



THE CHAIRMAN

FEDERAL TRADE COMMISSION

WASHINGTON, D.C. 20580

June 8, 2011

The Honorable Barbara Boxer
United States Senate
Washington, D.C. 20510

Dear Senator Boxer:

Thank you for your May 24, 2011 letter asking the FTC to investigate a news report about Walmart's practices relating to gift receipts. Your letter expresses concern that Walmart stores are reimbursing consumers who return items with gift receipts for substantially less than the actual purchase price. Your letter has been forwarded to appropriate members of the staff in our Bureau of Consumer Protection for review.

As you know, Commission rules prevent me from revealing specifically whether FTC staff has opened an investigation in this or any matter, but I can assure you that the information you have provided and the concerns you have expressed are being carefully considered. The Commission is committed to using its enforcement tools to bring actions against retail companies that make deceptive claims in the marketing of their products. This includes claims pertaining to the value of gift items. In 2007, the Commission brought two enforcement actions related to gift card advertising and sales against Darden Restaurants, Inc. and Kmart Corporation and obtained consent orders in both.¹ In those cases, the Commission alleged that Darden and Kmart inadequately disclosed dormancy fees that reduced the value of gift cards after a certain period of time. The Commission also alleged that Kmart misrepresented that its gift cards would never expire. More recently in 2009, the Commission filed a contempt action against BlueHippo Funding, LLC alleging misrepresentations regarding the onerous conditions a consumer had to meet before using store credit.² In addition, the Commission has issued educational pieces regarding

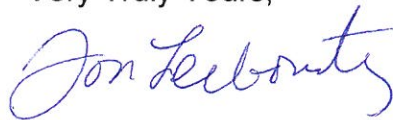
¹ See *In re Darden Restaurants, Inc.*, FTC File No. 062 3112 (consent order), available at www.ftc.gov/opa/2007/05/fyi07246.shtm; *In re Kmart Corp.*, FTC File No. 062 3088 (consent order) (Commissioners Harbour and Leibowitz, concurring with the decision to bring the action and impose injunctive provisions on Kmart, but dissenting in part because the remedy should include disgorgement of ill-gotten profits), available at www.ftc.gov/opa/2007/08/kmart.shtm.

² See *FTC v. BlueHippo Funding, LLC*, Civ. Action No. 08-1819 (S.D.N.Y. 2009), appeal docketed, No. 11-0374 (2nd Cir. Jan. 31, 2011), available at www.ftc.gov/opa/2008/02/bluehippo.shtm.

shopping that provide consumers with guidance on refunds and store credit and that make recommendations to businesses to help them comply with the law.³

The Commission will continue to combat unfair and deceptive practices in this area. If you or your staff have any additional questions or comments or wish to share additional information, please feel free to contact me or have your staff call Jeanne Bumpus, the Director of our Office of Congressional Relations, at (202) 326-2946. Please let us know whether we can be of service with respect to this or any other matter.

Very Truly Yours,



Jon Leibowitz
Chairman

³ See "Online Shopping," "Online Shopping Tips for the Holidays," and "Present Perfect: Doing Right By Holiday Shoppers," *available at* www.onguardonline.gov/topics/holiday-shopping-tips.aspx.