

**OFFICE OF THE ATTORNEY GENERAL  
STATE OF FLORIDA  
DEPARTMENT OF LEGAL AFFAIRS**

**IN THE MATTER OF:**

**CNC VENTURES, INC.,  
d/b/a TIMESHARE LIFESTYLE, INC.,  
a Florida profit corporation and  
LOUIS CAPOLINO, an Individual,**

**AG # L12-3-1037**

**Respondents.**

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**ASSURANCE OF VOLUNTARY COMPLIANCE**

PURSUANT to the provisions of Chapter 501, Part II, Florida Statutes, the Florida Deceptive and Unfair Trade Practices Act, the **OFFICE OF THE ATTORNEY GENERAL, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS** (hereinafter referred to as the “Department”) caused an investigation to be made into certain business practices of **CNC VENTURES, INC.** (hereinafter referred to as “CNC”), d/b/a **TIMESHARE LIFESTYLE, INC.** (hereinafter referred to as “TLI”), doing business in the State of Florida, and **LOUIS CAPOLINO** (hereinafter referred to as “Capolino”), an Individual who serves as its President, whose principal place of business is located at 9675 Fourth Street North, St. Petersburg, Florida, 33702 (hereinafter collectively referred to as “**Respondents**”).

IT APPEARS THAT Respondents are prepared to enter into this Assurance of Voluntary Compliance (hereinafter referred to as "AVC") for purposes of resolution of this matter only, and without any admission that Respondents have violated the law, and the Department, by and through the undersigned Director of Economic Crimes and Assistant Attorney General, being in agreement, does accept this AVC in termination of this investigation, pursuant to § 501.207 (6), Florida Statutes, and by virtue of the authority vested in the Office of the Attorney General by said statute.

**I. STIPULATED FACTS**

- 1.1 Respondent CNC is a Florida corporation, and is actively engaged in operation.
- 1.2 Respondent CNC is engaged in timeshare resale advertising at internet address <http://www.timesharelifestyle.com>.
- 1.3 Respondent Capolino is the President of Respondent CNC.
- 1.4 Respondent CNC bought the telemarketing assets and began business as Timeshare Lifestyle, Inc., in April, 2012.
- 1.5 While Respondent CNC was a licensed Commercial Telephone Seller (#TC3903), the Department's investigation revealed that it did not conduct unsolicited telemarketing calls to consumers.
- 1.6 Respondents made solicited telemarketing calls to consumers who own timeshares and offered to advertise their timeshares for resale or for rent through Respondents' website for an up-front fee.
- 1.7 The Department received several complaints from consumers who alleged, among other things, that Respondents misrepresented the actual services provided, promised quick sales



or rentals of the complainants' timeshares or that the Respondents stated that Respondents had a buyer or renter already identified for the complainants' timeshares. However, these consumers maintain that once the fee was paid to Respondents and the advertisement ran, no renter or purchaser came forward.

1.8 This AVC is based upon the stipulated facts set forth in Paragraphs 1.1 through 1.7 above, without any admission or finding of liability on the part of Respondents. The Department shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way or the AVC not be complied with in full.

## **II. DEFINITIONS**

2.1 "Clear and Conspicuous" or "Clearly and Conspicuously" means in this agreement, in the context of a telephone solicitation or written confirmation of a telephone solicitation sale, a statement or communication, written or oral, delivered in a readily understandable diction and spoken in such volume and cadence or written in such font, size, color, location and contrast against the background in which it appears, compared to the other matter with which it is presented, so that it is readily understandable, noticeable and readable. If such statement or communication modifies, explains or clarifies other information with which it is presented, it must be presented so that it is in close proximity to such other information and in the same manner (audible or visual) so it is easily noticeable and readily understandable and it must not be obscured in any manner.

2.2 "Customer" means a person to whom Respondents offer services or goods for a cost.



2.3 “Misrepresent” means to Represent (as defined herein) in an incorrect, improper, false, unsatisfactory or misleading manner.

2.4 “Represent” means to state, or to imply through statements, questions, conduct, graphics, symbols, lettering, formats, devices, language, documents, messages or through any other manner or means by which meaning might be conveyed. For purposes of this AVC, this definition applies to other forms of the word “Represent,” including without limitation “Representation.”

2.5 “Telephone solicitation” or “Commercial Telephone Solicitation” or “Soliciting by Telephone” means, as defined in § 501.603, Florida Statutes, (1) an unsolicited telephone call to a person initiated by Respondents or agents of Respondents or an automated dialing machine used in accordance with the provisions of § 501.059(7), Florida Statutes; or (2) other communication by Respondents or their agents to a person where a telephone call response is invited and Respondents or their agents intend to complete a sale or enter into an agreement to purchase during the course of the telephone call; or (3) other communication with a person which represents a price, quality or availability of consumer goods or services and which invites a response by telephone or which is followed by a call to the person by Respondents or someone acting on behalf of Respondents. For purposes of this AVC “other communication” means a written or oral notification or advertisement transmitted through any means and “invites a response by telephone” and does not mean the mere listing or including of a telephone number in a notification or advertisement.

### **III. COMPLIANCE**

3.1 Respondents are on notice of and shall comply with any applicable law, rule and



regulation, including, but not limited to, the following:

- (a) The Florida Deceptive and Unfair Trade Practices Act as contained in Chapter 501, Part II, Florida Statutes (2010);
  - (b) The Florida Telemarketing Act as contained in Chapter 501, Part IV, Florida Statutes (2010);
  - (c) Section 817.41, Florida Statutes (2010), Misleading Advertising;
  - (d) The Telemarketing and Consumer Fraud and Abuse Prevention Act as contained in 15 U.S.C. §§ 6101-6108 (2010) (the “Act”) and rules implementing the Act as contained in the “Telemarketing Sales Rule,” Title 16 C.F.R, Part 310 (2010);
  - (e) Section 721.205, Florida Statutes (2010), Vacation and Timeshare Plans;
- and
- (f) All Federal Trade Commission rules and regulations regarding or relating to advertising.

3.2 In conducting Commercial Telephone Solicitations, Respondents shall not engage in any deceptive and unfair practices, including, but not limited to, the following:

- (a) Soliciting by Telephone any customer listed on the National Do Not Call List in violation of 16 C.F.R. Part 310, or listed on the Florida Do Not Call list, in violation of §501.059, Florida Statutes;
- (b) Collecting or attempting to collect payment for services without the Express Verifiable Authorization of the customer as required by 16 CFR § 310.3(a)(3);
- (c) Engaging in Commercial Telephone Solicitation without a license, in violation of § 501.623, Florida Statutes;



(d) Employing or affiliating with a salesperson who is engaging in Telephone Solicitation without a license, in violation of § 501.623, Florida Statutes;

(e) Making any false or misleading statements to induce any person to pay for goods and services, including but not limited to, misrepresenting to potential customers that:

i. Respondents have people waiting to buy or rent customers' timeshares,

ii. Respondents have experienced a high demand for timeshares in the areas in which the customers' timeshares are located,

iii. Potential customers will be able to sell or rent their timeshares for a high price, and

iv. Potential customers' timeshares will be sold or rented within a short period of time.

(f) Misrepresenting any material aspect of the performance, efficacy, nature or central characteristics of goods and services that are the subject of a sales offer, including but not limited to:

i. Misrepresenting to customers the number of timeshares sold or rented as a result of Respondents' advertising services,

ii. Misrepresenting to customers that Respondents will advertise their individual timeshares in newspapers and on billboards, when in fact Respondents only place the advertisement on its Vacation Property Services website, and

iii. Misrepresenting to customers that Respondents' sales representatives will personally market the customers' timeshares.



(g) Misrepresenting any material aspect of the nature or terms of any refund, cancellation, exchange or repurchase policies, including but not limited to;

i. Representing to purchasers that they will be able to obtain refunds if their timeshares are not sold or rented as a result of Respondents' advertising services, unless such refunds will be provided, and

ii. Representing to customers that they will allow customers to obtain a refund within the time allowed by their credit card companies, unless such refunds will be provided.

(h) Misrepresenting Respondents' affiliation with or endorsement by, a third-party organization, including but not limited to falsely representing to customers that Respondents are affiliated with customers' timeshare resorts.

3.3 Respondents shall offer and provide within 30 days of the customers' request, full refunds to eligible consumers of any amounts paid. Customers that are eligible for a full refund shall include, at a minimum:

(a) Customers who receive defective goods or services or goods or services that have been misrepresented by Respondents, pursuant to § 501.615 (6) - (9), Florida Statutes; and

(b) Customers who notify Respondents of cancellation within seven (7) business days, or longer at discretion of Respondents, of receiving the written confirmation of the sale from Respondents. Notification of cancellation may be made to the address indicated, Clearly and Conspicuously, in the written confirmation and should be postmarked within seven (7) business days of the date of receipt of the written confirmation, unless a longer period of time

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is allowed in the written confirmation. Pursuant to § 501.615(4), Florida Statutes, the notification of cancellation by the customer need not take a particular form and is sufficient if it indicates, by any form of written expression, the name and address of the purchaser and the purchaser's stated intention not to be bound by the sale.

3.4 In making a Telephone Solicitation, Respondents, at a minimum, shall comply with the following practices to ensure that all customers understand and accept the terms of the sale:

(a) Respondents shall Clearly and Conspicuously disclose, before a customer pays for the goods or services offered:

- i. The identity of the seller,
- ii. That the purpose of the call is to sell goods or services,
- iii. The nature of the goods or services offered,
- iv. The total costs to purchase, receive or use Respondents' goods or services, and
- v. All material restrictions, limitations or conditions to the purchase of Respondents' services, including, but not limited to, cancellation rights.

(b) Respondents shall send the customer a written confirmation of the sale within seven (7) business days of the sale. The written confirmation shall:

- i. Match the description of the goods or services used in the Telephone Solicitation,





ii. Contain Seller's name, address, telephone number and registration number of Seller, the sales person's name, the total price of the contract and a detailed description of the goods or services being sold,

iii. Clearly and Conspicuously list all material terms and conditions including an explanation of the purchaser's right to cancellation, and

iv. Provide specific instructions on how to cancel the agreement; and

(c) Respondents shall allow the customer no less than seven (7) business days from the date the written confirmation of sale is received by the customer to provide notice of cancellation to Respondents and to obtain a full refund of payment made or submitted.

3.5 Respondents will respond to all future customer complaints within seven (7) business days. Respondents further agree that any complaints and related resolutions and responses will be kept on file and be subject to review by the Department upon Respondents' receipt of reasonable notice.

3.6 Respondents will work diligently to resolve any future complaints relating to the terms and conditions of this AVC.

3.7 Respondents will monitor the calls of any salesperson(s) who receive more than three (3) customer complaints relating to this AVC within a thirty (30) day period and take any and all necessary actions to correct any and all problematic sales practices. If said salesperson(s) receives three (3) additional complaints within the next thirty (30) day period, the salesperson(s) shall be terminated.

3.8 Respondents will continue to respond to any and all complaints received by the Better Business Bureau(s).

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3.9 Respondents will make the substantive terms and conditions of this AVC known to all officers, directors, partners, managers, employees, agents, representatives, licensees, franchisees, independent contractors, successors and assigns engaged in Respondents' business.

3.10 Respondents will not effect any change in the form of doing business or organizational identity as a method of avoiding the terms and conditions set forth in the AVC.

3.11 The Effective Date of this AVC is the date on which the AVC is fully executed by the parties.

#### **IV. STIPULATED PAYMENT**

4.1 The parties agree that Respondents will pay to the Office of the Attorney General the sum of TWO THOUSAND FIVE HUNDRED DOLLARS (\$2,500.00) as costs and fees to the Department of Legal Affairs' Revolving Trust Fund per the following schedule:

- (a) ONE THOUSAND DOLLARS (\$1,000) at the time this AVC is executed;
- (b) FIVE HUNDRED DOLLARS (\$500) on or before November 1, 2012;
- (c) FIVE HUNDRED DOLLARS (\$500) on or before December 1, 2012; and
- (d) FIVE HUNDRED DOLLARS (\$500) on or before January 1, 2013.

4.2 Payments made under this section shall be made by certified funds payable to "The Department of Legal Affairs Revolving Trust Fund" at the time this AVC is executed. Payment shall be delivered to Robert Follis, Assistant Attorney General, 3507 East Frontage Road, Suite 325, Tampa, Florida, 33607. This payment amount shall be deposited in the Department of Legal Affairs' Revolving Trust Fund, in accordance with § 501.2101(1), Florida Statutes. Time is of the essence in all payments pursuant to this agreement.

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**V. FUTURE VIOLATIONS**

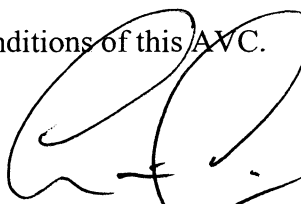
5.1 IT IS HEREBY AGREED by the parties that any subsequent failure to comply with the provisions of this AVC is by statute *prima facie* evidence of a violation of Chapter 501, Part II, Florida Statutes, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorney's fees and costs.

**VI. ACCEPTANCE**

6.1 IT IS HEREBY AGREED by the parties that this AVC shall become effective upon its acceptance by the Department, who may refuse to accept it at its discretion. The receipt of or deposit by the Department of any monies pursuant to this AVC does not constitute acceptance by said Department, and monies received will be returned if this AVC is not accepted.

IN WITNESS WHEREOF, Respondents have caused this AVC to be executed by an authorized representative, as well as by the individual Respondent, as a true act and deed, in the County and State listed below, as of the date affixed thereon.

**BY MY SIGNATURE** I hereby affirm that I am acting in my capacity and within my authority as a corporate officer of Respondent CNC's business, and that by my signature I am binding Respondent CNC's business to the terms and conditions of this AVC.



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Louis Capolino, President, CNC Ventures, Inc.

Initials LC

STATE OF FLORIDA

COUNTY OF Pinellas

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared Louis Capolino, as President of CNC Ventures, Inc., d/b/a Timeshare Lifestyles, Inc., and acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 5<sup>th</sup> day of October, 2012.

Type of identification produced: Florida driver license # C145530 533110.

Sworn to and subscribed before me this 5<sup>th</sup> day of October, 2012.



CAROL S. HOLTON  
MY COMMISSION # EE 117160  
EXPIRES: August 7, 2015  
Bonded Thru Budget Notary Services

Carol S. Holton  
Notary Public

BY MY SIGNATURE I hereby affirm that I am acting in my individual capacity, and that by my signature I am binding myself to the terms and conditions of this AVC.

[Signature]  
Louis Capolino, an Individual

STATE OF FLORIDA

COUNTY OF Pinellas

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared Louis Capolino, who acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 5<sup>th</sup> day of October, 2012.

Type of identification produced: Florida driver license # C145530 533110.

Sworn to and subscribed before me this 5<sup>th</sup> day of October, 2012.

[NOTARIAL SEAL]

Carol S. Holton  
Notary Public



CAROL S. HOLTON  
MY COMMISSION # EE 117160  
EXPIRES: August 7, 2015  
Bonded Thru Budget Notary Services

Initials [Signature]

FOR THE OFFICE OF THE ATTORNEY GENERAL



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Accepted this 22<sup>nd</sup> day of October, 2012.