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MEMORANDUM

February 24, 2010

To Our Clients and Friends

Re: FTC Final Rule Regarding Free Credit Report Advertisements

As required by the Credit CARD Act of 2009, the Federal Trade Commission (“FTC”) has adopted rules requiring certain disclosures in advertising free credit reports in order to reduce the possibility of consumers’ confusing these offers with the federally mandated free annual credit reports. The rules are effective April 1, 2010, except for certain disclosures for television and radio advertisements, which take effect on September 1, 2010.

MEDIA ADVERTISEMENTS

The rules require prominent disclosure of FTC-mandated language in advertisements for free credit reports that appear in print media, Internet, television, telephone and radio.

Internet websites offering free credit reports must:

- Display a mandated disclosure as a header on each page that mentions a free credit report and on each page of the ordering process. The disclosure must state the following: “THIS NOTICE IS REQUIRED BY LAW. Read more at FTC.GOV.” The reference to FTC.GOV must be an operational hyperlink;
- Contain the following statement below the header: “You have a right to a free credit report from AnnualCreditReport.com or 877-322-8228, the ONLY authorized source under federal law.” The reference to AnnualCreditReport.com also must be an operational hyperlink; and
- Include a clickable button that states “Take me to the authorized source” which links to www.AnnualCreditReport.com.

The FTC did not adopt the proposed requirement that websites offering free credit reports contain a separate landing page that directs consumers to AnnualCreditReport.com.

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Print advertisements for free credit reports must contain the following statement:

“THIS NOTICE IS REQUIRED BY LAW.

You have the right to a free credit report from AnnualCreditReport.com or 877-322-8228, the ONLY authorized source under federal law.”

This statement is required to be in close proximity to the first mention of a free credit report.

Television and radio advertisements for free credit reports must include the statement “This is not the free credit report provided for by Federal law” in close proximity to the first mention of a free credit report. The disclosure must appear at the same time in the audio and visual part of television advertisements.

Telephone solicitations offering free credit reports must include the mandated statement that the consumer has the right to a free credit report under federal law and how the consumer may obtain it at the first mention of a free credit report.

NATIONWIDE CONSUMER REPORTING AGENCIES (“CRAS”)

The rules also prohibit nationwide CRAs from engaging in the following practices:

- CRAs may not advertise any products or services on AnnualCreditReport.com until after the consumer has obtained the free credit report;
- CRAs may not include website hyperlinks that take a consumer away from AnnualCreditReport.com until after the consumer has obtained the free credit report; and
- CRAs may not require consumers to create an account or agree to terms or conditions in connection with obtaining a free annual file disclosure.

A copy of the FTC’s final rules can be found on our website at http://www.schwartzandballen.com/whats_new.html.

If you have any questions, please call Gilbert Schwartz, Robert Ballen, Tom Fox or Heidi Wicker at (202) 776-0700.