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August 31, 1998

BY FEDERAL EXPRESS

Ms. Blanca Bayó  
Director, Division of Records and Reporting  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32399-0850

Re: Docket No. 980675-TI

Dear Ms. Bayó:

Enclosed for filing with the Florida Public Service Commission in connection with the above-referenced docket please find: (1) an original and 7 copies of the Response of Cendant Membership Services Inc. To Order To Show Cause and Petition Responding To Notice of Proposed Agency Action; and (2) a diskette containing the Response, formatted in Word Perfect 5.1.

Please also find enclosed a duplicate of this filing and a postage-prepaid, self-addressed envelope. Kindly date-stamp the duplicate upon receipt and return it in the envelope provided.

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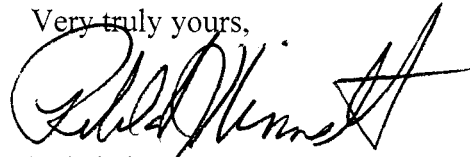
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Ms. Blanca Bayó  
August 31, 1998  
Page 2

Please do not hesitate to contact me if you have any questions concerning this filing.

Very truly yours,



Rebekah J. Kinnett

Enclosures

cc: Catherine Bedell  
Louis Yambor

**Before The  
FLORIDA PUBLIC SERVICE COMMISSION**

Initiation of Show Cause Proceedings Against Cendant Membership Services, Inc. for Violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required.	) ) ) ) ) ) ) )	Docket No. 980675-TI
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**RESPONSE OF CENDANT MEMBERSHIP SERVICES, INC.  
TO ORDER TO SHOW CAUSE AND  
PETITION RESPONDING TO  
NOTICE OF PROPOSED AGENCY ACTION**

Cendant Membership Services, Inc. ("CMSI"), by its attorneys and pursuant to Chapter 25-22 of the Florida Administrative Code "FAC", hereby respectfully submits this Response to the Order to Show Cause ("Show Cause Order") and Petition responding to the Notice of Proposed Agency Action ("NPAA") issued on August 12, 1998 by the Florida Public Service Commission ("Commission") in the above-captioned proceeding.<sup>1</sup> CMSI was initially contacted by Commission staff in May 1998 regarding the initiation of a show cause proceeding; CMSI received a copy of the Show Cause Order from counsel on August 19, 1998.

**STATEMENT OF FACTS**

1. CMSI is a subsidiary of Cendant Corporation ("Cendant"), a Delaware corporation headquartered at 707 Summer Street, Stamford, Connecticut 06901. CMSI provides consumers with membership-based discount services.

<sup>1</sup> Initiation of Show Cause Proceedings Against Cendant Membership Services, Inc. for Violation of Rule 25-24.470, F.A.C., Certificate of Public Convenience and Necessity Required, Docket No. 980675-TI, Order No. PSC-98-1090-SC-TI (rel. August 12, 1998).

2. Cendant was created in December 1997 through the merger of HFS Incorporated and CUC International Inc., both publicly traded companies. The merged entity, Cendant, also is publicly traded and in the second quarter of 1998 had revenues in excess of \$1.3 billion. Cendant provides fee-based services to consumers within the Alliance Marketing, Travel Services, and Real Estate Services business segments. In the Alliance Marketing segment (formerly known as the Membership segment), Cendant is a technology-driven leading provider of membership-based consumer services. In the Travel Services segment, Cendant is the world's largest franchisor of lodging facilities and rental car facilities, the leading provider of vacation timeshare exchange services, and a leading provider of international fleet management services. In the Real Estate Services segment, Cendant is the world's largest franchisor of residential real estate brokerage offices, the world's largest provider of corporate relocation services, and a leading mortgage lender in the United States. Cendant's brands include Days Inn, Howard Johnson and Ramada hotels brands, Avis car rentals brand, Resort Condominiums International timeshare exchange, CENTURY 21, Coldwell Banker and ERA. Headquartered in Parsippany, NJ, Cendant has more than 40,000 employees and operates in over 100 countries.

3. On May 13, 1998 the Commission received from the Florida Attorney General's Office a consumer inquiry regarding the AutoVantage Gold program offered by CMSI. This consumer had received literature concerning the AutoVantage Gold program, but did not subscribe to it. The AutoVantage Gold program provides its members and their families with: (1) 24-hour emergency roadside protections; (2) discounts of up to 20 percent at over 23,000 automotive service centers nationwide; and (3) free trip routing and hotel discounts. In addition, in conjunction with its AutoVantage Gold services, CMSI arranged to make available for its

members discounted calling card rates as customers of MCI Communications Corporation (“MCI”).

4. Consumers enrolled in the AutoVantage Gold program by endorsing and then depositing or cashing a check for \$4.95. As discussed more fully below, a clear and conspicuous statement appearing right above the endorsement line on the check explains that membership is activated when the check is deposited or cashed. After depositing or cashing the check, consumers receive the benefits of AutoVantage Gold for 30 days, at no charge and with no obligation to continue beyond the introductory period. If, after the initial 30-day period, consumers choose to continue their membership, they are billed the current membership fee on their telephone bills. Consumers may choose to cancel their membership at any time by calling, 24-hours a day, seven days a week, a toll-free number provided on their marketing and membership materials. This information also appears in the statement above the endorsement line, as well as in the solicitation letter itself. A copy of the solicitation materials is appended hereto as Attachment 1.

5. The marketing materials mailed by CMSI to consumers expressly state, in clear and conspicuous print, that by depositing or cashing the check for \$4.95 they enroll in AutoVantage Gold for a 30-day period, at no charge. The marketing materials also state, clearly and conspicuously, that consumers will be billed on their telephone bills on a monthly basis if they choose to continue their enrollment in AutoVantage Gold, and explain how members may cancel their memberships. Thus, these material terms and conditions of membership are disclosed to consumers in two places, *before* the consumer enrolls in the program: (1) in the main body of the solicitation letter; and (2) in a statement above the endorsement line on the

check. In addition, the membership materials provided by CMSI to consumers who enroll in AutoVantage Gold further explain these terms and conditions of membership.

6. The discounted calling card is offered to AutoVantage Gold customers for their convenience, in cooperation with the resale carrier providing service to calling card holders -- in April 1998 that carrier was MCI.<sup>2</sup> MCI handled all customer inquiries and disputes associated with the calling card. Accordingly, the calling card clearly identified MCI as the service provider and included MCI's customer service number. Because CMSI was in no way involved with provision of service through the calling card, CMSI was not identified in any way on the calling card. A copy of both sides of the MCI calling card is appended hereto as Attachment 2.

7. In connection with a plan to enter the interexchange telecommunications market, CendantCom, Inc. ("CendantCom"), a subsidiary of Cendant, this week will be filing an application for resale interexchange authority with the Commission. CendantCom initially plans to offer resold interstate and intrastate interexchange dial-around and calling card services throughout the United States. The dial-around service will offer discounted calling by means of an access code, similar to MCI's 10-321 or AT&T's 10-288.

#### **I. CMSI IS NOT PROVIDING INTRASTATE TELECOMMUNICATIONS SERVICES IN FLORIDA.**

8. CMSI is not currently providing intrastate telecommunications services in Florida in violation of F.A.C. Rule 25-24.470. As discussed above, in connection with the AutoVantage Gold Program and as a convenience to its members, Cendant made available for its members discounted calling cards from certificated interexchange carriers, such as MCI. MCI provided the telecommunications services to the card users, and MCI handled all customer inquiries and

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<sup>2</sup> Since that time, CMSI has issued some cards with WorldCom as the carrier.

complaints. CMSI was not identified on the calling card or in any of the marketing materials as a telecommunications service provider. Rather, it has been CMSI's understanding that it has been functioning as a sales or marketing agent for MCI as regards the discounted calling cards.<sup>3</sup>

9. However, if the Commission believes that CMSI's activities may have extended into the regulated field, CMSI respectfully requests that the Commission refrain from taking any of the actions set forth in the Show Cause Order and NPAA during the pendency of the application of CendantCom to provide resold interexchange services in Florida. When CendantCom receives authority to provide telecommunications services in Florida, CendantCom will provide directly the discounted calling card services associated with the AutoVantage Gold program. In the interim, requiring the discontinuance of interexchange services to the members of the AutoVantage Gold program would be very disadvantageous for those consumers in Florida who have been using, and continue to use, the discounted calling cards they obtained as a benefit of their AutoVantage Gold membership. To the best of CMSI's knowledge, those members who use the calling cards (as opposed to the complainant, who was never a member) are pleased with the service and would be harmed by its discontinuance. Requiring all LECs in Florida to stop billing for CMSI would of course have the same negative effect. CMSI would respectfully note that no member of the AutoVantage Gold program has filed any complaints with the Commission in connection with the program, and that the complainant who effectively instituted this proceeding did not in fact become a member.

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<sup>3</sup> In an effort to provide additional information to consumers, CMSI is identified on some of the WorldCom calling cards, though the cards clearly state "Network services provided by WorldCom."

**II. CMSI'S MARKETING MATERIALS CLEARLY DISCLOSE ALL MATERIAL TERMS AND CONDITIONS OF MEMBERSHIP IN THE AUTOVANTAGE GOLD PROGRAM.**

10. Cendant is acutely aware of the importance of ensuring that consumers receive and are billed only for those products and services that they knowingly and voluntarily request, at terms and conditions that they fully understand. As a publicly traded, multi-billion dollar company offering dozens of different membership services, Cendant exercises great care to ensure that it fully and accurately informs consumers. Accordingly, the marketing materials and fulfillment packages mailed by CMSI to consumers explain, clearly and conspicuously, what services they will receive as members of AutoVantage Gold, the charges involved and how they will be billed, and how to discontinue membership.

11. Specifically, the marketing materials state that consumers enroll in AutoVantage Gold for a 30-day period, at no charge, by depositing or cashing an enclosed check for \$4.95. The marketing materials also state, clearly and conspicuously, that consumers will be billed on their telephone bills on a monthly basis if they choose to continue their enrollment in AutoVantage Gold beyond the free introductory 30-day period, and explain how members may cancel their memberships. The endorsement block on the back of the check also states that charges will be billed on the local telephone bill. In addition, the fulfillment packages provided by CMSI to consumers who enroll in AutoVantage Gold further explain the program, the charges involved and how they are billed, and how to cancel. Finally, the materials provided to consumers and members by CMSI also clearly and conspicuously set forth the charges attached to use of the calling card, both the per minute rate and the surcharge, and of course indicate that these charges will appear on the local telephone bill. Thus, an enrolled member in AutoVantage



Gold has been informed of these facts, in writing, through several different sources, before the first invoice is sent.

12. In the event that any member of the AutoVantage Gold program decides to discontinue membership and so notifies CMSI, CMSI promptly cancels the account and ceases billing for the program. As indicated above, this simple process is accomplished without penalty by calling a toll-free number available 24-hours a day, seven days a week, and expressing a desire to cancel.

13. Thus, CMSI believes that both the marketing materials and fulfillment packages clearly and conspicuously disclose all materials terms and conditions of membership in the AutoVantage Gold program, and, specifically, the charges associated with use of the calling card. Accordingly, CMSI respectfully requests that the Commission refrain from ordering CMSI to cease billing in Florida at this time.

**CONCLUSION**

For the foregoing reasons, CMSI respectfully requests that the Commission find that CMSI has not been providing intrastate telecommunications services in Florida in violation of F.A.C. Rule 25-470, and refrain from fining CMSI \$25,000. However, in the event that the Commission believes that CMSI has been providing intrastate telecommunications services, CMSI respectfully requests that, pending consideration of the application for interexchange service authority filed by CendantCom, the Commission refrain from: (1) ordering CMSI to cease billing in Florida; (2) ordering all Interexchange Telecommunications Companies from discontinuing providing service to CMSI; (3) ordering all Local Exchange Telecommunications Companies to stop billing for CMSI; and (4) ordering CMSI to refund with interest monies collected from customers in Florida.

Respectfully submitted,

**CENDANT MEMBERSHIP SERVICES, INC.**

By: 

Danny E. Adams  
Rebekah J. Kinnett  
KELLEY DRYE & WARREN LLP  
1200 19th Street, N.W.  
Suite 500  
Washington, D.C. 20036  
(202) 955-9600

August 31, 1998

Its Attorneys

# **Attachment 1**

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**THIS \$4.95 CHECK FOR SAMPLE A. SAMPLE  
IS JUST THE BEGINNING OF EVEN GREATER SAVINGS YOU CAN RECEIVE WITH:  
Emergency Roadside Protection • Preferred Calling Card Rates • Car-Care Discounts**

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Dear Sample A. Sample:

The above check is yours to cash right now. Do not throw it away. Cash it or deposit it at your bank. All it needs is your endorsement. It's our way of introducing you to all the benefits of AutoVantage Gold.

When you cash or deposit the enclosed check, you will be automatically enrolled in AutoVantage Gold and receive these benefits:

**Enjoy 24-Hour Emergency Roadside Protection.** Our nationwide network of over 11,000 Emergency Roadside Assistance Providers will get you help, *fast*. We'll change a flat tire, jump-start your car, bring you gas, and even give you a tow... just call us toll free.\*

**Get Discounts of Up to 20% at Over 23,000 Service Centers Nationwide.** Save big on oil changes, tires, brakes, mufflers, and more for your car. You get *on-the-spot* discounts at Firestone® Tire & Service Centers, Goodyear® Auto Service Centers, Meineke Discount Muffler® Centers, and plenty of other well-known chains.

**Your entire family is covered at no extra cost.** Every member in your household is covered by all the AutoVantage Gold benefits, *absolutely free*.

**Plus — you also get Free Trip Routing and Hotel Discounts.** Call AutoVantage Gold, toll free, for complimentary AccuTrip<sup>SM</sup> maps to any destination in the United States or Canada. Your detailed maps will also include discounts for 50% off the regular published room rate at popular hotels along your route... including leaders like Holiday Inn, Marriott, and Radisson hotels.

All these valuable benefits and many more are yours, free for the next thirty days, with no obligation to continue beyond the introductory period.

**Enjoy continuous benefits with convenient billing.**

Your AutoVantage Gold membership will be automatically activated, free for the next thirty days, when you cash the above check at any bank. Call 1-800-876-7787 during your trial period to cancel and owe nothing. Otherwise, your membership will be extended and the \$6.99 monthly membership fee, or then-current membership fee, will appear on your home telephone bill for as long as you wish to remain a member. You may cancel at any time by calling the toll-free number and owe nothing further.

See for yourself how valuable the protection of AutoVantage Gold can be just by cashing the check.

Sincerely,



Sandra C. Finn  
Vice President and General Manager, AutoVantage Gold

P.S. Please cash your check by April 3, 1998.

\* Motor club benefits are provided by Rapid Response Roadservice Motor Club, Inc. Specific services are underwritten by the New Hampshire Insurance Company, a member company of the American International Group, Inc., in states where required by law. Services may vary to conform with the laws of your state. The service provides up to three (3) emergency assistance calls per membership year. If additional emergency assistance is requested, service will be dispatched; however, the member will be responsible for charges incurred.

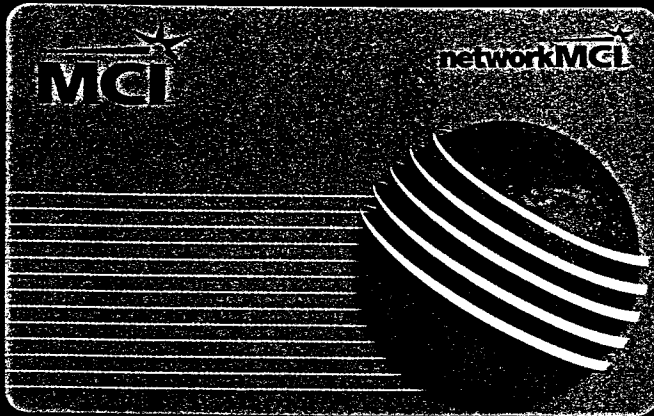
This membership offer is extended only to the person named on this letter.

AutoVantage Gold is a service provided by CUC International Inc., which may modify and improve any part of the service at any time and without prior notice. AutoVantage Gold is a service mark of CUC Publishing, Inc.

© 1998, CUC International Inc.



# **Attachment 2**



For Customer Service, dial 1-800-424-8638. Outside U.S., call collect 919-677-6099.

**FROM THE USA:**

**1. Dial: 1-800-950-1022**

Listen for tone.

**2. Dial: 0 + Area Code + Number or**

**Dial: 011 + Country Code + City Code + Number or**

**Dial: 7 Digit Private Plan Number.**

Listen for tone.

**3. Dial Authorization Code below:**

**TO PLACE ANOTHER CALL:**

- Do not hang up.
- Press **CALL** for two seconds.
- Listen for tone. Dial new number per instructions in step 2.

**FROM OVERSEAS TO USA/OTHER COUNTRIES:**

- Dial the country-specific freephone number.
- Follow voice instructions or wait for the operator to complete call.

\* From rotary phones, wait for MCI Operator to complete your call.

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