

Concurring Statement of Commissioner Christine S. Wilson
FTC v. RevenueWire, Inc.
File No. 162-3087

April 20, 2020

Today's settlement resolves the FTC's allegations that payment processor RevenueWire, Inc. (RevenueWire) and its Chief Executive Officer Roberta Leach violated Section 5 of the FTC Act, among other allegations, when the company laundered charges for telemarketers engaged in tech support scams. I support the complaint and stipulated order but write separately to highlight my understanding of the FTC's unfairness allegation. I voted for this complaint with the understanding that this case does not signal a shift on the part of the FTC to a strict liability standard for payment processors. Merely processing payments for merchants that subsequently were found to have made deceptive statements is not a *per se* unfairness violation. Rather, the FTC continues to pursue appropriate law enforcement "when a payment processor helps a fraudulent merchant take money from consumers – either by actively helping the merchant hide its fraudulent conduct from acquiring banks and payment networks or by turning a blind eye to the merchant's fraud."¹

In this matter, RevenueWire was at the center of the deceptive business model, and knew that the call centers and telemarketers were making deceptive statements. The complaint alleged that RevenueWire contracted with software sellers to funnel consumers to the defendant's tech support call center partners; oversaw the distribution of calls to the tech support call centers; and received and handled consumers' refund and chargeback requests related to the tech support call center charges. RevenueWire attempted to hide from its card networks the fact that it was submitting payments generated by call centers by coding those sales as software store sales instead of teleservices merchant sales. Further, RevenueWire received complaints about the call center partners from other business partners, received complaints from consumers about unauthorized billing, and conducted internal assessments of the call center partners that identified fraud risks. Alleging an unfairness violation based on this fact pattern is consistent with the approach taken in previous FTC cases involving payment processors.² Given this context, I support this complaint and settlement.

¹ Fed. Trade Comm'n, Prepared Statement of the Federal Trade Commission: "The Federal Trade Commission's Enforcement of Operation Chokepoint-Related Businesses," Before the Subcommittee on National Security and Subcommittee on Government Operations, United States House of Representatives Committee on Oversight and Government Reform 10 (July 26, 2018), <https://docs.house.gov/meetings/GO/GO06/20180726/108617/HHRG-115-GO06-Wstate-SmithA-20180726.pdf>.

² *FTC v. Madera Merchant Services, LLC*, No. 3:19-cv-00195 (W.D. Tex. Filed July 19, 2019), https://www.ftc.gov/system/files/documents/cases/madera_complaint_for_permanent_injunction_and_other_equitable_relief.pdf, *FTC v. AlliedWallet, Inc.*, No. 2:19-cv-4355 (C.D. Cal. Filed May 20, 2019), https://www.ftc.gov/system/files/documents/cases/alliedwallet_complaint_7-3-19.pdf.