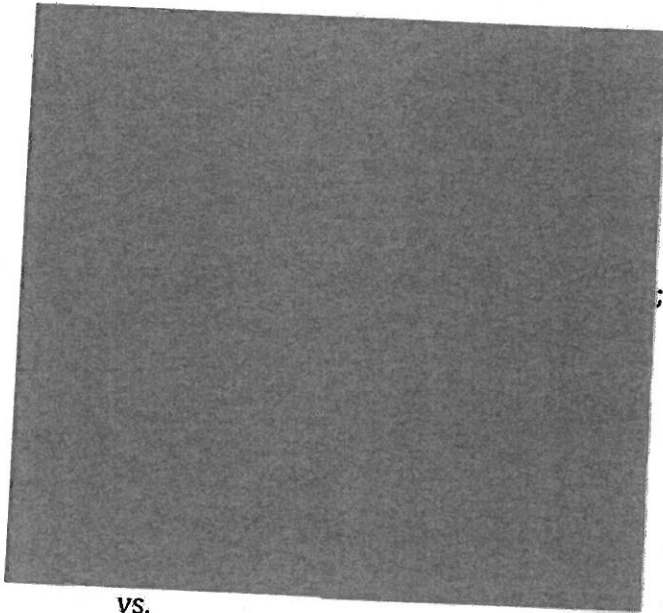


COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss

SUPERIOR COURT DEPARTMENT
OF THE TRIAL COURT



vs.

US AIRWAYS; HAWAIIAN AIRLINES;
EASYCGI; FREECAUSE, INC.; and
DOES 1 to 15, inclusive,

Defendants.

12-3737 C

Civil Action No.



COMPLAINT AND JURY DEMAND

This is a complaint for breach of contract and violation of M.G.L. c. 93A. Defendants promised an advertised number of airline bonus miles as an incentive for Plaintiffs to make qualifying purchases, but after Plaintiffs made those purchases, Defendants unjustifiably refused and failed to award those bonus miles.

Parties

1. Plaintiff [REDACTED] is an individual and at all times mentioned in this complaint was a resident of Colorado.

2. Plaintiff **STEVE BELKIN** is an individual and at all times mentioned in this complaint was a resident of Ohio.
3. Plaintiff **ROBBIE MAJZNER** is an individual and at all times mentioned in this complaint was a resident of New York.
4. Plaintiff **DANIEL MCCARTHY** is an individual and at all times mentioned in this complaint was a resident of Illinois.
5. Plaintiff **ALEXANDER PEYTCHEV** is an individual and at all times mentioned in this complaint was a resident of Ohio.
6. Plaintiff **ANNA PEYTCHEV** is an individual and at all times mentioned in this complaint was a resident of Ohio.
7. Plaintiff **LUBOMIR PEYTCHEV** is an individual and at all times mentioned in this complaint was a resident of Ohio.
8. Plaintiff **DENNIS PEYTCHEV** is an individual and at all times mentioned in this complaint was a resident of Ohio.
9. Plaintiff **MARIELA YORDANOVA** is an individual and at all times mentioned in this complaint was a resident of Washington, DC.
10. Plaintiff **MARY PATRICIA RODGERS** is an individual and at all times mentioned in this complaint was a resident of Washington, DC.
11. Plaintiff **JEFF FILIPOV** is an individual and at all times mentioned in this complaint was a resident of Massachusetts.
12. Plaintiff **SAGY PUNDAK MINTZ** is an individual and at all times mentioned in this complaint was a resident of Illinois.
13. Plaintiff **HAIA PUNDAK- MINTZ** is an individual and at all times mentioned in

this complaint was a resident of Texas.

14. Plaintiff **JURI MINTZ** is an individual and at all times mentioned in this complaint was a resident of Texas.

15. Plaintiff **MICHAEL BURNS** is an individual and at all times mentioned in this complaint was a resident of Illinois.

16. Plaintiff **JOEL GLICKMAN** is an individual and at all times mentioned in this complaint was a resident of Illinois.

17. Plaintiff **STEN RUNE KRISTIANSEN** is an individual and at all times mentioned in this complaint was a resident of Norway.

18. Plaintiff **HENNING STEEN** is an individual and at all times mentioned in this complaint was a resident of Norway.

19. Plaintiff **ZACHARY PIEN** is an individual and at all times mentioned in this complaint was a resident of Maryland.

20. Plaintiff **REID FISHLER** is an individual and at all times mentioned in this complaint was a resident of New York.

21. Plaintiff **TERENCE FLOEN** is an individual and at all times mentioned in this complaint was a resident of New York.

22. Plaintiff **HANS MAST** is an individual and at all times mentioned in this complaint was a resident of Kansas.

23. Plaintiff **LOIS MAST** is an individual at all times mentioned in this complaint was, a resident of Kansas.

24. Plaintiff **JULIE ARMSTRONG** is an individual and at all times mentioned in this complaint was a resident of Colorado.

25. Plaintiff JAMIE BELKIN is an individual and at all times mentioned in this complaint was a resident of Ohio.

26. Plaintiff AVNER MIZRAHI is an individual and at all times mentioned in this complaint Defendant US AIRWAYS. INC. ("US Air") is a foreign corporation organized under the laws of Delaware with its principal place of business located in Tempe, Arizona. US Air is and at all times mentioned in this complaint was engaged in the business operating an online shopping mall.

27. Defendant HAWAIIAN AIRLINES, INC. ("Hawaiian") is a foreign corporation with its principal place of business located in Honolulu, Hawaii. Hawaiian is and at all times mentioned in this complaint was engaged in the business operating an online shopping mall.

28. Defendant EASYCGI ("Easy") is a business entity of form unknown that is and at all times mentioned in this complaint was engaged in the business of operating as a merchant selling computer related storage services, with its principal place of business being located, on information and belief, in Suffolk County, Massachusetts.

29. Defendant FREECAUSE, INC. ("Free") Free is a foreign corporation organized under the laws of Delaware with its principal place of business located in Suffolk County, Massachusetts. Free is and at all times mentioned in this complaint was engaged in the business of hosting and powering online shopping malls.

30. Defendants Does 1 through 15 are sued herein by fictitious names for the reason that their true names are unknown to Plaintiffs. Plaintiffs will seek leave to amend this complaint to allege the true names and capacities of these Defendants when the same have been ascertained. Plaintiffs, upon information and belief, allege that these fictitiously

named Defendants are responsible in some manner for the actions and damages alleged herein.

31. Plaintiffs, upon information and belief, allege that Defendants at all times were the agents, alter-egos, employees, servants, joint venturers and/or co-conspirators of each of the other remaining Defendants, and that in doing the things herein alleged were acting in the course and scope of such agency, employment, joint venture and/or conspiracy.

Jurisdiction and Venue

32. This action is properly filed in Suffolk County, Massachusetts, pursuant to a venue clause contained in each of the relevant contracts at issue in this lawsuit.

33. Additionally, Defendants Easy and Free have principal places of business in Massachusetts, and all Defendants conduct and solicit business in Massachusetts.

Facts Common to All Counts

34. Defendants US Air and Free operate an online shopping mall known as the "US Airways Dividend Miles Shopping Mall" (the "US Mileage Mall"). Defendant Easy is a merchant that sells its merchandise through the US Mileage Mall. As an incentive for consumers to purchase items through this shopping mall, Defendants US and Free periodically offer US Air frequent flyer miles as an incentive bonus for each purchase of merchandise a consumer makes.

35. Defendants Hawaiian and Free operate a similar online shopping mall known as the "Hawaiian Airline eMarket Shopping Mall" (the "Hawaiian Mileage Mall"). Defendant Easy is a merchant that sells its merchandise through the Hawaiian Mileage Mall. As an incentive for consumers to purchase items through this shopping mall, Defendants

Hawaiian and Free periodically offer Hawaiian frequent flyer miles as an incentive bonus for each purchase of merchandise a consumer makes.

36. On or about June, 2011, Defendants US Air and Free were offering 4,757 US Air frequent flyer miles as a bonus for each purchase made through the US Mileage Mall, including for the purchase of items offered for sale by Defendant Easy. In addition, for those customers who had platinum status with the US Air frequent flyer program, these Defendants were offering the further bonus of 75% more US Air miles on top of the 4,757 miles, in connection with the aforementioned purchases.

37. Also on or about June, 2011, Defendants Hawaiian and Free were offering 7,269 Hawaiian frequent flyer miles as a bonus for each purchase made through the Hawaiian Mileage Mall.

38. Over the period of about a week in June 2011, plaintiffs began making numerous purchases of Easy merchandise on the US and/or the Hawaiian Mileage Malls.

39. Within a week after said purchases had been made, however, Defendants wrongfully and without good cause rejected all of Plaintiffs' purchases, as well as all of the bonus miles that were supposed to be awarded in connection therewith.

FIRST CAUSE OF ACTION

BREACH OF CONTRACT

(All Plaintiffs Against Defendants EasyCGI and DOES 1-5)

40. Plaintiffs re-allege and incorporate by reference the allegations contained in the paragraphs above, as though fully set forth herein.

41. At the time of the incidents, Easy was in the business of selling its goods and services on mileage malls, including the US Air and Hawaiian malls, and also in the business

of incentivizing the sale of those goods and services by coordinating bonus mile offers with Defendants US Air, Hawaiian and Free. As of early June 2010, Easy made an offer to the general public, including to Plaintiffs, that the merchandise it offered for sale on the US Air and Hawaiian Mileage Malls could be purchased for the prices stated and bonus miles offered, with the express condition of "RESTRICTIONS: There are no restrictions at this time." Moreover, the Frequently Asked Questions section on the mileage malls' websites stated: "Q. Is there a limit to the amount of miles I can earn? A. NO, you can earn as many miles as you like. There is no cap."

42. All Plaintiffs accepted this offer by purchasing and paying for units of storage space.

43. Notwithstanding, shortly thereafter, Defendant Easy materially breached the agreement by failing to deliver either the items purchased or the bonus miles, and instead subsequently reversed all of Plaintiffs' purchases.

44. Plaintiffs have performed all obligations required of them under the agreement, or, in the alternative, such performance has been excused.

45. As a direct and proximate cause of Easy's breach, Plaintiffs have suffered damages in an amount to be determined at the time of trial.

46. In addition and/or in the alternative, Plaintiffs seek injunctive relief in the form of requiring Easy to honor the purchases made by Plaintiffs, including the award of the bonus miles.

SECOND CAUSE OF ACTION

BREACH OF CONTRACT

(All Plaintiffs Against Defendants Free, US Air, Hawaiian, and Does 6-10)

47. Plaintiffs re-allege and incorporate by reference the allegations contained in the paragraphs above, as though fully set forth herein.

48. The Terms of Service that governed Plaintiffs' use of the US Mileage Mall website state in pertinent part that US Air Dividend Miles "will be awarded for your qualifying purchases from participating Merchants in the Mall....All qualifying purchases will earn Miles per the mileage offer displayed for each participating Merchant. It is your responsibility to carefully read the exclusions for any Merchant and to ensure that your purchases qualify for Mileage awards." The applicable Terms of Service are no longer available on the US Mileage Mall.

49. On information and belief, the Terms of Service that governed Plaintiffs' use of the US Airways Mileage Mall website were substantially the same as those for the Hawaiian Mileage Mall. The applicable Terms of Service are no longer available on the Hawaiian Mileage Mall.

50. Plaintiffs read all exclusions and other terms prior to making purchases of merchandise offered for sale. The relevant exclusions and qualifying language stated "RESTRICTIONS: There are no restrictions at this time", and "Frequently Asked Questions...Q. Is there a limit to the amount of miles I can earn? A. NO, you can earn as many miles as you like. There is no cap."

51. As a result, all Plaintiffs, except Jeff Filipov, Steve Belkin and Terrence Floen, made qualifying purchases on the Mall operated by Defendant US Air pursuant to the terms offered.

52. As a further result, Plaintiffs Filipov, Steve Belkin, Floen, Pien, Kristiansen, Sagy Pundak Mintz, Haia Pundak Mintz, Uri Mintz, Mizrahi, Armstrong and Majzner made

qualifying purchases on the Mall operated by Defendant Hawaiian Air pursuant to the terms offered.

53. Despite these qualifying purchases, the above-mentioned Defendants materially breached the agreement by failing to award any bonus miles to Plaintiffs.

54. Plaintiffs have performed all obligations required of them under the agreement, or, in the alternative, such performance has been excused.

55. As a direct and proximate cause of Defendants' breach, Plaintiffs have suffered damages in an amount to be determined at the time of trial, including the loss of millions of US and Hawaiian frequent flyer miles that they were entitled to receive in connection with the items purchased.

56. In addition and/or in the alternative, Plaintiffs further seek injunctive relief in the form of requiring these Defendants to award the approximate 200 million bonus miles to which Plaintiffs are entitled.

THIRD CAUSE OF ACTION

VIOLATION OF M.G.L. c. 93A

(All Plaintiffs Against Defendants Easy, Freecase, US Air, Hawaiian & DOES 11-15)

57. Plaintiffs re-allege and incorporate by reference the allegations contained in the paragraphs above, as though fully set forth herein.

58. All Defendants falsely and deceptively misrepresented the award of an advertised number of bonus miles as an incentive to cause Plaintiffs to make qualifying purchases on Defendants' Mall websites.

59. Notwithstanding Plaintiffs qualifying purchases, the above-mentioned Defendants failed and refused, for no valid reason, to award Plaintiffs the bonus miles offered after they made those purchases.

60. As a direct and proximate cause of Defendants' violation of M.G.L. c. 93A, Plaintiffs have suffered damages in an amount to be determined at the time of trial, including the loss of tens of millions of US Air and Hawaiian frequent flyer miles that they were entitled to receive in connection with the items purchased.

61. In addition and/or in the alternative, Plaintiffs further seek injunctive relief in the form of requiring these Defendants to honor the purchases made by Plaintiffs and to award the approximate 180 million bonus miles to which Plaintiffs are entitled.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray for monetary and injunctive relief against all Defendants as specified within each of their causes of action, attorneys fees, costs, treble damages and for all other monetary and equitable relief the Court is inclined to award.

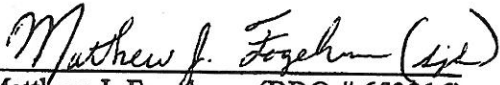
JURY DEMAND

PLAINTIFFS DEMAND A JURY TRIAL ON ALL COUNTS SO TRIABLE.

PLAINTIFFS,

By their attorneys,

Dated: October 11, 2012


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