H. R. 2668

To amend the Federal Trade Commission Act to affirmatively confirm the authority of the Federal Trade Commission to seek permanent injunctions and other equitable relief for violations of any provision of law enforced by the Commission.

IN THE HOUSE OF REPRESENTATIVES

Mr. CÁRDENAS introduced the following bill; which was referred to the Committee on ______________________

A BILL

To amend the Federal Trade Commission Act to affirmatively confirm the authority of the Federal Trade Commission to seek permanent injunctions and other equitable relief for violations of any provision of law enforced by the Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Consumer Protection and Recovery Act”.

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SEC. 2. FTC AUTHORITY TO SEEK PERMANENT INJUNCTIONS AND OTHER EQUITABLE RELIEF.

(a) PERMANENT INJUNCTIONS AND OTHER EQUITABLE RELIEF.—Section 13 of the Federal Trade Commission Act (15 U.S.C. 53) is amended—

(1) in subsection (b)—

(A) in paragraph (1), by inserting “has violated,” after “corporation”;

(B) in paragraph (2)—

(i) by striking “that” and inserting “that either (A)”;

(ii) by striking “final,” and inserting “final; or (B) the permanent enjoining thereof or the ordering of equitable relief under subsection (e),”; and

(C) in the matter following paragraph (2)—

(i) by striking “to enjoin any such act or practice”; 

(ii) by striking “Upon” and inserting “In a suit under paragraph (2)(A), upon”;

(iii) by striking “without bond”;

(iv) by striking “proper cases” and inserting “a suit under paragraph (2)(B)”;

(v) by striking “injunction.” and inserting “injunction, equitable relief under
subsection (e), or such other relief as the court determines to be just and proper, including temporary or preliminary equitable relief.”;

(vi) by striking “Any suit” and inserting “Any suit under this subsection”; and

(vii) by striking “In any suit under this section” and inserting “In any such suit”; and

(2) by adding at the end the following:

“(e) EQUITABLE RELIEF.—

“(1) RESTITUTION; CONTRACT RESCISSION AND REFORMATION; REFUNDS; RETURN OF PROPERTY.— In a suit brought under subsection (b)(2)(B), the Commission may seek, and the court may order, with respect to the violation that gives rise to the suit, restitution for losses, rescission or reformation of contracts, refund of money, or return of property.

“(2) DISGORGEMENT.—In a suit brought under subsection (b)(2)(B), the Commission may seek, and the court may order, disgorgement of any unjust enrichment that a person, partnership, or corporation obtained as a result of the violation that gives rise to the suit.
“(3) Calculation.—Any amount that a person, partnership, or corporation is ordered to pay under paragraph (2) with respect to a violation shall be offset by any amount such person, partnership, or corporation is ordered to pay, and the value of any property such person, partnership, or corporation is ordered to return, under paragraph (1) with respect to such violation.

“(4) Limitations Period.—

“(A) In General.—A court may not order equitable relief under this subsection with respect to any violation occurring before the period that begins on the date that is 10 years before the date on which the Commission files the suit in which such relief is sought.

“(B) Calculation.—For purposes of calculating the beginning of the period described in subparagraph (A), any time during which an individual against which the equitable relief is sought is outside of the United States shall not be counted.”.

(b) Conforming Amendments; Technical Correction.—Section 16(a)(2) of the Federal Trade Commission Act (15 U.S.C. 56(a)(2)) is amended—
(1) in subparagraph (A), by striking ``(relating to injunctive relief)'';

(2) in subparagraph (B), by striking ``(relating to consumer redress)''; and

(3) in subparagraph (D), by striking ``subpena'' and inserting ``subpoena''.

(e) APPLICABILITY.—The amendments made by this section shall apply with respect to any action or proceeding that is pending on, or commenced on or after, the date of the enactment of this Act.