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IN THE UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

WANDA GREENWOOD, LADELLE HATFIELD and
DEBORAH MCCLEESE, on behalf of
themselves and others similarly
situated,

Plaintiffs,

v.

COMPUCREDIT CORPORATION; COLUMBUS
BANK AND TRUST, jointly and
individually,

Defendants.

No. C 08-04878 CW

ORDER GRANTING
PLAINTIFFS' MOTION
FOR VERIFICATION OF
CLASS SIZE AND
MEMBERSHIP PURSUANT
TO CLASS
CERTIFICATION NOTICE
PLAN

Class representative Deborah McCleese¹ moves to require Defendant CompuCredit Corporation to verify the accuracy of the class list it provided to the third-party administrator (TPA) pursuant to the Court's February 23, 2010 class certification notice plan. CompuCredit opposes the motion. Having considered all of the papers filed by the parties, the Court grants Plaintiffs' motion.

BACKGROUND

Plaintiffs have sued Defendants Compucredit Corporation and Columbus Bank and Trust (CB&T), alleging claims under the federal Credit Repair Organization Act (CROA), 15 U.S.C. § 1679 et seq., and violations of California's Unfair Competition Law (UCL), Cal.

¹The individual claims of Plaintiffs Wanda Greenwood and Ladelle Hatfield remain pending as individual, not representative, claims.

1 Bus. and Prof. Code § 17200 et seq. Plaintiffs bring the CROA
2 claims on behalf of a proposed national class and the UCL claims on
3 behalf of a proposed class of California residents. On January 19,
4 2010, the Court granted Plaintiffs' motion for class certification
5 of the UCL claim for deceptive advertising and promotion.

6 The Court certified the following class:

7 All natural persons who, within four years prior to the
8 commencement of this action and while residing in the State of
9 California, were mailed a solicitation by CompuCredit Corporation
10 for the issuance of an Aspire Visa credit card by Columbus Bank and
11 Trust, who subsequently were issued an Aspire Visa credit card by
12 Columbus Bank and Trust and paid money to CompuCredit Corporation,
13 directly or through Columbus Bank and Trust, on their Aspire Visa
14 credit card accounts.

15 Excluded from the Class are (1) the officers, directors and
16 employees of Compucredit Corporation and Columbus Bank and Trust;
17 and (2) all judicial officers of the United States who preside over
18 or hear this case, and all persons related to them as specified in
19 28 U.S.C. § 455(b)(5).

20 On February 23, 2010, the Court issued an Order Re Class
21 Certification Notice Plan, which directed Defendants to provide the
22 names and last-known addresses of all members of the certified UCL
23 class to the TPA. CompuCredit provided to the TPA a class list
24 which consisted of 86,867 members. This number is much less than
25 the estimate of the class size CompuCredit made while litigating
26 Plaintiffs' motion for class certification -- "183,248 putative
27 California class members." Opposition to Plaintiffs' Motion for
28 Class Certification at 16. CompuCredit claims that its initial
estimate of class membership was overstated "due to having
inadvertently included both the Core and the Little Rock products
within that initial, preliminary search some months ago." Fang
Decl. ¶ 5. CompuCredit claims that the "Little Rock" product is
the one identified in Plaintiffs' complaint because it is the only

1 Aspire Visa product issued through CB&T that has a \$300 limit.

2 CompuCredit used the following criteria to generate a list of
3 potential class members:

- 4 1. Persons who had an Aspire "Little Rock" credit card
5 issued through CB&T on or after 24-oct-2004; and
- 6 2. Residing in California as of the date that the query
7 was run; and
- 8 3. Who either had a California address at the time of the
9 application or to the extent that there was no
10 application address available; and
- 11 4. Who made some payment during the life of the account
12 through [sic] as of the date the query was run.

13 Hartsell Decl., Exh. A ¶ 2.

14 Although Plaintiffs do not appear to dispute that only the
15 Little Rock product should be included in the database search for
16 the contact information of potential class members, there are other
17 problems with CompuCredit's database search. First, CompuCredit's
18 second criterion requires that class members reside in California
19 as of the date of the search query. However, the class
20 certification order requires that class members be California
21 residents at the time they were mailed a solicitation for an Aspire
22 Visa credit card, not at the time the query was performed. Thus,
23 the second criterion excludes individuals who received mailed
24 solicitations in California but subsequently moved out of state.

25 Second, CompuCredit's third criterion is erroneous because it
26 requires that class members had a California address (or no address
27 at all) at the time of credit card application. The class
28 definition does not limit membership to persons who resided in
California when they applied for the Aspire Visa credit card.
Rather, the definition requires that the class members received the
solicitation while residing in California. CompuCredit has not
provided any evidence that it is unable to identify these

1 individuals.

2 For these reasons, the Court grants Plaintiffs' motion.
3 Docket No. 267. Within two weeks from the date of this Order,
4 CompuCredit shall show Plaintiffs the criteria and queries to be
5 used to compile the class list and CompuCredit shall permit
6 Plaintiffs and their discovery expert to observe the real-time
7 execution of the database query used by CompuCredit to compile the
8 list. This may be done remotely. CompuCredit shall generate a new
9 class list in accordance with this Order and the certified class
10 definition. A supplemental class notice must be sent to previously
11 excluded class members who are newly identified after the new
12 search. CompuCredit shall pay the costs of the notices mailed to
13 those individuals. No corrective notice need be sent to previously
14 noticed non-class members. Plaintiffs may move to require
15 CompuCredit to supplement its discovery responses due to any
16 changes in class membership. Further, if necessary in light of any
17 changes in class membership, the parties may move to alter the case
18 management deadlines. Lastly, the Court denies Plaintiffs' request
19 for fees and costs associated with this motion.

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IT IS SO ORDERED.

Dated: 07/13/10



CLAUDIA WILKEN
United States District Judge