



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL

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Telephone: (716) 852-6274

May 10, 2010

Honorable Dr. Robert M. Gates  
Secretary of Defense  
1400 Defense Pentagon  
Washington DC 20301-1400

Honorable John McHugh  
Secretary of the Army  
1400 Defense Pentagon  
Washington DC 20301-1400

Re: THE PEOPLE OF THE STATE OF NEW YORK, by ANDREW M. CUOMO,  
Attorney General of the State of New York

vs.

Frisco Marketing of NY LLC d/b/a SmartBuy and SmartBuy Computers and  
Electronics; Integrity Financial of North Carolina, Inc.; GJS Management, Inc.;  
Rome Finance Co., Inc.; Rome Finance Co. (GA), LLC, Britlee, Inc. d/b/a  
Military Zone and Smartbuy, et al.

Dear Secretary Gates and McHugh:

We write to inform you that Frisco Marketing of NY LLC d/b/a SmartBuy and SmartBuy Computers (“SmartBuy”) is a company, which based on our investigation, targets members of the military and unlawfully attempts to sell them computer and other electronic equipment that is marked up between 225-325% through a financing system that ends up causing the military personnel to pay over 244% in interest on the purchase. Based on these fraudulent practices, the New York State Office of the Attorney General (NYOAG) will file a lawsuit against SmartBuy to prevent them from operating in New York State and to seek consumer relief for the members of the military in the form of restitution and credit repair.

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The SmartBuy store in Watertown, New York was abruptly closed by the defendants after we provided them with statutory notice of the impending lawsuit.

As our complaint details, the SmartBuy store previously operated in Watertown is located near Fort Drum and is one of approximately eight stores that are operated nationally. This store originally opened in 2005 and was operated by Britlee, Inc. It was called Military Zone and later changed its name to SmartBuy. The current owners, Frisco Marketing of NY, LLC, continued the operations of SmartBuy in 2007. Our investigation has revealed that the sales practices described below at the SmartBuy store in Watertown are also used at their other stores, all of which are located adjacent to United States military bases throughout the United States. The other locations of active SmartBuy stores include:

- Cross Creek Mall, Fayetteville, NC (Fort Bragg);
- Horton Plaza, San Diego, CA (Camp Pendleton);
- Killeen Mall, Killeen, TX (Fort Hood);
- The Citadel, Colorado Springs, CO (Fort Carson);
- Central Mall, Lawton, OK (Fort Sill);
- Cielo Vista Mall, El Paso, TX (Fort Bliss); and
- Oglethorpe Mall, Savannah, GA (Fort Stewart/Hunter Army Airfield).

Specifically, our investigation revealed that SmartBuy sales personnel are trained to identify active members of the service and solicit financing, ostensibly for the purchase of computers or other electronic consumer goods. All financing is established as open end revolving consumer credit accounts through either a Rome Finance entity or Integrity Financial. The sales personnel are instructed to target sales to active duty service members only, even though they are set up in mall locations open to the general public.

SmartBuy does not purchase the consumer electronic goods it sells directly from manufacturers or through wholesalers or distributors of these consumer goods. Instead, SmartBuy personnel are typically provided their inventory from the company's headquarters in Fayetteville, North Carolina where it had been purchased from large retail vendors like Walmart or Costco. The consumer merchandise purchased at retail is then resold by SmartBuy to service members with markups of 225% to 325% above the original retail price. During the period from 2007 through 2009, SmartBuy financed sales to military consumers in excess of four million (\$4,000,000.00) dollars at the Watertown location alone.

Although SmartBuy states that the consumer can purchase the same merchandise elsewhere for less, it does not identify itself as a reseller of retail merchandise or otherwise disclose to the service members that they are purchasing computers or other consumer goods for a price that is much greater than its full retail value. The price of consumer electronic goods sold in the store is prominently posted as a monthly payment, without a stated term, without disclosure of the manufacturer's suggested retail price ("MSRP"), without the interest rate that will be charged to service members that purchase their consumer electronic goods, and without disclosure that the payment is estimated and not actual.

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Although SmartBuy alleges that it accepts credit card or cash sales, sales only occur in this manner by special exception. In fact, the SmartBuy stores do not have cash registers or credit card scanners to handle sales transactions. All but a few *de minimus* sales are paid by service members through direct military payroll deductions commonly known as allotments, and all of the sales financed are paid via allotment as a condition of financing. All of the sales through the SmartBuy Watertown location were found to have been financed through unlicensed foreign corporations, namely Integrity Financial of North Carolina, Rome Finance Co., Inc., or Rome Finance Georgia (the "Lenders"), all of which extend credit under substantially similar terms and utilize substantially the same loan agreements.

For each financed sale, the Lenders pay SmartBuy a 65% commission while retaining an undisclosed 35% of the purchase price plus interest on the full amount of the total sale. The military consumers paid an effective interest rate of over 244% when purchasing merchandise at the SmartBuy Watertown store.

To complete the sale, the businesses would open a "savings" account in the military consumer's name at the First Citizens Bank of Kentucky to receive the military payroll allotments, and require that the military consumers execute transfer authorizations so that the monthly allotment payments will automatically be made to the Lenders. As additional security, the Lenders require that the military consumers provide access to a deposit, savings, or other financial account as security for the obligation, although payment by allotment is a condition for the extension of credit to repay the obligation.

SmartBuy and the Lenders do not allow the military consumers any choice in selecting the bank at which the allotment savings account is established for payroll deductions, and in most cases, the military consumers are unaware that they have a new savings account. SmartBuy and the Lenders do not provide the military consumers with any information regarding account holder status and responsibilities at First Citizens Bank, nor do they advise them that the bank will charge the military consumers a monthly fee for issuance of the payment to the Lenders.

SmartBuy and the Lenders also fail to advise the military consumers of the accurate price of the product in the financing agreement. Financing documents are filled in by SmartBuy employees, and state that the "purchase price" contains no additional fees or interest, despite the fact that the "purchase price" far exceeds the MSRP for the merchandise, and contains a substantial brokerage fee to the Lenders. As the Lenders' financing and credit agreements bear no relationship to the actual value of the products sold, there is no effective security interest in the electronic goods.

The Lenders further require the military consumer/borrowers to submit to onerous adhesion provisions in the event of a dispute, including a requirement to litigate any dispute within the state of Georgia and utilizing the laws of the state of Georgia, no matter where the contract is entered into. Service members are not given an itemized receipt for the products received, and many sales

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prices are “bundled”, further obscuring the price charged. Service members who attempt to return merchandise are faced with a prohibitively high cash “restocking” fee and a very short time period to return items, even with unopened packages. If a service member disputes the agreement or the amount of the debt, the Lenders will call the service member’s commander in violation of the Fair Debt Collection Practices Act.

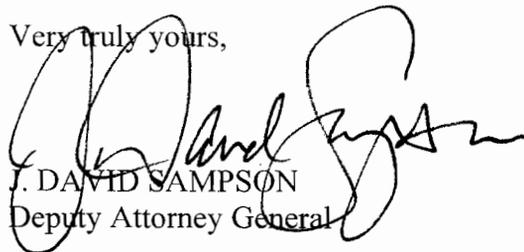
Rome Finance Co. Inc. has sought bankruptcy protection in the Northern District of California to avoid a judgment in excess of \$10,000,000.00 awarded in the courts of Tennessee for litigation misconduct related to a civil action alleging illegalities including consumer fraud and illegal lending. Rome Finance Georgia is alleged to be continuing and perpetuating the business model followed by Rome Finance and transacts business with SmartBuy stores in the same manner. Integrity Finance is alleged to have also adopted and perpetuated the business model of Rome Finance and transacts business with SmartBuy stores in the same manner.

In addition to the corporate entities described above, our lawsuit also includes the following individuals:

- Stuart L. Jordan, Rebecca Wirt and John Paul Jordan, who are brothers and sister and serve as officers and directors of the SmartBuy defendants (Frisco Marketing of NY, Britlee, GJS Management, Integrity Financial of North Carolina). These three individuals are alleged to have actively participated in and/or had knowledge of the business activities of these defendants.
- Ronald Wilson and William Collins, both officers and directors of Rome Finance and Rome Finance Georgia are alleged to have participated in and/or had knowledge of the business activities of these defendants.

If you or anyone in your office requires any additional information, please contact me or Deanna R. Nelson, the Assistant Attorney General in Charge of the Watertown Regional Office (315.785.2444).

Very truly yours,



J. DAVID SAMPSON  
Deputy Attorney General