

enforcement, a public safety organization, or any Federal, State, or local government agency;

(xii) The purpose for which the seller or telemarketer will use a person's checking, savings, share, or similar account number, credit card account number, social security number, or related information;

(xiii) The nonprofit, tax-exempt, or charitable status, purpose, affiliation, or identity of the seller or telemarketer;

(xiv) A person's eligibility or likelihood to receive a tax deduction, loan, or other benefit if the person pays money to the seller or telemarketer;

(xv) The nature, terms, or existence of any prior affiliation, association, connection, or relationship with any person;

(xvi) The nature, terms, or existence of any prior purchase or agreement to purchase by any person;

(xvii) The level of risk, liquidity, markup over acquisition costs, past performance, or earnings potential of any investment opportunity;

(xviii) The market value of any investment opportunity;

(xix) The likelihood that the market value for an investment opportunity will either increase or decrease;

(xx) The seller's success in assisting persons to liquidate goods or services they purchased from the seller, or the profit derived from such liquidation;

(xxi) That goods or services can or are likely to improve a person's credit history, credit record, or credit rating, or result in a person obtaining credit;

(xxii) The eligibility of, or likelihood that, a person, regardless of that person's credit history, will obtain a loan or other credit-related service;

(xxiii) That a seller or telemarketer can recover or otherwise effect or assist in the return of money or any other item of value to a person; or

(xxiv) Any other information required to be provided under this Rule;

(3) Misrepresenting, directly or by implication, in connection with the offer, offer for sale, or sale of any business venture, any of the following:

(i) The level of earnings;

(ii) The extent or nature of the market for the goods or services to be sold;

(iii) The nature or availability of any territory;

(iv) The existence, availability, or provision of retail outlets or accounts for the sale of goods or services;

(v) The existence, availability, or provision of locations or sites for vending machines, rack displays, or any other sales display;

(vi) The nature or availability of any services offered to secure any retail outlets, accounts, sites, locations, or displays;

(vii) That any person owns or operates a business venture purchased from the seller; or

(viii) That a person can give an accurate, independent, description of his or her experience as an owner or operator of a business venture purchased from the seller;

(4) Obtaining or submitting for payment from a person's checking, savings, share, or similar account, a check, draft, or other form of negotiable paper without the person's express written authorization; or

(5) Obtaining any amount of money from a person through any means, unless such an amount is expressly authorized by the person.

(b) Assisting and facilitating. (1) It is a deceptive telemarketing act or practice and a violation of this Rule for a person to provide substantial assistance or support to any seller or telemarketer when that person knows or should know that the seller or telemarketer is engaged in any act or practice that violates this Rule.

(2) Substantial assistance or support to telemarketing for purposes of § 310.3(b)(1) includes, but is not limited to, the following:

(i) Providing lists of customer contacts to a seller or telemarketer;

(ii) Receiving consideration in exchange for providing a testimonial, endorsement, certification, appraisal, or financing, or for serving as a reference, with respect to any business venture or investment opportunity offered by a seller;

(iii) Securing retail outlets or accounts for the sale of goods or services, or locations or sites for vending machines, rack displays, or any other sales displays, used in connection with any business venture;

(iv) Providing any certificate or coupon which may later be exchanged for goods or services; or

(v) Providing any script, advertising, brochure, promotional material, or direct marketing piece to be used in telemarketing.

(c) Credit card laundering. It is a deceptive telemarketing act or practice, and a violation of this Rule, for:

(1) A merchant to present to or deposit into, or cause another to present to or deposit into, the credit card system for payment, a credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant;

(2) Any person to employ, solicit, or otherwise cause a merchant or an employee, representative, or agent of the merchant, to present to or deposit into the credit card system for payment, a

credit card sales draft generated by a telemarketing transaction that is not the result of a telemarketing credit card transaction between the cardholder and the merchant; or

(3) Any person to obtain access to the credit card system through the use of a business relationship or an affiliation with a merchant, when such access is not authorized by the merchant agreement.

§ 310.4 Abusive telemarketing acts or practices.

(a) Abusive conduct generally. It is an abusive telemarketing act or practice and a violation of this Rule for any seller or telemarketer to engage in the following conduct:

(1) Threats or intimidation;

(2) Providing for or directing a courier to pick up payment from a customer;

(3) Requesting or receiving payment of any fee or consideration for goods or services represented to improve a person's credit history, credit record, or credit rating until:

(i) The term of the contract, or time frame in which the seller has represented all of the goods or services will be provided to that person, has expired; and

(ii) The seller has provided the person with documentation:

(A) From the original furnisher or provider of the information to the consumer reporting agency, confirming that the promised results have been achieved; or

(B) In the form of a consumer report from the consumer reporting agency demonstrating that the promised results have been achieved, such report having been issued more than six months after the results were achieved. Nothing in this Rule alters the requirement in the Fair Credit Reporting Act, 15 U.S.C. 1681, that a consumer report may only be obtained for a specified permissible purpose.

(4) Requesting or receiving payment of any fee or consideration for goods or services represented to recover or otherwise assist in the return of money or any other item of value to a person until three (3) days after such money or other item is delivered to that person. This provision shall not apply to goods or services provided to a person by a licensed attorney or licensed private investigator pursuant to a written agreement with that person;

(5) Requesting or receiving payment of any fee or consideration in advance of obtaining a loan or any credit service when the seller or telemarketer has guaranteed or represented a high likelihood of success in obtaining or