

TRO Exhibit 9

DECLARATION OF LISA CARPENTER
Pursuant to 28 U.S.C. §1746



Capital One Bank (Canada Branch)
PO Box 501 Scarborough Stn D
Scarborough, ON M1R 5L1

I, Lisa Carpenter, declare as follows:

1. I am currently employed as the Manager of Fraud Operations for Capital One Canada. I am responsible for managing the internal and external relationships in regards to fraud for our Canadian credit card portfolio. I have been employed in this capacity since October 18, 2004. The following facts are known to me personally and if called as a witness I could and would competently testify thereto.

2. On April 24, 2009 Capital One reviewed an account for possible ID Fraud. During the course of the investigation the Fraud Prevention Agent came across telephone number 514 908 9713 as having called into Capital One's VRU (Voice Response Unit). As per Capital One's Fraud Investigation Standard Operating Procedures, the Fraud Prevention agent pulled all accounts that had received a call from the above mentioned telephone number and determined that approximately 270 calls had been placed on approximately 160 unique card numbers since February 2009 and referred the file to myself for further investigation.

3. Upon receiving the referral, I began to review the accounts that had received calls from telephone number 514 908 9713 and the investigation concluded the following:

4. Reviewed calls placed into Capital One and determined that the only actions being taken in the account were done within our VRU (no live agent serviced the calls) and the majority of the accounts had balance inquiries and/or interest rates requested that would require both card number and Date of Birth to be entered in order to gain access.

5. A manual review of the accounts that had received calls in detected one account with notes indicating that the customer had called into to Capital One asking if 'MCS' was an affiliate of Capital One after receiving a call from 'MCS' who was able to provide the customer his card number, name, current balance, current interest rate, expiry date, CVC2 in order to help him lower his interest rates. A call was placed to the customer and message left at his home number.

6. No information on phone number 514 908 9713 was registered using CAN.411 & Yellow Pages however I placed a call to telephone number. I spoke with a male who advised me I was speaking with MCS. I asked to speak to a manager and was provided the name of James Anderson and telephone number 1 866 945 1131 where he could be contacted. I continued to probe questions from the person on the phone and was advised that I had reached the customer care department. I once again asked for a manager and was passed to another gentleman claiming to be James Anderson. During the conversation James indicated that MCS was a Bank, it was a US based company that had

offices in Canada and continued to try and pitch me on the type of service they could provide me. I was also provided a website where I could obtain more information; <http://www.mcsprograms.ca>. However when I asked to speak with either his Ombudsman and/or Corporate Security Department I was advised that there were no such departments (in Canada it is Mandatory for all Banks or Financial Institutions to have an Ombudsman).

7. Further research on the company led me to <http://www.mcsfa.com/> where I noticed a link for 'Unscrupulous telemarketers using the MCS name'. I contacted the telephone number on the website and inquired into the telemarketing scam referenced on their website and was asked if my contact information could be provided to an investigating 3rd party. It was at this point I was contacted by the FTC.

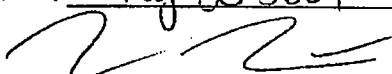
8. On April 27, 2009 my customer contacted me and advised of the following information:

- Several phone calls had been placed to my customer even after he had advised he no longer wished to be contacted by MCS
- The callers were able to provide his name, card #, CVC2, expiry date, interest rate & and balance on the account
- The customer did not provide the caller with any information including his date of birth
- They were calling from Montreal however were a US based company
- They could help the customer reduce his interest rate.

9. On May 1, 2009 Capital One ran the credit card numbers that had received calls from the 514 number listed above against our list of known compromised accounts. Although there does not appear to be a correlation to the list of accounts that received calls and our known compromised accounts, due to the amount of information known about our customers Capital One Canada believes that the account numbers in question are compromised and we will be treating them as such.

10. A log of calls received at Capital One from this 514 number is attached to this declaration as Exhibit 1.

I swear or affirm under penalty of perjury that to the best of my knowledge and belief the foregoing is true and accurate.

Dated: May 20 2009


Lisa Carpenter
Manager, Fraud Operations
Capital One Canada
5140 Yonge Street 19th floor,
Toronto, Ontario M2N 6L7
Ph#: 416 549 2659
Fax#: 416 549 2772
Email: Lisa.Carpenter@capitalone.com

Log of calls received at Capital One:

Date	Time	Acct Ref #
2/10/2009	14:25:48	No Acct Entered
2/10/2009	16:25:16	9011
2/10/2009	17:34:31	6018
2/11/2009	10:31:27	No Acct Entered
2/11/2009	11:36:21	2334
2/11/2009	19:45:15	7887
2/12/2009	8:04:44	No Acct Entered
2/12/2009	11:12:24	1513
2/12/2009	19:32:57	6291
2/12/2009	23:15:17	5674
2/13/2009	8:10:11	No Acct Entered
2/13/2009	8:25:16	7853
2/13/2009	15:52:50	8458
2/14/2009	8:23:44	No Acct Entered
2/14/2009	10:39:15	9672
2/14/2009	11:03:17	2785
2/14/2009	19:27:44	2683
2/14/2009	22:56:13	3539
2/16/2009	8:28:56	No Acct Entered
2/16/2009	18:50:27	6947
2/16/2009	19:55:15	2463
2/17/2009	0:01:55	No Acct Entered
2/17/2009	11:39:52	3534
2/17/2009	14:17:39	3968
2/17/2009	14:27:02	2334
2/18/2009	8:49:44	No Acct Entered
2/18/2009	15:28:59	6739
2/18/2009	16:09:56	2342
2/18/2009	16:39:36	7617
2/18/2009	16:52:57	4541
2/18/2009	17:22:23	2537
2/18/2009	18:03:26	8685
2/18/2009	18:26:59	2830
2/18/2009	19:31:54	5698
2/18/2009	20:13:11	9076
2/19/2009	0:03:29	No Acct Entered
2/19/2009	11:55:50	8260
2/19/2009	15:57:04	5265
2/19/2009	16:46:26	1241
2/19/2009	18:14:29	1385
2/19/2009	18:39:53	5376
2/19/2009	18:47:37	2345
2/19/2009	19:57:19	6947