators by the CMRA on August 11, 2011 show that Michael Sunyich leased this mailbox from Neighborhood Postal Center for Bracknell Shore, LLC. Michael Sunyich listed Toni Lemond, Kent Brown and Steve Sunyich as authorized to receive mail from this mail drop. *See Exhibit 2, Declaration of Glen Minson.*

52. Avanix registered fictitious names used in the scheme, including, "Avanix Lending," "Pay Avanix," "ROI Avanix," "Loan Avanix," "Money Member HUB," and "AV Lendfast," with Clark County, Nevada. *See supra, Attachment B.*

53. I discuss Avanix's activities in greater detail in *Defendants' Billing Campaigns* section below. *See infra, Section III.*

B. The Individual Defendants

i. Steven Sunyich

54. Steven Sunyich is the chief executive officer of Ideal. *See supra, Attachment D.*

55. The records from U.S. Bank indicate that Steve Sunyich is a signatory to at least ²⁰₃₀ of ^{MOF} Defendants' accounts at U.S. Bank, including accounts held by Ideal, Ascot Crossing, and Chandon Group as well as Ideal's subsidiaries and affiliates, including Debt to Wealth, LLC, Ideal Goodness, LLC, Shaw Shank, LLC, IWBClub.com, US Debt Relief, Inc., and Wealth Fitness, LLC. *True and correct copies of the signature cards from U.S. Bank are appended hereto as Attachment M.*

56. In 2007, the Utah Division of Securities issued a cease and desist order against Steve Sunyich and his daughter, Defendant Melissa Sunyich Gardner, finding that they had defrauded an investor by making misrepresentations of material fact and omitting to state material facts in

connection with the offer and sale of a security. *A true and correct copy of the Cease and Desist Order is appended hereto as Attachment N.*

ii. Michael Sunyich

57. Ideal's website, idealfsi.com, lists Michael Sunyich as the Vice President for Customer Retention at Ideal. *See supra, Attachment F.* Michael Sunyich is also listed an officer of Bracknell Shore. *See supra, Attachment A.*

58. According to a former employee, Michael Sunyich manages Defendants' call center located in St. George, Utah, overseeing employees and training them. *See Exhibit 23, Declaration of Jeffrey Russell Stevens.*

59. He is also a signatory to at least one account at US Bank held by Ascot Crossing. *See Supra, Attachment X.M.* *MB8*

iii. Christopher Sunyich

60. Christopher Sunyich is listed as Ideal's President on the Idealfsi.com website. *See supra, Attachment F.* He is listed as Ideal's Secretary on the Nevada State filings. *See supra, Attachment A.*

61. In addition, he is signatory to at least ~~30~~ *MB8* of Defendants' accounts at US Bank, including accounts held by Ideal, Ascot Crossing, and Chandon Group as well as Ideal's subsidiaries and affiliates, including Debt to Wealth, LLC, Ideal Goodness, LLC, Shaw Shank, LLC, IWBClub.com, US Debt Relief, Inc., and Wealth Fitness, LLC. *See supra, Attachment M.*

62. AS part of their investigation into Defendants, Utah investigators obtained an email from Focus Communications, LLC ("Focus"), a firm that operates call centers for Defendants in Utah, Iowa, El Salvador, and the Philippines. Defendants had contracted with Focus to conduct call center tasks. *See infra, paragraph 109.* Emails obtained from Focus show that Chris Sunyich

directed the activities of the Focus call centers on behalf of Defendants. *See infra, Attachment KK.*

iv. Kent Brown

63. Ideal's SEC filings list Kent Brown as the Chief Operating Officer of Ideal. *See supra Attachment D.* Defendants listed Brown as an "authorized contact" for Ascot Crossing in Ascot's application to Landmark for payment processing services. *See infra, Attachment DD.* Finally, when a Utah investigator interviewed Brown, Brown introduced himself as the controller for Bracknell Shore. *See Exhibit 2, Declaration of Glenn Minson.*

64. Brown is also signatory to at least 30 of Defendants' accounts at US Bank, including accounts held by Ideal, Ascot Crossing, and Chandon Group as well as Ideal's subsidiaries and affiliates, including Debt to Wealth, LLC, Funding Guarantee, LLC, Ideal Goodness, LLC, Shaw Shank, LLC, IWBClub.com, US Debt Relief, Inc., and Wealth Fitness, LLC. *See supra, Attachment M.*

v. Melissa Sunyich Gardner

65. Melissa Sunyich Gardner is the owner of Ascot Crossing and Defendants' affiliate Funding Guarantee, LLC. *See supra, Attachment A.*

66. She provided a customer testimonial on Ideal's website, Ibuildwealth.com. *See supra Attachment H.*

67. In 2007, the Utah Division of Securities found that she and her father had defrauded an investor by making misrepresentations of material fact and omitting to state material facts in connection with the offer and sale of a security. *See supra, Attachment N.*

vi. *Shawn Sunyich*

68. Shawn Sunyich stated that he was the Director of Business Development for Ideal on a website entitled linkedin. On January 2, 2013, I captured Shawn Sunyich's linkedin entry. *A true and correct copy of the capture of Shawn Sunyich's linkedin page is appended hereto as Attachment O.* Shawn Sunyich was also listed as the President, Secretary, Treasurer, and Director of Chandon Group from January 2011 to January 2012 in Defendants Nevada State filings. *See supra, Attachment A.*

C. Defendants' Affiliates

69. In addition to the six (6) corporate Defendants and Ideal's other 10 subsidiaries, Defendants, their employees, or, in one case, a spouse of an employee created at least 8 other companies as well, including Newport Sails, LLC, Fluidity, LLC, Shaw Shank, LLC, Bunker Hillside, LLC, Funding Guarantee, LLC, Newline Cash, LLC, Wealth Fitness, LLC, and Zeal Funding, LLC. *See infra 70 to 80.*

70. Newport Sails, LLC, was formed on May 7, 2010. On the formation document, the sole manager is listed as Paul Currie at 7327 Ristoro Street, Las Vegas, Nevada. The Initial List of Managers, filed on November 23, 2010, lists an individual named Sharon Martin as the sole manager and Spiegel & Utrera as the registered agent. An amendment to the Articles of Organization, filed on June 3, 2011, replaced Paul Currie with Sunyich Gardner as Managing Member. *True and correct copies of Newport Sails, LLC, filings with the State of Nevada are appended hereto as Attachment P.*

71. Sharon Martin was an "administrative assistant" employed by Ascot Crossing. *See infra Attachment DD.*

72. Newport Sails processed consumer debits through two separate payment processors. I discuss Newport Sails in more detail in the section of this declaration titled *Chargebacks and Return Rates*. See *infra*, Section IV.

73. Fluidity, LLC, was formed on July 28, 2011 and expired on October 29, 2012. Steven Sunyich and Michael Sunyich were managers. Michael Sunyich is also the registered agent at 953 N. 1950 W. Street, St. George, UT 84770. On December 27, 2012, I visited the Utah Secretary of State website, captured the listing for Fluidity, LLC, and downloaded a copy of their Articles of Organization. *True and correct copies of the Utah State listing and Articles of Organization for Fluidity, LLC are appended hereto as Attachment Q.*

74. Shaw Shank, LLC, was formed on May 7, 2012. Non-defendant Benjamin Larsen was named the only managing member until he was replaced by non-defendant Rob Dahl on November 23, 2010. *True and correct copies of Shaw Shank, LLC's filings with the State of Nevada are appended hereto as Attachment R.* Dahl is a shareholder of Ideal and was an officer until at least February 2011. See *supra*, Attachment D; see also *supra*, Attachment A.

75. Shaw Shank processed consumer debits through a payment processors. I discuss Shaw Shank in more detail in the section of this declaration titled *Chargebacks and Return Rates*. See *infra*, Section IV.

76. Bunker Hillside, LLC, was formed June 23, 2010 and dissolved on June 30, 2011. Teri Bunker is the only named managing member. On December 27, 2012, I visited the Nevada Secretary of State website and captured the listing for Bunker Hillside, LLC. *A true and correct copy of the Bunker Hillside, LLC, listing is appended hereto as Attachment S.* Bunker was listed an Ideal shareholder in Ideal's Nevada State filings. See *supra*, Attachment A. The evidence also shows that she is an employee of Ideal. See *infra* Attachment DD.

77. Defendants formed Funding Guarantee, LLC on June 2, 2011, naming Sunyich Gardner as the only officer and Steven Sunyich as the registered agent. *True and correct copies of Funding Guarantee, LLC, filings obtained from the Nevada Secretary of State are appended hereto as Attachment T.*

78. Defendants formed Newline Cash, LLC, on November 18, 2011. Steven Sunyich was listed as the registered agent. Richard Gardner, an Ideal shareholder, was the only listed manager. *See Attachment A, Ideal's Nevada State filings.* The company's business license expired on November 30, 2012. On December 27, 2012, I visited the Nevada Secretary of State website and captured the listing for Newline Cash, LLC. *A true and correct copy of the Newline Cash, LLC, listing is appended hereto as Attachment U.*

79. Wealth Fitness, LLC, formed on January 4, 2010. Non-defendant Kathryn Sunyich was listed as the sole member. It appears from my research that Kathryn is Steven Sunyich's wife. The company was dissolved on October 5, 2011. *A true and correct copy of the Wealth Fitness, LLC, filings obtained from the Nevada Secretary of State are appended hereto as Attachment V.*

80. Zeal Funding Services, LLC, formed on March 2, 2012. On August 29, I visited the Utah Secretary of State website and obtained corporate information for Zeal Funding Services. On November 21, 2012, Attorney General's Office, State of Arkansas shared documents with the FTC that showed Jared Mosher as General Manager. *True and correct copies of Zeal Funding Services, LLC, entries on the Utah Secretary of State website, a citation issued by Utah Division of Consumer Protection, and documents obtained from the State of Arkansas, are appended as Attachment W.* Mosher is also an employee at Ideal. *See Exhibit 23, Declaration of Jeffrey Russell Stevens.* He is a signatory on at least two Ascot Crossing bank accounts. *See supra, Attachment M.*

81. In addition to the companies and registered fictitious names discussed above, Defendants developed an unregistered DBA called Membership Care or Membershipcare.net.

82. Josh Rodgers of “Membership Care” and “Membershipcare.net” responded to consumers complaining to the BBB that the following companies or DBAs made unauthorized debits from their accounts: Funding Assurance, AvaniX Lending, Payment Protection, and Payment Assistance. Rodgers typically responded to these complaints by asserting that “[r]ecords show that [the consumer], or someone representing themselves to be him, contacted AvaniX Lending [or Funding Assurance, Payment Protection, etc.] and provided the billing information and authorization necessary for his account to be charged.” I have not attached these complaints to this declaration, but they are on file at the FTC and can be made available for examination, copying or both at a reasonable time and place.

83. On February 4, 2009, Currie, on behalf of Chandon Group, registered the domain name membershipcare.net. On February 23, 2009, Steve Sunyich, on behalf of Ideal, purchased the Domain by Proxy anonymous registration service for membershipcare.net. *True and correct copies of membershipcare.net domain name registration and anonymous registration service purchase are appended hereto as Attachment X.*

84. On September 20, 2011, I captured the website at the address *membershipcare.net*, a one-page site that stated, “Your club services are managed by membershipcare.net. Membershipcare.net has a relationship with service providers to ensure that quality services are provided to consumers.” The site does not detail what club services or which service providers they refer to. The telephone number listed on the website is 888-881-1070. *A true and correct copy of the membershipcare.net web capture is appended hereto as Attachment Y.*

85. On March 21, 2012, the FTC received documentation on the telephone number 888-881-1070 from InContact, the telecommunications company that leases this number. Its records show that the customer for this number is Ideal, and that the primary customer contact is Steve Sunyich, located at 158 W 1600 S, Suite 100, St. George, UT. *See supra, Attachment G.*

D. Additional Addresses, Billing Descriptors, Websites, and Telephone Numbers Used By Defendants in their Scheme

86. In the paragraphs below, I discuss the numerous different addresses, billing descriptors, websites, and telephone numbers that Defendants used for their scheme.

i. Addresses

87. The chart at *Attachment Z* below shows addresses used by the Defendants, in what way it was used, and what I could determine, through investigation, was located at that address. Most of the addresses used by the Defendants are CMRAs, or mail drops. A CMRA is a privately-owned business that is licensed by the U.S. Postal Service to accept and forward mail on behalf of individuals or businesses. This allows Defendants to provide payment processors, banks, state agencies, web domain registrars, and other third parties with an address without maintaining a physical location. I created *Attachment Z* from information that I collected by reviewing the records attached to this declaration, websites that I captured, and other records produced by banks and telecommunication companies to the FTC in response to a CID. I have not attached all of these records to this declaration. They are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

ii. Billing Descriptors

88. When a merchant bills a consumer through the ACH system, or through the use of RCCs, the name that appears on the consumer's bank statement in association with the charge, or the name that appears on the "Pay to the Order of" line on the RCC, is known as the billing

descriptor. Defendants have used over 50 different billing descriptors. *Attachment AA* contains a list of the billing descriptors used by the Defendants that I collected by reviewing the records attached to this declaration as well as consumer complaints and records produced by NACHA to the FTC in response to a CID. I have not attached all of these records to this declaration. They are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

iii. Websites

89. Defendants have registered 274 website domain names through Paul Currie and Chandon Group. *See Attachment K*. For many of these websites, Defendants purchased GoDaddy's privacy registration services, Domains by Proxy. Without a proxy service, the registration information (including the registrant name and contact information) for a website is readily available on the internet. The FTC obtained Defendants' domain name and privacy registration information through CIDs to GoDaddy.com, LLC and its privacy registration company Domains By Proxy, LLC. *Attachment BB* contains documents obtained from Domains By Proxy, showing Defendants' purchases of privacy registration for many of those domain names purchased in *Attachment K*.

iv. Telephone Numbers

90. Defendants opened accounts with multiple telecommunications firms to acquire phone numbers. By reviewing the documents attached to this declaration as well as other captured websites, consumer complaints, and documents produced to the FTC by banks and telecommunications companies, I have created a list of over 49 phone numbers connected to Defendants as part of their scheme. I have not attached all of these records to this declaration. They are on file at the FTC, and can be made available for examination, copying or both at a

reasonable time and place. *Attachment CC* contains a list of phone numbers connected to Defendants.

III. DEFENDANTS' BILLING CAMPAIGNS

91. As detailed in the paragraphs below, Defendants use their front companies to establish merchant accounts to submit consumer account information to payment processors and take money from consumer bank accounts and charge consumer credit cards. By using front companies, Defendants make it more difficult for consumers and law enforcement to discover their involvement in billing campaigns. In this section, I provide examples of these billing campaigns below, including the Debt 2 Wealth, Funding Assurance, and Avanix campaigns. Eighteen consumers have provided the FTC with declarations related to Defendants' billing campaigns.

A. The Debt 2 Wealth Campaign

92. According to documents produced by Landmark to the FTC in response to to a CID, Ascot Crossing contracted with Landmark in 2010 to process ACH debits and RCCs (listed as Check 21 services), under the fictitious name Debt 2 Wealth. U.S. Bank served as the processing bank. In Ascot Crossing's application for a merchant account with Landmark, Sunyich Gardner instructed Landmark to write "Debt2Wealth" on the "Pay to the Order of" line of RCCs. In a July 7, 2010 email to Landmark from a third-party broker regarding Ascot Crossing's application, the broker labels Ascot Crossing as marketing partner, IdealFSI as fulfillment, Membership Care as customer service, and Debt2Wealth as DBA. *True and correct copies of Ascot's agreement and application with Landmark, and Landmark's July 7, 2010 email are appended hereto as Attachment DD.*

93. Sunyich Gardner signed all the documents for the application as the owner of Ascot. Sunyich Gardner and Brown signed as authorized contacts for this merchant account. *See supra, Attachment DD.*

94. On March 2, 2009, Currie, on behalf of Chandon Group, registered the domain names *debttowealthclub.com* and *debt2wealthclub.com*. On April 24, 2010, Currie, again on behalf of Chandon Group, registered the domain name *debttowealthllc.com*. *See supra, Attachment K.* On the same dates as their respective registrations, Currie purchased Domains by Proxy privacy registration for each domain name. *See supra, Attachment BB.* Defendants listed the domain name contacts for *debt2wealthclub.com* and *debttowealthclub.com* as Steven Sunyich and Ideal Financial. Defendants listed the domain name contacts for *debttowealthllc.com* as Steven Sunyich and Ascot Crossing. These contacts would not be readily available to the public because of the Domains by Proxy privacy service. *True and correct copies of the domain information for debttowealthclub.com, debt2wealthclub.com, and debttowealthllc.com are appended hereto as Attachment EE.*

95. On January 24, 2012, I captured *debttowealthllc.com*. This website contains the representation that "Our average client is able to put an extra \$200 to \$800 back in their pocket every month!" The website, however, does not offer advice directly. The website contains no telephone contact information, only the email address *info@debttowealthllc.com*. *A true and correct copy of the debttowealthllc.com web capture is appended hereto as Attachment FF.*

96. According to documents provided to the FTC by SunFirst Bank in response to a CID, Chandon Group also processed debits under the billing descriptor, Debt 2 Wealth. Ascot Crossing and Chandon Group submitted thousands of consumer accounts to Landmark Clearing

and Elite Debit for payment for Debt 2 Wealth purchases. I discuss this in more detail below in the section of this declaration titled *Chargebacks and Return Rates*. See *supra*, Section IV.

97. I have found no evidence that Defendants' purported Debt 2 Wealth customers received any product or services in exchange for the charges, with one exception. A former employee of Ideal states that while working for Ideal he answered 50-60 calls a day from consumers complaining of unauthorized charges, but only five callers received a product, in this case some financial counseling that was part of the "Debt 2 Wealth program." He explained that even these five callers had called initially about an unauthorized debit and only agreed to the counseling after he offered it to them. See *Exhibit 23, Declaration of Jeffrey Russell Stevens*.

B. The Funding Assurance Campaign

98. In 2011, Fiscal Fitness contracted with Payment Data Systems to process ACH debits and RCCs, under the fictitious name Funding Assurance. Fifth Third Bank was the processing bank.

99. Currie, on behalf of Chandon, registered fundingassurance.com on April 27, 2011. See *supra*, Attachment K.

100. Defendants submitted approximately 126,183 Funding Assurances debits to Payment Data Systems, Inc. for payment. I discuss this in more detail below in the section of this declaration titled *Chargebacks and Return Rates*. See *infra*, Section IV.

101. The FTC's Consumer Sentinel database contains 224 consumer complaints against Funding Assurance. Most of these complaints allege that Funding Assurance withdrew \$30 from the consumer's bank account without authorization. I have not attached these complaints to this declaration. The complaints are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

102. The FTC obtained 194 consumer complaints from the BBB of Southern Nevada against Funding Assurance. The BBB's contact for Funding Assurance was Josh Rodgers, at a DaVinci mail drop at 1489 West Warm Springs Road, #110, Las Vegas, Nevada. The telephone number was 855-779-1942. Rodgers' signature line listed Membership Care. *Attachment GG* is a sample consumer complaint to the BBB and business response showing how Defendants represented themselves. *A true and correct copy of the sample BBB funding assurance complaint is appended hereto as Attachment GG.* I have not attached the other BBB complaints to this declaration. The complaints are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

103. FTC staff received documents pursuant to a CID from Payment Data Systems, an ACH third-party sender, who processed funding assurance (and other products) payments for Defendants. This document describes the funding assurance product as, "a website that helps consumers locate an appropriate pay day lender to offer them a loan. The merchant has a one-time fee of \$30 for the loan application." *A true and correct copy of the Payment Data Systems documents are appended hereto as Attachment HH.*

104. I have found no evidence that the consumers charged for Defendants' Funding Assurance received any product or services in exchange for the fee.

C. The AvaniX Lending Campaign

105. The Utah Division of Consumer Protection conducted an investigation into AvaniX and obtained numerous documents detailing this campaign. FTC staff obtained these documents from Glen Minson, an investigator for the Utah Division of Consumer Protection.

106. On February 14, 2012, just four days after AvaniX, LLC was founded by Kadin Hannig (*See infra, Attachment A*), Steve Sunyich registered the domain name *PayAvaniX.com*. On

February 15, 2012, Steve Sunyich registered the domain name *Avanixllc.com*. On March 1, 2012, Steve Sunyich registered the domain names *Avanixlending.com*, *Loanavanix.com*, and *RoiAvanix.com*. For all five of these websites, Defendants listed Paul Currie and Chandon as the registrant, technical, administrative and billing contact. Defendants listed the contact address as a DaVinci mail drop at 8670 West Cheyenne Avenue, Las Vegas, Nevada mail drop. Either Steve Sunyich or Paul Currie purchased the Domains by Proxy privacy service for these websites. The GoDaddy and Domains by Proxy documents suggest either Sunyich or Currie. *True and correct copies of the Avanix domain name registrations, and Domains by Privacy service purchases are appended hereto as Attachment II.*

107. Documents produced to the FTC by NACHA show that four of the fictitious names registered by Avanix, including Avanix Lending, Loan Avanix, Pay Avanix, and ROI Avanix, match billing descriptors used for ACH transactions processed through Bay Cities Bank. These documents are in the form of spreadsheets and whose production was not prompted specifically for this investigation. The spreadsheets are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

108. None of the Avanix websites (*Avanixllc.com*, *Avanixlending.com*, *PayAvanix.com*, *RoiAvanix.com* and *LoanAvanix.com*) are currently operational. However, on April 17, 2012, an investigator from the Utah Division of Consumer Protection captured a copy of *AvanixLending.com*. The website offers payday or cash advance loans. Another capture of the full application page was completed on June 28, 2012. The “contact us” page gives an email address, *loans@avanixlending.com*, the address Redfield Parkway #204, Reno, Nevada 89509, and the telephone number 855-771-7075. The address, though lacking a street number, appears to be the DaVinci mail drop that Hannig leased. *A true and correct copy of the*

Avanixlending.com web captures obtained from the Utah investigation are appended hereto as Attachment JJ.

109. Focus Services, LLC (“Focus”) provided customer service for consumer calls about the Avanix campaign. Emails obtained from Focus through the Utah investigation show Chris Sunyich (email address chrissunyich@idealfsi.com) and non-defendant Mike Betts (email addresses mikeb@membershipcare.net and mikebetts@idealfinancial.us) coordinating the Avanix campaign with Focus employees. *True and correct copies of emails received from the Utah investigation are appended hereto as Attachment ~~KK.00~~ ^{MB}.*

110. Focus maintains call centers in Utah, Iowa, Illinois, India, El Salvador, and the Philippines. On December 28, 2012, I visited Focus’ website and captured the page showing their call center locations using Adobe’s web capture function. *A true and correct copy of my capture of the focus location page is appended hereto as Attachment LL.*

111. A July 6, 2012 email between Focus employees received through the Utah investigation discussing Avanix calls received by Focus’s Philippine call center shows the telephone numbers associated with each billing descriptor: Pay Avanix, 855-231-2622; Loan Avanix, 855-899-7123; ROI Avanix, 855-287-2005; Avanix Lending, 855-771-7075. *A true and correct copy of the July 6, 2012 email is appended hereto as Attachment MM.*

112. Focus’ regional director of operation in El Salvador, Benjamin Markland, stated in an email “I have received little to know(sic) communications during my Avanix days, but I did have some from Ideal (Same thing just different name).” *A true and correct copy of the email from Focus regional director is appended hereto as Attachment NN.*

113. Focus also produced numerous “skype” chats among Mike Betts, Brianna Larsen (the Director for Client Relations for Focus) and Cassie Flammer (Director of International Quality and Training for Focus).

114. In one “skype” chat between Mike Betts and Cassie Flammer on January 17, 2012, Betts tells Flammer that “we are billing 13000 micro transactions. \$0.05 so phone should start ringing this afternoon to tomorrow. \$30 transactions will start 4 days from today.” Flammer responds, “OK we have reps ready and waiting, once we start seeing some volume we’ll start the training for additional reps. Thanks for the heads up.” Betts responds, “you should expect to start getting about 1000 calls a day ramping up to about 4000 by Friday or Monday.” Flammer, “Perfect.” *A true and correct copy of the January 17, 2012 skype chat is appended hereto as Attachment ~~DD~~ K.K. mfg*

115. Focus documents show that Bracknell was responsible for paying Focus for their services. *A true and correct copy of a Focus invoice to Bracknell is appended hereto as Attachment PP.*

116. On August 15, 2012, I placed and recorded an undercover telephone call to 855-771-7075, a contact number found provided at *avanixlending.com*. Pretending to be a customer calling to complain about an unauthorized debit by AvaniX, I spoke with an individual who identified herself as Marcie. She stated that AvaniX obtained my information because someone applied for a loan online with my bank account information. She described AvaniX as “financial tools and resources designed to put up to 10 percent of your gross monthly income back in your pocket.” She then referred me to the escalations department.

117. At the escalations department, I spoke with an individual named Barry. He informed me that he worked for AvaniX. When I asked what other companies might be behind AvaniX, he denied that there were any. Contrary to Marcie’s description, Barry described AvaniX as a

payday loan application service. He stated that, “[t]here’s about 20 different websites that we get applications from. We have 75 lenders that we – we work with to get you approved.”

118. After the call ended, I downloaded the recording to an FTC computer and sent it to a transcription service. *A true and correct copy of the transcription of the August 15, 2012 undercover call is appended hereto as Attachment QQ.*

119. On July 31, 2012, the FTC received from the BBB 89 consumer complaints about Avanix and the business responses. Defendants responded to all BBB complaints through Josh Rodgers of Membership Care and an Ideal employee. On some occasions, Rodgers signed with the email address, jrodgers@membershipcare.net. Avanix represented their address to the BBB as 219 Redfield Parkway< Suite 204, Reno, Nevada. Defendants did not share with either the consumer or the BBB the true identity of the ownership of Avanix. *A true and correct copy of a sample Avanix consumer complaint and business response is appended hereto as Attachment RR.*

120. The FTC’s Consumer Sentinel database contains 125 consumer complaints against Avanix, Pay Avanix, Avanix Lending, and ROI Avanix. These consumers complained that these companies had withdrawn either \$14.95, \$31.96, or \$34.95 out of their bank account without authorization. I have not attached these complaints to this declaration. Both the BBB and Consumer Sentinel complaints are on file at the FTC, and can be made available for examination, copying or both at a reasonable time and place.

121. An insider who worked at a Focus call center answering consumer calls about Avanix corroborates that numerous consumers complained, recounting that virtually every consumer was surprised and angered by the unexpected debit. *See Exhibit 24, Declaration of Lisa Bierly.*

122. Consumers’ complaints and the insider’s report is further corroborated by a telephonic survey, performed by the FTC under my supervision, of calls made to one of the phone numbers

listed on consumer bank statements next to an Avanix billing descriptor. In response to a request from the FTC, the telecommunications company InContact provided me with records of the 27,349 phone calls made between March 7, 2012 and July 9, 2012 to the phone number found with Avanix's billing descriptor. FTC staff removed all duplicate numbers and all records that contained Nevada, Utah, and toll-free area code numbers, leaving 9,457 unique numbers. A random sample was then drawn using Microsoft excel.

123. Under my supervision, an FTC paralegal conducted a telephone survey from the random sample. She called 318 telephone numbers, and reached 85 individual consumers. Of those 85 consumers, 62 agreed to participate in the survey. Of those 62, 43 consumers remembered placing a telephone call to the Avanix number. Of those 43 consumers, 40 stated that they had called about an unauthorized debt, one stated that he had authorized the debt, and two callers stated that they could not remember whether they had authorized it.

124. Ken Kelly, an economist in the FTC's Bureau of Economics, interpreted the results of the survey and estimated that more than 97 % of the consumers who called that phone number called about unauthorized debits. *See Exhibit 3, Declaration of Dr. Kenneth H. Kelly.*

125. I have found no evidence that Defendants' purported Avanix customers received any product or services in exchange for the debits.

D. Other Campaigns

126. Defendants have perpetuated other campaigns as well, some of which are discussed immediately below and others in the section of this declaration titled *Chargebacks and Return Rates*. *See supra, Section IV.*

127. For example, consumers have reported to the FTC that their bank accounts were debited without their authorization for a product called ILenderAssistance. In Section V of this

declaration, I discuss the number of complaints found in Consumer Sentinel against ILenderAssistance. The idealfsi.com website, identifies ILenderAssistance as one of Ideal's "brands." *See supra, Attachment F.*

128. Defendants websites suggest that they have run additional campaigns. For example, Currie on behalf of Chandon registered paymentassurance101.com and paymentalliance101.com on February 3, 2011, paymentassistance101.com on February 9, 2011, and fundingguarantee.com on April 27, 2011. *See supra, Attachment K.* Currie also purchased Domains By Proxy anonymous registration service for these sites. *See supra, Attachment BB.*

129. On January 24, 2012, I captured paymentassurance101.com and paymentalliance101.com using Adobe's web capture function. These websites are virtually identical and purport to offer consumers an insurance policy against default on a loan—a \$30 premium would provide a consumer \$79 in coverage if they missed a loan payment. Paymentassurance101.com lists a contact number for cancellations of 877-256-0463 in the terms and conditions page.

Paymentalliance101.com lists a contact number for cancellations of 866-237-3990 in the terms and conditions page.

130. On September 20, 2011, I captured the website, fundingguarantee.com, using Adobe's web capture function. This website purported to offer the service of assistance in finding a short-term loan, as well as general financial advice.

131. On September 23, 2011, I captured paymentassistance101.com using Adobe's web capture function. This website also offered a similar form of insurance to paymentalliance101.com and paymentassurance101.com. It provided a contact number of 866-235-7681, and stated that the owner of the website was licensed by Funding Guarantee, LLC.

True and correct copies of the paymentassurance101.com, paymentalliance101.com,

fundingguarantee.com, and paymentassistance101.com web captures are appended hereto as Attachment SS.

IV. DEFENDANTS' CHARGEBACK AND RETURN RATES

A. The Payment Processing Systems

132. The information that I provide in this subsection draws from my experience as an investigator, my training as a Certified Fraud Examiner, and my independent research into the payment processing systems.

133. Debits to consumer accounts are processed through the ACH Network. This network is administered by NACHA, formally called the National Automated Clearinghouse Association. The network provides for the interbank clearing of electronic payments for financial institutions. For consumers, the ACH Network allows for debits and credits to their bank accounts.

134. The Federal Reserve, and the privately run Electronic Payments Network ("EPN"), act as central clearing facilities through which financial institutions process ACH entries. These institutions are known as ACH operators. The party that initiates the ACH entry is known as the originator and the party whose account receives the entry is known as the receiver. In most consumer cases, the merchant is the originator, and the consumer is the receiver. The bank through which the originator processes its entries is the Originator Depository Financial Institution ("ODFI"). The receiver's bank that holds the consumer's account is known as the Receiver Depository Financial Institution ("RDFI").

135. In order to access the ACH Network, a merchant must obtain a merchant account with an ODFI. Frequently, the merchant does not have a direct relationship with the ODFI, but works through a third-party sender, also referred to as a payment processor.

136. In order to take money from a consumer's account, the merchant submits consumer account information to a payment processor, which submits ACH entries to the ODFI. If there is a problem with the entry, the entry may be "returned." In that case, the debit or credit is not made, or is reversed. When an ACH entry is returned, it is given a return code. An R01 code is for insufficient funds; R02, R03, and R04 relate to non-existent accounts; R05, R07, and R10 indicate that the receiver contests the authorization of the entry.

137. A high number of returns may indicate fraud. As a result, NACHA and the ACH operators monitor returns. However, they can only identify merchants by their billing descriptor and associated ODFI and do not usually have a direct relationship with the merchant. Thus, if a particular billing descriptor has a consistently high return rate, NACHA can order that the ODFI suspend the originator or third-party sender. *See* NACHA Operating Rules Appendix 10, subpart 10.4.7.6.

138. NACHA provided the FTC with statistics detailing the average return rates for the entire ACH network for merchants for 2011 and the second quarter of 2012. In 2011, the average total return rate (for any reason) for a merchant who originated ACH debit entries was 1.52%. The average rate of unauthorized returns was 0.03%. In the second quarter of 2012, the average total return rate was 1.44%, and 0.03% for unauthorized returns. *A true and correct copy of the ACH average return rates charts is appended hereto as Attachment TT.*

139. Regulatory institutions, banks, and credit card networks monitor the payment networks for signs of unlawful billing and penalize payment processors and merchants that draw large numbers of consumer complaints or significant rates of returned debits, checks, and credit card charges. These penalties may include the termination of the merchant account. To avoid termination, merchants, in an attempt to maintain the scheme for as long as possible, may refund

some consumers who file complaints with law enforcement agencies, the BBB, or complain directly to Defendants.

140. As stated above, Defendants also accessed consumer accounts through the use of the check system and remotely created checks, or RCCs. RCCs are processed through the clearing system like paper checks. In legitimate transactions, merchants use RCCs when the consumer is not present and not able to physically sign a check. The merchant obtains the consumer's bank account and routing numbers. The merchant or an agent for the merchant creates the draft. In place of the signature of the account-holder, the RCC generally bears a statement that the customer authorized the withdrawal.

141. The check system has no central governing body like NACHA. The merchant creates and submits the RCC to its depository bank like an actual check. The merchant's bank then sends the RCC to the consumer's bank for payment. However, as the Defendants did, merchants will frequently use a payment processor to process RCCs. The Defendants send the billing information to the payment processor, who in turn creates a paper copy of a check or an electronic file containing an image of the check. The RCCs are processed through merchant accounts held by the payment processor.

142. At other times, Defendants used the credit card system to process consumer payments. In this system, the credit card associations, *e.g.* Visa, MasterCard, act as the governing bodies, as well as the clearing-houses for transactions. In the credit card system, banks are known as acquiring banks (the merchants' banks) and issuing banks (the consumers' banks). These banks are members of the credit card associations. The merchant's bank, or acquiring bank, processes the merchant's payments. The consumer's bank, or issuing bank, sends payment to the acquiring

bank and bills the consumer. As in the ACH system, merchants will frequently work through third parties, known as Independent Sales Organizations (“ISO”).

143. Returns in the credit card system are referred to as chargebacks, and occur for a variety of reasons including invalid account information and a reversal of the charge because of a consumer complaint. Both Visa and MasterCard have monitoring programs for merchants whose chargeback rates are too high. If the merchant does not bring the chargeback rate down, the payment processor or processing bank may terminate its merchant account. Visa and Mastercard have slightly different formulas. However, under both formulas, a 1% rate of chargebacks to transactions will bring a merchant under monitoring.

144. The FTC obtained evidence of the volume and return information for some of Defendants’ campaigns and merchant accounts from NACHA, payment processors, and banks in response to CID. I reviewed these documents and present evidence of Defendants’ campaigns below, organized according to the particular payment processor or ISO that the Defendants used for each campaign.

145. Each of these examples below is only one window on the payment processing side of Defendants’ scheme and thus does not provide the whole picture. These documents were obtained through other investigations conducted by the FTC. Given the close relationship between merchants and payment processors, we decided that it would compromise the *ex parte* nature of the investigation to send CIDs to Defendants’ payment processors. Therefore, these examples represent all of the evidence the FTC has of Defendant’s chargeback and return rates.

A. Payments Processed through Litle & Co

146. The FTC received documents related to Defendants from the payment processor Litle & Co, LLC ("Litle"). Defendants processed consumer credit card charges through Litle in 2009 and 2010.

147. According to an agreement between Ideal and Litle signed by Chris Sunyich on May 6, 2009, Litle added Debt Elimination Systems, LLC (an Ideal subsidiary) to Ideal's merchant account. *True and accurate copies of the processing application, risk management report, and application amendment of May 6, 2009 are appended hereto as Attachment UU.* Under the name IBuildWealth, Debt Elimination Systems conducted 251,389 transactions through Litle in 2009 with a total dollar amount of \$7,530,525.90. This adds up to an average of \$29.95 per transaction. IBuildWealth's chargeback rate in 2009 was 5.948%.

148. On December 15, 2009, Debt Elimination Systems began using the name IWBClub. In 2010, IWBClub conducted a total of 219,400 transactions through Litle with a total dollar amount of \$8,161,732.90. This averages \$37.20 per transaction. The chargeback rate for 2010 was 12.312%. This information is stored in a large spreadsheet. This spreadsheet will be kept on file at the FTC and will be made available for examination, copying, or both, at a reasonable time and place.

B. Payments Processed through Elite Debit and Sunfirst Bank

149. The FTC also obtained documents from SunFirst Bank showing that Chandon Group processed consumer payments through SunFirst Bank from May through July 2010, using the descriptor Debt 2 Wealth. Chandon did not have a direct relationship with SunFirst, but used a payment processor called Elite Debit, Inc.

150. The documents include daily tracking reports from April through July 2010 for payments made through Elite Debit and SunFirst. The reports appear to be created by SunFirst and sent by email to Elite Debit. Each report includes the name of the company, fictitious business name, number of items deposited and their total dollar amount, and number of returns. As stated on the report, the return items do not correspond to the same day's deposited items, but any returns received that day. Chandon and Debt 2 Wealth (listed as its fictitious business name) first appear on the May 28th daily tracking report.

151. I added up the raw numbers provided by SunFirst. The number of items Chandon/Debt 2 Wealth processed through Elite Debit was 18,654. The total dollar amount processed was \$663,400. The average transaction was \$35.56. The total number of items returned during this period was 11,556.

152. SunFirst adds a return rate column to the July 7th daily tracking report and lists Chandon's return rate as 63%. A note at the top of the chart states, "[t]hese return rates are current through July 7th" implying that this rate is for all transactions and not specific to the date of the report. *True and correct copies of SunFirst's daily tracking reports from May 28 to July 12, 2010 are appended hereto as Attachment VV.*

153. At some point, Sunfirst's Board of Directors directed that Chandon/Debt 2 Wealth's merchant account be closed. *A true and correct copy of SunFirst's account closure letter to Elite Debit is appended hereto as Attachment WW.*

C. Payments Processed through Landmark and First Bank of Delaware

154. In March 2011, the FTC obtained interrogatory answers and documents from the payment processor Landmark Clearing, Inc., including Ascot Crossing's application for a

merchant account. These interrogatories and documents show that Landmark was a payment processor for Ascot Crossing from August 15, 2010 to March 4, 2011.

155. Sunyich Gardner signed the application as the owner of Ascot Crossing, and Brown signed as the “COO.” Ascot Crossing provided a mailing address of 1055 W Red Cliffs, #C-525, Washington, Utah, and a physical address at the 8670 West Cheyenne Avenue, Las Vegas, Nevada mail drop. Ascot Crossing told Landmark that it sold “educational software – financial solutions to reduce debt, increase cash flow, build wealth.”

156. The name of the company was listed as Ascot Crossing, LLC DBA Debt 2 Wealth. The customer service department was listed as Membership Care. *See supra, Attachment AA.*

157. According to the documents, Landmark processed ACH and RCC transactions for Defendants.

158. During the six and a half month time period from August 2010 to March 2011, Ascot submitted 13,156 transactions to Landmark, and of those, Landmark submitted 13,153 to First Bank of Delaware for processing. 7,143 of those were returned by the receiving bank. Thus, the company’s total return rate during that period with Landmark was 54.31%. The dollar amount of the transactions submitted was \$394,590.00, and the dollar amount of the returns was \$214,290.00. The average transaction was \$30. *A true and correct copy of Landmark’s answer to the FTC’s interrogatories is appended hereto as Attachment XX.*

D. Payments Processed through Automated Electronic Checking

159. Another payment processor, Automated Electronic Checking (“AEC”) provided the FTC with documents related to their client Newport Sails, LLC (“Newport”). As stated in paragraph 70 above, Newport Sails is a business entity created by Defendants.

160. In Newport Sail's application to AEC for a merchant account, Defendants listed Newport Sail's mailing address as 1055 Red Cliff #C-525, Washington, Utah, and the street address as 2300 West Sahara Avenue, #800, Las Vegas, Nevada. An individual named Sharon Martin, an administration assistant employed by Ascot Crossing, was listed as the authorized representative, with an email address of smartin@membershipcare.net. *See supra, Attachment AA.* The customer service telephone number was listed as 888-881-1070. As previously noted in paragraph 27 above, this telephone number is owned by Steve Sunyich and Ideal Financial Solutions. *See supra, Attachment G.*

161. In the merchant application, Defendants listed Newport Sail's DBA as Cash Club System. Defendants described the product to be sold as "educational software – financial solutions to reduce debt, increase cash flow and build wealth." *A true and correct copy of Newport's merchant application to AEC is appended hereto as Attachment YY.*

162. Among the AEC documents are records of 1,309 ACH debit transactions that AEC conducted for Newport Sails from September 27 to November 1, 2010. Of those transactions, 794 were returned. The return rate is 60.66% for these transactions. The document also shows that the debit amount for every transaction was \$30, except for one debit in the amount of \$83.90. This information is stored in a large spreadsheet. This spreadsheet will be kept on file at the FTC, and will be made available for examination, copying, or both, at a reasonable time and place.

E. Payments Processed Through Payment Data Systems and Fifth Third Bank

163. The FTC obtained documents from NACHA and Fifth Third Bank showing that Defendants had processed consumer payments through Fifth Third Bank. Defendants did not

have a direct relationship with Fifth Third, but used the payment processor Payment Data Systems.

164. The first document detailing return rate information relates to Newport Sails and lists that it operates under the fictitious names Payment Protection and EZ Protection Plan. The document lists Sunyich Gardner as the principal of Newport Sails, and Brown as the contact. Brown's contact email address is listed as kentbrown@idealfsi.com. The address is listed as 2300 West Sahara #800, Las Vegas, Nevada 89102. According to the document, "PMT Protection" is the descriptor under which consumers were billed. Newport Sails made 206,454 debits from August 1, 2011 to September 1, 2011, totaling \$3,028,064. The percentage of transactions that were returned as unauthorized was 2.9%. *See supra, Attachment HH.*

165. The next document concerns Defendants' company Shaw Shank, LLC. An individual named Rob Dahl is listed as the principal and Toni Lemond is listed as the contact. Lemond's email address is listed as tonil@membershipcare.net. The company's address is a DaVinci mail drop at 9190 Double Diamond Parkway, Reno, Nevada 89521. According to the document, "PMT Assistance" is the descriptor under which Shaw Shank debited consumers. Shaw Shank made 203,832 debits from August 1, 2011 to September 1, 2011, totaling \$2,948,127. The percentage of transactions that were returned as unauthorized was 2.8%. *See supra, Attachment HH.*

166. The next document concerns Fiscal Fitness. This document lists an individual named Brian Godfrey as the principal and contact, and lists Godfrey's email address as briangodfrey@idealfsi.com. The company's address is a DaVinci mail drop at 1489 West Warm Springs Road, Suite 110, Henderson, Nevada, 89521. According to the document, "Funding Assurance" is the descriptor under which consumers were billed. Fiscal Fitness made 126,183

debits between August 1, 2011 and September 30, 2011, totaling \$1,618,037.26. The percentage of transactions that were returned as unauthorized was 2.7%. *See Supra, Attachment HH.*

167. The next document concerns Newline Plus, LLC. This document lists an individual named Chris Pallante as the principal and contact, and lists Pallante's email address as cpallante@cebuglobaltel.com. The company's address is listed as 1111 Desert Lane Suite #2241, Las Vegas, NV 89102. According to the document, "Direct Funds" is the descriptor under which consumers were billed. Newline Plus made 79,100 debits between August 1, 2011 and September 1, 2011, totaling \$1,808,465. The percentage of transactions that were returned as unauthorized was 3.97%. *See Supra, Attachment HH.*

168. All four documents describe the companies' business in an identical fashion: "The merchant offers a website that helps consumers locate an appropriate pay day lender to offer them a loan. The merchant has a one-time fee of \$30 for the loan application." The documents describing Newport Sails, Shaw Shank, and Newline Plus also add an additional product, payday loan payment insurance.

169. A document signed November 23, 2011 and generated by Fifth Third Bank for NACHA implied that the Newport Sails, Shaw Shank, Fiscal Fitness, and Newline Plus accounts had been terminated: "In July 2011 Payments Data [Payment Data Systems] started originating on behalf of the originators identified by NACHA [Defendants' companies] which resulted in them exceeding the 1% unauthorized return rate threshold allowed by NACHA. We have isolated this to 5 originators and they are no longer originating ACH entries through Payments Data." *True and correct copies of NACHA's letter to Fifth Third Bank and Bank response are appended hereto as Attachment ZZ.*

V. **CONSUMER COMPLAINTS**

170. On November 28 and 30, 2012, I conducted a search for consumer complaints on the FTC's Consumer Sentinel database. I set the date parameters from November 2009 to November 2012. I searched separately for some of the business names and billing descriptors that my investigation revealed Defendants had used in their scheme, as set forth below. Finally, I reviewed all complaints responsive to my searches and discarded complaints that were not about the Defendants. I did not search for "Debt 2 Wealth" or "Debt to Wealth," because these terms are commonly used by companies other than Defendants'.

171. My search for Ascot Crossing resulted in 1 consumer complaint, submitted to the FTC on March 2, 2010.

172. My search for all consumer complaints made against Avanix, including Avanix Lending, Loan Avanix, Pay Avanix, and ROI Avanix, discovered 125 results.

173. My search for consumer complaints against "Chandon Group" discovered 19 results.

174. My search for consumer complaints filed against "EZ Loan Protection" discovered 25 results.

175. My search for consumer complaints filed against "EZ Protection Plan" discovered 3 results.

176. My search for consumer complaints filed against "Funding Assurance" discovered 224 results.

177. My search for consumer complaints filed against "Funding Guarantee" discovered 13 results.

178. My search for consumer complaints filed against "Ideal Financial Solutions" discovered 15 results.

179. My search for consumer complaints filed against “Ideal Wealth Builder” discovered 18 results.

180. My search for consumer complaints filed against Ilender, including those filed against Ilender Network, Ilender Assistance, Ilender Assistant, Ilender.net, and Ilender.com, discovered 35 results.

181. My search for consumer complaints filed against LoanAppFee discovered 2 results.

182. My search for consumer complaints filed against “Membership Care” discovered 73 results.

183. My search for consumer complaints filed against “Payment Assistance” discovered 59 results.

184. My search for consumer complaints filed against “Payment Protection” discovered 210 results.

185. My search for consumer complaints filed against “Debt to Wealth Club” and “Debt 2 Wealth Club” discovered 20 results.

186. In total, I found 842 consumer complaints in the Consumer Sentinel database that had been filed against Defendants. Given the large number of billing descriptors used by Defendants in their campaigns, it is likely that the database contains more complaints than those that I have identified here. The complaints will be kept on file, and will be made available for examination, copying or both at a reasonable time and place.

VI. ANALYSIS

187. Defendants are engaged in the unauthorized debiting and billing of consumer bank and credit card accounts. I base this opinion on my review of the evidence set forth in this declaration; my experience investigating merchants who have engaged in deceptive marketing,

and particularly merchants who have engaged in unauthorized billing of consumers' accounts; and my training as a Certified Fraud Examiner. I discuss some of the evidence below upon which I based my opinion.

188. First, the number of complaints received by the FTC against entities owned or controlled by Defendants and the results of the telephonic survey indicate that Defendants are engaged in unlawful activity. In my experience, 842 complaints found in one investigation is unusually high. Though each case differs, a case with more than 100 consumer complaints suggests that deceptive or unfair acts exist. Moreover, most victims of consumer fraud do not complain to the FTC. Thus, it is likely that the number of consumer victims is greater than the number of complaints.

189. Second, these complaints are very consistent. Aside from the few complaints that lack enough detail to determine the issue the consumer is addressing, almost all of the complainants and survey respondents express that they were billed or money was removed from their account without authorization. The amount of the transaction is consistent as well. Almost all of the consumers state that approximately \$30 was withdrawn from their account. The consistency of the consumers' accounts bolsters their credibility. Moreover, insiders working for Ideal and Focus corroborate that no consumers authorized the transactions initiated by Defendants or wanted their products.

190. Third, the Defendants' use of large numbers of billing descriptors suggests an unfair billing scheme, especially because their product offerings were very similar. For instance, though AvaniX had five (5) different billing descriptors, they did not appear to reflect different products. Unlike a legitimate company that has an interest in building a reputation or brand for its product offerings, Defendants' actions are consistent with an enterprise that wants to disavow

any connection with its products and evade monitoring and sanctions by the payment processing oversight bodies.

191. Fourth, the Defendants' use of RCCs, when considered in light of the other evidence, indicates that Defendants work to avoid monitoring by payment processing oversight bodies. Moreover, in my experience, businesses engaged in fraud commonly use RCCs to avoid detection.

192. Fifth, Defendants use multiple business entities, mail drops, phone numbers, email addresses, and websites, common techniques employed by fraudsters to evade detection by law enforcement. Unlawful enterprises use such front companies (and related addresses, email, websites, and phone numbers) to separate each defendant from the whole of the scheme, and to give each part plausible deniability in the enterprise's activities.

193. Sixth, Defendants' high total return rates, unauthorized return rates, and chargeback rates are significantly above what is normal for legitimate business. These rates are consistent with an enterprise that submits consumers' bank and credit card information for payment without authorization.

194. In my opinion, the evidence put forth in this declaration demonstrates that Defendants are engaged in the fraudulent debiting and charging of consumer bank accounts and credit cards without consumer authorization.

I declare under penalty of perjury that the foregoing is true and correct.

Date:

Jan 10, 2013


Michael B. Goldstein

FTC 1