

ATTORNEY GENERAL OF THE STATE OF NEW YORK
CONSUMER FRAUDS AND PROTECTION BUREAU

In the Matter of FC&A Publishing

Assurance No. 26-055

**Investigation by LETITIA JAMES,
Attorney General of the State of New York, of**

Frank W. Cawood & Associates, Inc., a/k/a
FC&A Publishing

Respondent.

ASSURANCE OF DISCONTINUANCE

The Office of the Attorney General of the State of New York (“OAG”) commenced an investigation pursuant to N.Y. Exec. Law § 63(12) and N.Y. Gen. Bus. Law § 349 into the sales and marketing practices of Frank W. Cawood & Associates, Inc., a/k/a FC&A Publishing (“FC&A”). This Assurance of Discontinuance (“Assurance”) contains the findings of the OAG’s investigation and the relief agreed to by the OAG and FC&A (collectively, the “Parties”).

THE OAG’S FINDINGS

1. Frank W. Cawood & Associates, Inc., a/k/a FC&A Publishing, is a Georgia corporation that publishes and sells nonfiction, self-help books targeted at seniors.
2. FC&A’s titles include “Simple Home Remedies for Seniors: The Guidebook to Natural Healing Secrets to Prevent and Reverse Disease,” “New Technology Made Easy for Seniors: The User-Friendly Guidebook to Smartphones, Smart TVs, Super Sites, Computers, and More,” “The Ageless Brain for Seniors: 1,001 Secrets to Keep Your Brain Young, Your Memory Sharp, and Your Mind Healthy,” “Keep Your Cash, Save Your Social Security, and Live Worry-

Free! The Smart Senior's Financial Answer Book,” and “The Country Doctor’s Kitchen Secrets Handbook: 1,267 Pantry Prescriptions and Refrigerator Remedies for Almost Every Health and Household Problem.” FC&A’s products are priced at \$36.00 in hardcover.

3. FC&A conducts most of its business through direct mail marketing solicitations. FC&A markets its products nationwide and sent over 26 million mailers from 2023 to 2024. Between 2021 and 2024, FC&A sent more than 4 million mailers to New York residents in connection with over 1,500 separate mailing campaigns. In 2024, FC&A sent mailers to approximately 10,000 individual New Yorkers, using its own mailing list as well as third-party mailing lists of consumers “age 60+” or “age 65+.”

4. These mailers offer consumers the opportunity to participate in a “free no-risk preview,” a program that, despite its name, could cause consumers and their caregivers to pay for products they did not order and do not want.

I. FC&A’s Free No-Risk Preview Offer

A. FC&A advertises a “free no-risk preview” where consumers can try a book without any obligation.

5. FC&A’s mailers contain an offer letter, a separate “Free No-Risk Preview Certificate,” and a prepaid return envelope. The offer letter tells consumers that they can “try [a particular book] without any obligation.”

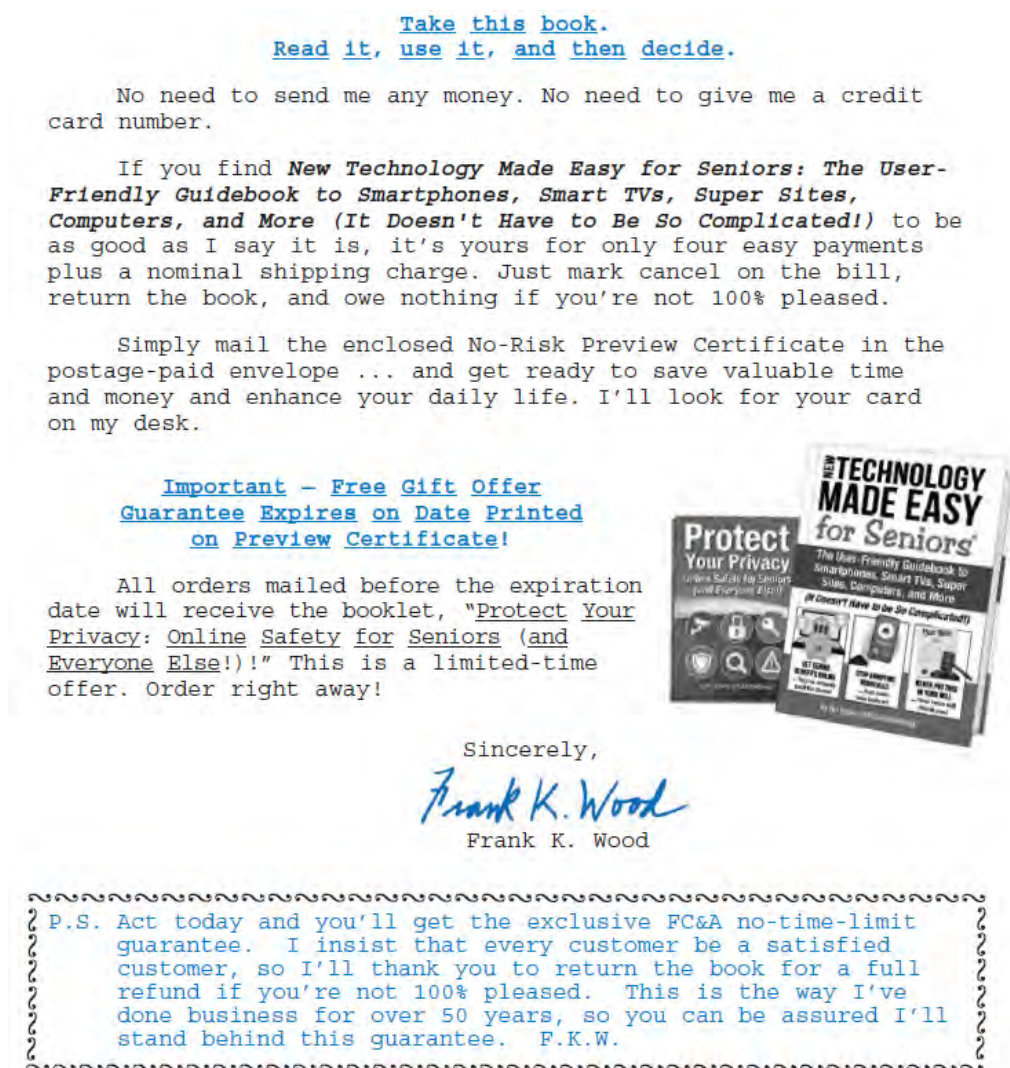
6. It describes this program as a “free no-risk preview” and a “free trial book.” The mailers often feature a promotion for a second product. This product is a booklet that FC&A provides to consumers as a gift for participating in the free preview, regardless of

whether the consumer elects to keep the book. FC&A calls this promotion a “free gift offer.”

7. These mailers are substantially the same across FC&A’s various products, with the only difference being the product’s description.

8. Figure 1 is an excerpt from an offer letter describing FC&A’s book, “New Technology Made Easy for Seniors.”

Figure 1



9. To redeem this offer, FC&A instructs consumers to affix a sticker on an enclosed “No-Risk Preview Certificate” to “Preview [the] Book At No Risk” and mail it to FC&A in a pre-paid envelope marked as “21-Day Free Trial.” When mailed to consumers, the recipient’s name and mailing address are pre-printed in the blank space. The box next to the text “YES, send me a free trial book ... to try without any obligation” is pre-checked. The “Yes I’d Like to See it” sticker is removable and can be affixed to the certificate on the space marked “Place Label HERE To Preview Book At No Risk.” Figure 2 shows a typical preview certificate. “Free Trial” and “FREE NO-RISK” are in large bold print. The payment information is in a smaller, dense black 9.5 font that may be difficult to read for some consumers. A recipient’s address is typically pre-printed in the box on the bottom right.

Figure 2

FREE NO-RISK PREVIEW CERTIFICATE
SIMPLE HOME REMEDIES FOR SENIORS
Free Gift Offer Guarantee Expires on Date Below

Place Label
 **HERE**
To Preview Book
At No Risk

Offer Expires:

***** FREE *****
BOOKLET

☒ **YES, send me a free-trial book, “Simple Home Remedies for Seniors” to try without any obligation.** Also send me my free booklet, “Little Book of Home Remedies for Seniors”. If I like the book, I can have it for just four easy payments of \$9, plus shipping. Don’t wait past the expiration deadline. Return this card now.

Address Change? Write your new address on the back of this card.

CEPH-DM-H25

10. Figure 3 shows a typical pre-paid envelope.

Figure 3

21-Day
Free Trial



BUSINESS REPLY MAIL
FIRST-CLASS MAIL PERMIT NO. 40 PEACHTREE CITY GA

POSTAGE WILL BE PAID BY ADDRESSEE

Attn: Frank K. Wood
FC&A PUBLISHING®
103 CLOVER GREEN
PO BOX 2528
PEACHTREE CITY GA 30269-9874



NO POSTAGE
NECESSARY
IF MAILED
IN THE
UNITED STATES



11. Upon receipt, FC&A scans a low-resolution, black-and-white copy of the preview certificate and saves the image into its systems. FC&A tracks the date when an order card is received and when it is processed but does not preserve the original, hard-copy card.

12. FC&A represents that it does not send unsolicited products to consumers and that “every order is initiated by a returned preview certificate.” In customer disputes, FC&A uses the scanned preview certificates as proof that the consumer requested a free preview of the product.

B. FC&A bills consumers for books received for a “free no-risk preview” starting upon the book’s receipt and for up to a year.

a. Initial Fulfillment Package

13. Once FC&A processes the free preview certificate, it sends the consumer a fulfillment package that contains the book, a form letter and an invoice.

14. A typical form letter thanks the customer for “your recent order from FC&A” and asks them to review the enclosed invoice and “send[] your payment today.”

15. The form letter in the fulfillment package also references FC&A’s advertised “no-time-limit guarantee,” stating: “if you decide not to keep the book, please call the toll-free number on the bill to cancel. Or, simply mark cancel on the bill, return the product, and owe nothing if you’re not 100% pleased.” The fulfillment package does not include a return mailing label.

16. A typical invoice in the initial fulfillment package describes a “payment due” for an order.” It contains an itemized breakdown: \$36.00 for the book, payable in four

monthly installments or one lump sum, \$10.00 for shipping and handling, and \$3.68 in state taxes (for New York residents), for a total of \$49.68.

17. Figure 4 shows a typical invoice in a fulfillment package. The consumer's personal information is redacted.

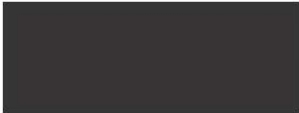
Figure 4

11

FC&A 103 Clover Green, Peachtree City, GA 30269
(800)226-8024 Mon-Fri 9-5 EST

04/23/24
30-169703-3


02330506301

 HIGH ADT NG

Order Total: \$49.22
Amount Paid: *****
BALANCE: \$49.22
PAYMENT DUE: \$12.30
Pay Before: 05/23/24

PS-21475 SB-49#31 INST-F 1101721847030169703304922012307
00116

04/23/24	1 - 1,001 Home Health Secrets @ 36.00	36.00
	Shipping and Handling	10.00
	NY TAX	3.22
	20/20/20 Booklet	N/C
		\$49.22

Please add your email address below
for free tracking, special offers & more.

To pay in 4 installments of \$9.00 plus
shipping & handling (& tax if added), amount now
due for first payment is: \$12.30

Or, to pay full amount due, return: \$49.22

Note: A Late fee of \$3.00 will be added to future past due balances to cover postage & handling, and other expenses. (This is not a finance charge.)

Order **30-169703-3** 017218470
Please Detach and Return Bottom Part with your Payment by 05/23/24
INST-F

b. Monthly Invoices

18. If FC&A does not receive payment or a cancellation notice, it will send eleven more form letters to the book's recipient, each accompanied by an invoice, beginning 37 days after the date of invoice in the fulfillment package, and continuing every 29 days

after, with a typical series including the following:

- a. The second form letter (Figure 5) asks consumers: “Did you receive the product you ordered from us?” and “did you see the bill enclosed with it?” It tells them to “[u]se the enclosed envelope, and send us your check or money order today.”

Figure 5



Dear Special Customer,

Did you receive the product you ordered from us?

Did it arrive in good shape, undamaged?

And did you see the bill enclosed with it?

In case you missed it, I've enclosed a copy of the bill for you.

Use the enclosed envelope, and send us your check or money order today.

Thanks!

Sincerely,

Frank K. Wood

Frank K. Wood
Publisher

- b. The third and fourth form letters say: “We know you are concerned person . . . Concerned about finishing the projects you begin, and . . . Concerned about following through on all your commitments. You showed your commitment by asking us to send the product you ordered. Now, won’t you finish the good thing you’ve begun? Won’t you honor your commitment by paying the modest bill enclosed?”
- c. Beginning with the third invoice, invoices are marked “Overdue Account”

and “PAST DUE!” A late fee is added. The total balance is no longer itemized.

d. Figure 6 shows an excerpt an invoice marked with “Overdue Account” and without an itemized balance, as is typical beginning with the third invoice.

Figure 6

PCRG
00853

INST-B

1108333091030205865605268052681

Keep Your Cash Save Your So

Return your payment by 12/30/24

Please add your email address below
for free tracking, special offers & more.

Overdue Account.

(Amount Paid: \$.00)

\$49.68

\$52.68

Full balance now due: \$52.68

Note: A late fee of \$3.00 will be added to past due balances to cover postage & handling, and other expenses. (This is not a finance charge.)

e. The fifth form letter (Figure 7) is a card with an image of flowers. “We’re worried about you” appears on the card’s exterior. The inside reads: “I know how troubled times can weigh a person down and make small tasks more difficult. We sincerely care about you and hope you’re not having any serious problems. Please contact us and let us know what we can do to help work this matter out.”

Figure 7



We're worried about you ...

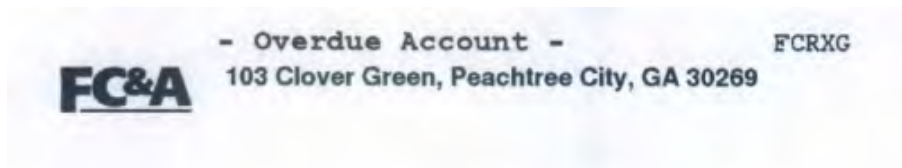
*I know how troubled times can
weigh a person down and make even
small tasks more difficult.
We sincerely care about you
and hope that you're not having
any serious problems.
Please contact us and
let us know what we can do
to help work this matter out.*

*Thank you,
Dale Collins*

f. During the relevant period, beginning with the fifth invoice, invoices no longer contained FC&A's phone number or any contact information other than a mailing address.

g. Figure 8 depicts an excerpt from a typical fifth invoice during the relevant period, showing how FC&A marked the invoice "Overdue Account" and removed its phone number.

Figure 8

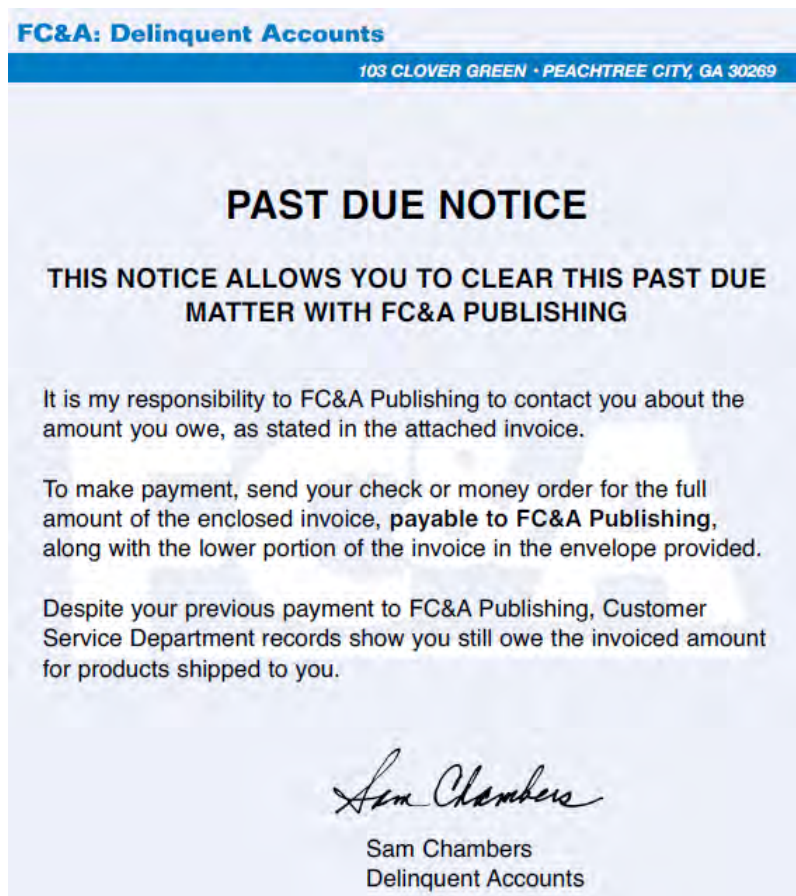


h. The sixth through ninth form letters represent: "Several months ago we received an order from you. As you requested, we sent the product to you. And even

though you have received numerous billing notices from us, we still haven't received any responses from you." These form letters exhort the consumer: "Please pay this bill, so that we can mark your account 'Paid.'"

i. The tenth through twelfth form letters (Figure 9) are labeled "PAST DUE NOTICE" from "FC&A: Delinquent Accounts." They state: "THIS NOTICE ALLOWS YOU TO CLEAR THIS PAST DUE MATTER WITH FC&A PUBLISHING." The form letter says: "It is my responsibility to FC&A Publishing to contact you about the amount you owe" and "you still owe the invoiced amount for products shipped to you."

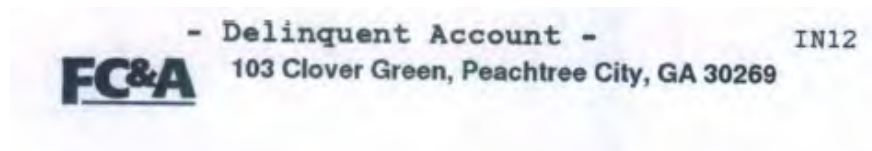
Figure 9



j. Beginning with the tenth invoice, “Overdue Account” is changed to “Delinquent Account.”

k. Figure 10 depicts an excerpt from a typical tenth invoice, showing how the invoice has been marked “Delinquent Account” and has no phone number for FC&A.

Figure 10



II. FC&A Causes Consumers to Pay for Unordered or Unwanted Products

A. *Many consumers do not understand or remember the offer.*

19. FC&A advertises its free preview as a no-strings-attached opportunity to experience a book firsthand and prints “free trial” and “no risk” in large bold print throughout its direct mail advertisements. The payment information is in a significantly smaller font, which may be difficult to read for some consumers, especially for seniors with vision impairment.

20. FC&A’s advertisements also often describe two distinct products, one of which is free only during a trial period. Consumers may not realize the “free trial” is distinct from the complimentary free booklet provided to consumers as a gift for participating in the free preview. FC&A is aware that some consumers believe the book is free or become confused about their obligations once they receive the fulfillment package.

21. The following excerpts from FC&A’s phone log are representative of over one hundred calls documented between 2018 and 2024 from New York consumers:

- a. "thought it was free"
- b. "Cust thought book was free"
- c. "THEY THOUGHT IT WAS FREE"
- d. "cust called claiming she dno [did not order] and she just wanted to clear this up before she goes to hospital. when i explained the mail ads, order card and how it was mailed in, she recognized it – sd she thought it was free then she sd she has no money, she is ill, has no idea how long she will be in hospital"
- e. "She doesn't want the book b/c she wasn't told there was a cost."
- f. "Wanted to know what the charge is for."
- g. "Lady called to find out what the bill is for."
- h. "DID NOT UNDERSTAND INVOICE"
- i. "THIS CUSTOMER IS UNABLE TO UNDERSTAND WHAT THE BILLS HE GETS AND WHAT HE OWES FOR."
- j. "He didn't understand the bill."
- k. "I guess she doesn't understand the letter, she says she gets too confused."
- l. "cust thought she was just ordering free booklet, not any books. she kept getting confused, forgetting which book we were talking about and not understanding when i read the order card info to her. she does not want any books."

m. “cust claims DNO [did not order] but then states the literature he read and sent did not state amount of book. So he did order just thought the book would be free.”

n. “son called. His mother doesn’t know what the bills are for.”

B. *FC&A’s verification process for preview certificate returns has limitations.*

22. Even though FC&A represents that it does not send unsolicited products to consumers and that “every order is initiated by a returned preview certificate,” FC&A has in at least some instances mailed products to consumers where the returned preview certificate did not contain the completed “Yes - I’d Like to See it” sticker.

23. FC&A does not require consumers to print or sign their name on the Preview Certificate limiting its ability to ascertain whether the Certificate was completed by the consumer themselves..

24. FC&A has mailed products to consumers where the scanned certificate was missing the “Yes – I’d Like to See it” sticker altogether.

25. Figure 11 depicts a scanned preview certificate (with the sticker missing), which FC&A sent to a consumer to show that she had requested a free preview of one of FC&A’s products. The New York consumer’s name and mailing address have been redacted.

Figure 11

01 P:20231003 00511676 172 0172 R:20231003

FREE NO-RISK PREVIEW CERTIFICATE
THE COUNTRY DOCTOR'S KITCHEN SECRETS HANDBOOK 2
Free Gift Offer Guarantee Expires on Date Below

Place Label
 **HERE**

To Preview Book
At No Risk

Offer Expires:
10-17-23

*** **FREE** ***
BOOKLET
EX050M23

☒ YES, send me a free trial book, "The Country Doctor's Kitchen Secrets Handbook 2," to try without any obligation. Also send me my free booklet, "The Little Book of Quick Pantry Cakes." If I like the book, I can have it for just four easy payments of only \$9 each, plus shipping and handling. Don't wait past the expiration deadline. Return this card now.

 QSH DM23I-CM 35310235 53014944 9
[REDACTED]
CHASE MILLS, NY 13621-0036

Address Change? Write your new address on the back of this card.

26. Consumers have reported both directly to FC&A and to the Better Business Bureau that FC&A sends unsolicited products in complaints such as the following:
- "[FC&A] sends books I didn't order . . . I am 85 years old and this is stressful for me. I live in a trailer, [and] I have to get a ride to the post office to return these books addressed to Georgia which I started getting last month. I always return them, they keep sending me invoices . . ."
 - "This business sent a product that I never ordered and asks for payment and threatens late fees if I don't pay . . ."
 - "Like so many other complainants re FCA, my elderly father received a book in the mail, together with an invoice in the amount of \$44.52 . . . however, he never ordered this book and it is not at all the sort of book he would even be interested in. Sadly, this looks like the typical preying upon seniors. He does

not want the book, does not want to be billed for it, and does not want to have to pay anything to return it to the sender.”

d. “[Customer] claims they get a book every January without ordering.”

27. When consumers call FC&A to complain that they did not order the product or that they thought it was free, FC&A sales representatives rely on the fact that FC&A received a certificate agreeing to order the product. Yet, as noted above, the payment details on the certificate are in fine 9.5 font and may be difficult to read for some consumers. FC&A’s internal certificate records show that FC&A keeps low-resolution black and white scanned photos of preview certificates (the card returned by the consumer) and that in at least some instances, FC&A has mailed a product to a customer without a completed preview certificate.

C. The letters and invoices sent by FC&A cause many recipients to misunderstand the free preview program.

28. Although FC&A conspicuously prints “free trial” and “no risk” throughout its advertisements, neither the fulfillment package nor any subsequent communication references the free trial program.

29. The fulfillment package includes a form letter stating: “As always, if you decide not to keep the book, please call the toll-free number on the bill to cancel. Or, simply mark cancel on the bill, return the product, and owe nothing if you're not 100% pleased.” While this form letter offers consumers the opportunity to return the product, it misleadingly suggests the consumer ordered it in the first instance.

30. The form letters represent that the previously sent book is “the product you ordered.” Beginning approximately sixty-six (66) days after the product was shipped, and after no payment has been received, certain form letters urge consumers to “honor [their] commitment.”
31. The invoices accompanying the form letters use similarly misleading language, describing a “payment due” for “an order.”
32. These invoices prompt consumers to believe they must pay immediately to avoid adverse consequences through phrases like “Overdue Account,” “Delinquent Account,” and “Past Due,” even though FC&A represents it has never sent customer accounts to outside collections agencies or make any other attempts to collect payment after sending the twelfth communication.
33. Similarly, while the initial fulfillment package invoice contains an itemized breakdown of charges, no subsequent invoices sent to consumers are itemized. FC&A’s communications continue to represent that a late fee “will be added to past due balances,” once a late fee has been applied, without providing consumers an itemized accounting of the charges that have been assessed, which could create the impression that the late fee has not already been charged, or additional late fees may be incurred.
34. Removing FC&A’s phone number starting with the fifth invoice limits consumers’ capacity to contest the invoice, initiate a return, or ask questions about the bill. FC&A’s phone number does not appear on any form letter or envelope sent to consumers in the series.

35. Older consumers are FC&A's target demographic. FC&A is aware that some of its recipients of mailing offers may suffer from age-related conditions like memory loss or dementia, which can affect the consumer's ability to understand FC&A's offer.

36. These consumers are especially prone to forgetting the original terms and thereby failing to understand that they are not obligated to purchase the product once they begin to receive invoices.

37. In addition, many of these consumers have caretakers who help them with tasks including paying bills. These caretakers may not have seen the original form certificate before it is sent to FC&A and are relying on the consumer's memory in addition to the form letters and invoices.

38. Upon a consumer or their caregiver reporting such a condition, FC&A uses an internal tag "Alert ClassMED" to designate the consumer's account as "Do Not Mail" and ceases sending marketing materials to that consumer. This tag appears on over 650 phone logs describing calls from or on behalf of New Yorkers between 2018 and 2024.

39. The below excerpts are representative of these phone logs.

- a. "caretaker called - cust is 91 and has dementia . . ."
- b. "CAREGIVER CALLED - CUST IS 85 AND DOESNT REMEMBER ORDERING ANYTHING."
- c. "Daughter called to find out what this bill is for. Her mother has no idea what this is. She is in her 90's and legally blind and in a nursing home."
- d. "his daughter called, says her dad has brain ensefalitis [sic]"

- e. “calling for dad who can no longer make decisions”
- f. “calling for father who is senile”
- g. “son called - cust is blind and living in a senior care facility”

D. Confused consumers pay for books ordered through the free trial program.

40. Upon request, FC&A will cancel bills and remove customers from its mailing lists, and it represents that its customer service department consistently resolves complaints in consumers’ favor.

41. Nonetheless, FC&A has collected payment from consumers or their caregivers who do not understand or remember requesting the free trial and who did not intend to order a product but nonetheless are confused or mistaken into believing they placed an order for one of FC&A’s products, incurred payment obligations, and must pay the bill to avoid late fees or adverse consequences.

42. FC&A knows it receives payment from confused or dissatisfied customers. The following entries come from FC&A’s internal customer service phone log.

- a. “didn’t remember order but said she will send payment”
- b. “daughter calling on cust behalf, Will be mailing in pymnts to cover minimum paymnts due. Requesting to keep cust off mailings.”
- c. “what is this bill for? Will send payment.”
- d. “WAS CONFUSED – WILL SEND A CHECK”
- e. “Will send payment, but he did not order! Dont send him anything else.”

- f. “she went away and did not get the return label so she is just going to pay for this book. seems like a very confused lady.”
 - g. “will be sending payment. She had thought this book was free.”
 - h. “Lady says they thought it was free. they will keep it and pay.”
 - i. “he thought it was free. He is sending pmt.”
 - j. “cust thought was free, I explained offer. Will be mailing in pymnt”
 - k. “doesnt remember ordering but he has 11 grandchildren that come over all the time” [record shows this customer paid]
43. In the instances where a customer passes away during or soon after the free trial, caretakers or relatives can be left with nothing but misleading communications from FC&A.

III. Conclusion

44. New York Executive Law § 63(12) prohibits persons or business entities from engaging in repeated fraudulent or illegal acts or otherwise demonstrating persistent fraud or illegality in the carrying on, conducting, or transaction of business.
45. New York General Business Law § 349 prohibits deceptive acts or practices in the conduct of any business, trade or commerce in this State.
46. The OAG finds that FC&A’s business practices violate New York Executive Law § 63(12) and New York General Business Law § 349.
47. FC&A neither admits nor denies the OAG’s Findings, Paragraphs 1-46 above.

48. The OAG finds the relief and agreements contained in this Assurance appropriate and in the public interest. THEREFORE, the OAG is willing to accept this Assurance pursuant to Executive Law § 63(15), in lieu of commencing a statutory proceeding for violations of New York Executive Law § 63(12) and New York Executive Law § 349 based on the conduct described above during 2018 to the present.

IT IS HEREBY UNDERSTOOD AND AGREED, by and between the Parties:

RELIEF

49. General Injunction: FC&A shall not engage, or attempt to engage, in conduct in violation of any applicable laws, including but not limited to New York Executive Law § 63(12) and New York General Business Law § 349.

50. Programmatic Relief: FC&A is permanently barred from engaging in its preview program in New York, including it shall not, with respect to New York consumers, mail or redeem offer cards or solicit payment for products consumers requested through the preview program after the Effective Date.

51. Restitution: FC&A shall provide restitution to Eligible Consumers who (a) previously requested a refund from FC&A and did not receive a full refund already or (b) previously contacted FC&A and expressed that they did not understand or remember requesting the free trial or did not intend to order a product but nonetheless paid for one of FC&A's products or (c) request restitution within six months of the Effective Date. FC&A shall process the mailing addresses through the National Change of Address database and shall mail the checks to the most recent address. For mailings that are

returned as addressee unknown, FC&A shall process the mailing address through another trace process such as LexisNexis, and mail the check to another address, if one is identified.

52. FC&A shall determine the Eligible Consumers by reviewing its existing customer service logs, payment records, and refund records for the relevant time period noted below. For avoidance of doubt, Paragraph 52(c) Eligible Consumers are entitled to refunds even if they did not previously contact FC&A.

a. Eligible Consumers shall include New Yorkers who placed an order for an FC&A Product within the last six years, if that product was sent by FC&A to a New York address.

b. Eligible Products: any FC&A product initially mailed to a New York consumer on a preview or trial basis.

c. Restitution Amount: 100% of the amount paid for the Eligible Product, including the shipping cost and any late fees charged.

d. FC&A shall pay restitution by paper check to Eligible Consumers by mailing a check to the consumer's last known address, according to FC&A's records, no later than thirty (30) days after the end of the six-month period provided for Eligible Consumers to come forward.

e. For any consumer who contacts the OAG within the six-month period concerning whether they are an Eligible Consumer, the OAG will timely forward the

consumer's information and inquiry to FC&A. FC&A shall treat that inquiry as if the consumer made the inquiry directly.

53. Civil Penalties: FC&A shall remit to the State of New York \$23,500 in penalties.

a. Payment shall be made by wire transfer, ACH transfer, attorney check, corporate or certified check, or bank draft, which shall be made payable to the "state of New York," and shall reference Assurance No. 26-055. Any payment by check shall be addressed to:

The New York State Office of the Attorney General
Consumer Frauds and Protection Bureau

Attn: Nora Van Horn, Assistant Attorney General

28 Liberty Street

New York, NY 10005

Any payment by wire transfer shall be sent pursuant to wire transfer instructions that the OAG will provide to FC&A in writing prior to payment.

54. Oversight/Monitoring: FC&A shall provide the OAG with a letter signed by FC&A within one year of the Effective Date that confirms FC&A is in compliance with the requirements set forth in this Assurance, Paragraph 50 (Programmatic Relief) and reports the restitution made pursuant to this Assurance, Paragraphs 51-52 (Restitution). This letter shall include a list of Eligible Consumers who received restitution, whether they fell within restitution category Paragraph 51(a), (b) or (c), amount each received, and total restitution payment amount.

55. FC&A expressly agrees and acknowledges that a default in the performance of

any obligation under this paragraph is a violation of the Assurance, and that the OAG thereafter may commence the civil action or proceeding contemplated in Paragraph 56, *supra*, in addition to any other appropriate investigation, action, or proceeding, and that evidence that the Assurance has been violated shall constitute prima facie proof of the statutory violations described in Paragraphs 44-46, pursuant to Executive Law § 63(15).

MISCELLANEOUS

Subsequent Proceedings.

56. FC&A expressly agrees and acknowledges that the OAG may initiate a subsequent investigation, civil action, or proceeding to enforce this Assurance, for violations of the Assurance, or if the Assurance is voided pursuant to Paragraph 62, and agrees and acknowledges that in such event:

a. any statute of limitations or other time-related defenses are tolled from and after the effective date of this Assurance; the OAG may use statements, documents or other materials produced or provided by the Respondent prior to or after the effective date of this Assurance;

b. any civil action or proceeding must be adjudicated by the courts of the State of New York, and that Respondent irrevocably and unconditionally waives any objection based upon personal jurisdiction, inconvenient forum, or venue; and

c. evidence of a violation of this Assurance shall constitute prima facie proof of a violation of the applicable law pursuant to Executive Law § 63(15).

57. If a court of competent jurisdiction determines that FC&A has violated the Assurance, FC&A shall pay to the OAG the reasonable cost, if any, of obtaining such determination and of enforcing this Assurance, including without limitation legal fees, expenses, and court costs.

Effects of Assurance.

58. All terms and conditions of this Assurance shall continue in full force and effect on any successor, assignee, or transferee of FC&A. FC&A shall include in any such successor, assignment or transfer agreement a provision that binds the successor, assignee or transferee to the terms of the Assurance. No party may assign, delegate, or otherwise transfer any of its rights or obligations under this Assurance without the prior written consent of the OAG.

59. Nothing contained herein shall be construed as to deprive any person of any private right under the law.

60. Any failure by the OAG to insist upon the strict performance by FC&A of any of the provisions of this Assurance shall not be deemed a waiver of any of the provisions hereof, and the OAG, notwithstanding that failure, shall have the right thereafter to insist upon the strict performance of any and all of the provisions of this Assurance to be performed by FC&A.

Communications.

61. All notices, reports, requests, and other communications pursuant to this Assurance must reference Assurance No. 26-055, and shall be in writing and shall, unless

expressly provided otherwise herein, be given by hand delivery; express courier; or electronic mail at an address designated in writing by the recipient, followed by postage prepaid mail, and shall be addressed as follows:

If to FC&A, to:

Frank W. Cawood & Associates, Inc.

Attn: Nic Womble, General Manager

103 Clover Green

Peachtree City, GA 30269

Nic_Womble@fca.com

(770) 487-6307

If to the OAG, to:

New York State Office of the Attorney General

Consumer Frauds and Protection Bureau

Attn: Nora Van Horn, Assistant Attorney General

28 Liberty Street

New York, NY 10005

Nora.VanHorn@ag.ny.gov

(212) 416-6310

or in her absence, to the person holding the title of Bureau Chief, Consumer Frauds and Protection Bureau.

Representations and Warranties.

62. The OAG has agreed to the terms of this Assurance based on, among other things, the representations made to the OAG by FC&A and its counsel and the OAG's own factual investigation as set forth in Findings, Paragraphs 1-43 above. FC&A represents and warrants that neither it nor its counsel has made any material representations to the OAG that are inaccurate or misleading. If any material representations by FC&A or its counsel are later found to be inaccurate or misleading, this Assurance is voidable by the OAG in its sole discretion.

63. No representation, inducement, promise, understanding, condition, or warranty not set forth in this Assurance has been made to or relied upon by FC&A in agreeing to this Assurance.

64. FC&A represents and warrants, through the signature below, that the terms and conditions of this Assurance are duly approved. FC&A further represents and warrants that FC&A, by Nic Womble, as the signatory to this Assurance, is a duly authorized officer acting at the direction of the Board of Directors of FC&A.

General Principles:

65. FC&A agrees not to take any action or to make or permit to be made any public statement denying, directly or indirectly, any finding in the Assurance or creating the impression that the Assurance is without legal or factual basis.

66. Acceptance of this Assurance by the OAG is not an approval or endorsement by OAG of any of FC&A policies, practices or procedures, and the Respondent shall make no representation to the contrary.
67. Nothing contained herein shall be construed to limit the remedies available to the OAG in the event FC&A violates the Assurance after its effective date.
68. This Assurance may not be amended except by an instrument in writing signed on behalf of the Parties.
69. In the event that any one or more of the provisions contained in this Assurance shall for any reason be held by a court of competent jurisdiction to be invalid, illegal, or unenforceable in any respect, in the sole discretion of the OAG, such invalidity, illegality, or unenforceability shall not affect any other provision of this Assurance.
70. FC&A acknowledges that they have entered this Assurance freely and voluntarily and upon due deliberation with the advice of counsel.
71. This Assurance shall be governed by the laws of the State of New York without regard to any conflict of laws principles.
72. The Assurance and all its terms shall be construed as if mutually drafted with no presumption of any type against any party that may be found to have been the drafter.
73. This Assurance may be executed in multiple counterparts by the parties hereto, each of which should be deemed to be an original, but all of which, taken together, shall constitute one same agreement.
74. The Effective Date of this Assurance shall be October 23rd, 2026.

LETTIA JAMES

Attorney General of the State of New York

28 Liberty Street, Floor 16

New York, NY 10005

Date: 10/28/26

By:

Jane M. Azia

JANE M. AZIA, Bureau Chief

Consumer Frauds & Protection Bureau

FRANK W. CAWOOD & ASSOCIATES, INC.

Date: 10/23/2026

By:

NIC WOMBLE

NIC WOMBLE, General Manager

As Duly Authorized Representative of FC&A