

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE AMERICAN INSTITUTE OF CERTIFIED
PUBLIC ACCOUNTANTS,

Plaintiff,

v.

FEDERAL TRADE COMMISSION,

Defendant.

Civil Action No. 09-2116 (RBW)

[PROPOSED] ORDER

With the Court having considered the Motion for Partial Summary Judgment filed by Plaintiff, the American Institute of Certified Public Accountants, it is hereby

ORDERED that the motion is **GRANTED**; it is

FURTHER ORDERED that Defendant, Federal Trade Commission (the "FTC"), and its agents, servants, employees, successors and assigns, is hereby enjoined from enforcing the requirements of 16 C.F.R. § 681.1 against certified public accountants engaged in the practice of public accountancy; and it is

DECLARED and **DECREED** that the FTC exceeded its statutory authority by deciding that certified public accountants engaged in the practice of public accountancy are "creditor[s]" subject to regulations promulgated by the FTC pursuant to § 114 of the Fair and Accurate Credit Transactions Act of 2003, Pub. L. No. 108-159, 117 Stat. 1952, 1960 (codified at 15 U.S.C. § 1681m(e)).

SO ORDERED, this _____ day of _____, 2010.

By: _____
HON. REGGIE B. WALTON
United States District Judge

Copies to:

Counsel for Plaintiff, the American Institute of Certified Public Accountants:

Daniel E. Loeb (D.C. Bar # 386098)
Bernard A. Nigro, Jr. (D.C. Bar #412357)
Fried Frank, Harris, Shriver & Jacobson LLP
1001 Pennsylvania Avenue, N.W., Suite 800
Washington, DC 20004
Telephone: 202-639-7000
Fax: 202-639-7003
daniel.loeb@friedfrank.com
barry.nigro@friedfrank.com

Of Counsel:

Richard I. Miller
General Counsel
The American Institute of Certified
Public Accountants
1211 Avenue of the Americas
New York, NY 10036-8775
Telephone: 212-596-6200
Fax: 212-596-6213
rmiller@aicpa.org

Counsel for Defendant, the Federal Trade Commission:

John F. Daly
Deputy General Counsel for Litigation
Office of the General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room 580
Washington, DC 20580
Telephone: 302-326-2244
Fax: 202-326-2477
jdaly@ftc.gov

Michael D. Bergman
Attorney
Office of the General Counsel
Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room 582
Washington, DC 20580
Telephone: 302-326-3184
Fax: 202-326-2477
mbergman@ftc.gov