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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FILED by _____ D.C.
JUN 02 2014
STEVEN M. LARIMORE
CLERK U. S. DIST. CT.
S. D. of FLA. - MIAMI

FEDERAL TRADE COMMISSION,

PLAINTIFF,

v.

HISPANIC GLOBAL WAY, CORP;
HISPANIC GLOBAL WAY, LLC; HISPANIC
GLOBAL WAY VENEZ CORP, also d/b/a
TVO; HISPANIC GLOBAL WAY VENEZ I
CORP; GOLD LEAD USA CORPORATION;
SKY ADVANCE CHOICES CORP; SKY
ADVANCE, LLC; FIRST AIRBORNE
SERVICE TRADING CORP, also d/b/a FAST
SOLUTIONS, L'NATURE LAB, MOVIL
ENGLISH F.A.S.T., MOLDING MOTION 5
FIRST AIRBORNE; HISPANIC NETWORK
CONNECTIONS LLC, also d/b/a LO VI EN
TV; FAST SOLUTIONS PLUS CORP;
GRAND TEAM SERVICE CORP; MARIA
ELIZABETH VERA; RAFAEL MARTIN
HERNANDEZ; ROBERTO CARRASCO
MACEDO; AND MARIA GISELLA
CARRASCO,

DEFENDANTS.

Filed Under Seal

Case No. **14-22018**

CIV - ALTONAGA

**MAGISTRATE JUDGE
O'SULLIVAN**

**COMPLAINT FOR INJUNCTIVE
AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain temporary, preliminary, and permanent injunctive

relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52 in connection with the advertising, marketing, and sale of numerous products, including weight loss products.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345 and 15 U.S.C. §§ 45(a) and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A).

DEFENDANTS

6. Defendant Hispanic Global Way, Corp (“HGW Corp”) is a Florida corporation with its principal place of business in Doral, Florida. HGW transacts or has transacted business in this district and throughout the United States.

7. Defendant Hispanic Global Way, LLC (“HGW LLC”) is a Florida limited liability company with its principal place of business in Doral, Florida. HGW, LLC transacts or has transacted business in this district and throughout the United States.

8. Defendant Hispanic Global Way Venez Corp, also doing business as TVO (“HGW Venez”), is a Florida corporation with its principal place of business in Doral, Florida. HGW Venez transacts or has transacted business in this district and throughout the United States.

9. Defendant Hispanic Global Way Venez I Corp (“HGW Venez I”) is a Florida corporation with its principal place of business in Doral, Florida. HGW Venez I transacts or has transacted business in this district and throughout the United States.

10. Defendant Gold Lead USA Corporation (“Gold Lead”) is a Florida corporation with its principal place of business in Doral, Florida. Gold Lead transacts or has transacted business in this district and throughout the United States.

11. Defendant Sky Advance Choices Corp (“Sky Advance Choices”) is a Florida corporation with its principal place of business in Doral, Florida. Sky Advance Choices transacts or has transacted business in this district and throughout the United States.

12. Defendant Sky Advance, LLC (“Sky Advance”) is a Florida limited liability company with its principal place of business in Doral, Florida. Sky Advance transacts or has transacted business in this district and throughout the United States.

13. Defendant First Airborne Service Trading Corp, also doing business as Fast Solutions, L’Nature Lab, Movil English F.A.S.T., Molding Motion 5 First Airborne (“First Airborne”), is a Florida corporation with its principal place of business in Doral, Florida. First Airborne transacts or has transacted business in this district and throughout the United States.

14. Defendant Hispanic Network Connections LLC, also doing business as Lo Vi En TV (“Hispanic Network Connections”), is a Florida limited liability company with its principal place of business in Doral, Florida. Hispanic Network Connections transacts or has transacted business in this district and throughout the United States.

15. Defendant Fast Solutions Plus Corp is a Florida corporation with its principal place of business in Doral, Florida. Fast Solutions transacts or has transacted business in this district and throughout the United States.

16. Defendant Grand Team Service Corp (“Grand Team”) is a Florida corporation with its principal place of business in Doral, Florida. Grand Team Service transacts or has transacted business in this district and throughout the United States.

17. Defendant Maria Elizabeth Vera (“Vera”) is, or was: the President, Director, and Treasurer of HGW Corp; a Manager of HGW LLC; the Vice President and Director of HGW Venez; the Vice President and Director of HGW Venez I; and a Manager of Sky Advance. At all times material to this Complaint, acting with knowledge, alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Vera resides in Miami, Florida and in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

18. Defendant Rafael Martin Hernandez (“Hernandez”) is, or was: the CEO of HGW Corp; the President and Director of HGW Venez; the President, Director, and Treasurer of HGW Venez I; the President, Director, and Treasurer of Gold Lead; the President, Director, Treasurer, and Secretary of Sky Advance Choices; a Manager of Sky Advance; the President, Director and Secretary of First Airborne; a Manager of Hispanic Network Connections; and the Vice President of Fast Solutions Plus. At all times material to this Complaint, acting with knowledge, alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant

Hernandez resides in Miami, Florida and in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

19. Defendant Roberto Carrasco Macedo (“Macedo”) is, or was: the President, Director, and Treasurer of Grand Team; and the Vice President of HGW Corp. At all times material to this Complaint, acting with knowledge, alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Macedo resides in Miami, Florida and in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

20. Defendant Maria Gisella Carrasco (“Carrasco”) is, or was: the President, Director, and Secretary of First Airborne; a Manager of Sky Advance; a Manager of Hispanic Network Connections; and the Vice President, Director, and Secretary of Grand Team. At all times material to this Complaint, acting with knowledge, alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Defendant Maria Carrasco resides in Miami, Florida and in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

COMMON ENTERPRISE

21. Defendants HGW Corp, HGW LLC, HGW Venez, HGW Venez I, Gold Lead, Sky Advance Choices, Sky Advance, First Airborne, Hispanic Network Connections, Fast Solutions Plus, and Grand Team (collectively, “Corporate Defendants”) conduct the business practices described below through an interrelated network of companies that: have common ownership, officers, managers, business functions, employees, and office locations; routinely commingle funds by transferring funds among themselves and paying for one another’s debts and liabilities; use identical or substantially similar sales, invoicing and payment systems; and hold themselves out to consumers as being the same company.

22. Defendants therefore operate as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below.

23. Because these Corporate Defendants operate as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Vera, Hernandez, Macedo, and Carrasco have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

COMMERCE

24. At all times material to this Complaint, Defendants have maintained a substantial course of business in the advertising, marketing, promoting, offering for sale and sale of various consumer products, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

25. Since at least 2008, Defendants have promoted, marketed, offered to sell and sold, principally to Spanish-speaking consumers, a variety of products, including, but not limited to, weight loss products, such as the Moulding Motion 5 belt, exercise equipment, English-language courses, girdles, leggings, and cell phones. Defendants advertise these products on Spanish-language television that airs in various markets across the United States. These advertisements solicit inbound telemarketing calls by flashing toll-free telephone numbers throughout the advertisements. They also advertise some of their products on the Internet at www.hispanicglobalway.com.

DEFENDANTS' SALES PRACTICES

26. Defendants' television advertisements are silent about Defendants' refund and exchange policies.

27. In some instances, Defendants' Spanish-speaking representatives do not say anything to consumers about Defendants' refund and exchange policies when they call the toll-free numbers in the Defendants' advertisements.

28. In other instances, Defendants' representatives tell consumers that they can return products and receive refunds if they are dissatisfied.

29. Defendants' representatives also tell consumers that they can call Defendants' customer service numbers with any questions or concerns after receiving their products.

30. In numerous instances, Defendants' representatives offer consumers gift cards and other free incentives to purchase products.

31. When consumers agree to purchase Defendants' products, Defendants' representatives take their credit or debit card information, or tell them that they will send the products to the consumers' homes and that consumers can pay with money orders.

32. Typically, about a week after ordering the products, consumers receive a package from Defendants.

33. In numerous instances, upon receipt of the package, consumers discover that: (a) the product they received is not the one they purchased; (b) the order is incomplete; (c) promised gift cards or other free items are not included in the order; (d) they received the correct product, but in the wrong size or color; (e) the product is defective; and/or (f) the product does not perform in accordance with the representations made by Defendants in their advertisements or telemarketing calls.

34. In some instances, the shipped products include invoices with the following terms: (a) all sales are final; (b) consumers cannot return products for their money back and can only exchange products for other ones; (c) consumers must pay additional costs to exchange the products; and (d) Defendants do not accept returns for used or opened products.

35. These invoice terms inform consumers for the first time that Defendants do not provide refunds or that additional charges apply to exchanges, and, in some instances, contradict Defendants' verbal statements that consumers can return products and receive full refunds.

36. In numerous instances, consumers attempt to contact Defendants to notify them of the incomplete order, incorrect order, defective product, or dissatisfaction with the product's results. They call the customer service telephone numbers that Defendants' representatives provided during their purchases or the numbers appearing on the invoices that come with the shipped products.

37. Consumers often experience difficulty getting through to customer service. In numerous instances, these consumers are put on indefinite hold, disconnected, or otherwise ignored by Defendants' representatives. In some instances, Defendants' representatives argue with consumers or insult them. In numerous instances, consumers are not able to return the products because of these practices.

38. When consumers are able to get through to the Defendants to complain that they received incomplete, incorrect, or ineffective products, Defendants' representatives tell consumers that they will not accept returns or provide refunds. In some instances, Defendants' representatives tell consumers that they can only exchange the products by paying additional costs associated with shipping back products and receiving other ones. In other instances, they

demand that consumers purchase a different product. These additional costs range from \$20 to \$299.

39. As a result, consumers across the U.S. have expended significant amounts of money on incorrect or damaged goods, as well as considerable time in attempting to receive refunds, exchange products, and dispute charges.

MOULDING MOTION 5

40. Since at least 2012, Defendants have engaged in the advertising, promotion, offering for sale, sale, and distribution of the product “Moulding Motion 5” throughout the United States.

41. The Moulding Motion 5 is a purported weight loss belt comprised of two separate parts: a bag filled with liquid and a belt. The instructions for the Moulding Motion 5 direct consumers to activate the bag by triggering its switch, which in turn purportedly causes the liquid in the bag to crystallize. The instructions then direct consumers to place the belt around their waist and go about their daily living activities. Defendants have offered the Moulding Motion 5 for \$169, including shipping and handling.

42. Defendants advertise and offer the Moulding Motion 5 for sale through Spanish-language television commercials that air through various markets across the United States. In their television advertisements, Defendants provide a toll-free telephone number for ordering.

Advertisements on Spanish-Language Networks

43. To induce consumers to purchase the Moulding Motion 5, Defendants have disseminated or caused to be disseminated Moulding Motion 5 advertisements, including but not limited to commercials on Spanish-language networks. Defendants have aired these advertisements from at least 2012 to the present. For example:

44. One commercial for the Moulding Motion 5 contains the following voice over statements:

No, no, no, no, no, rice is fattening. That has a lot of calories, you have to walk 30 minutes, eat six times a day, no cholesterol, no carbohydrates, no fat, no chocolates, no beer, no sweets, no bread. Stop suffering already, lose weight now, fast with Moulding Motion 5 and its new dual impact HD Gel Pad. You activate the micro-capsule, and the heat spreads throughout your body, makes you sweat, you burn calories, lose weight and the cold Gel Pad hardens and tones the skin. . . . Call now, order the original Moulding Motion 5 with the new Gel Pad HD for cold and heat, and for those who want to lose more than 20 pounds we will send a second Gel Pad free, do not delay, call now.

45. The advertisement contains four consumer testimonials with before-and-after photos, including: a before-and-after picture of a woman with the statement “lost 25 lbs”; a before-and-after picture of a woman with the statement “lost 34 lbs”; a before-and-after picture of a woman with the statement “lost 22 lbs”; and a before-and-after picture of a woman with the statement “lost 27 lbs.” In all four instances, the “after” pictures show significantly slimmer individuals.

46. The only disclaimer displayed with these consumer testimonials is “Results may vary,” in small, inconspicuous typeface. This disclaimer is insufficient to change consumers’ net impressions that users of the Moulding Motion 5 can generally expect to achieve the results represented in the advertisements.

47. The following disclaimer briefly appears only once in small, blurry, inconspicuous typeface in a white font against a white background: “This product should be part of a low-calorie diet and exercise regime.” This disclaimer is insufficient to change consumers’ net impressions that the Moulding Motion 5 causes rapid and substantial weight loss regardless of diet and exercise habits.

48. Another commercial for the Moulding Motion 5 includes the following voice over statements:

Summer is here, it is time to wear a bathing suit and show your figure. But what do you look like? This [image of an overweight woman] or that [image of a skinny and toned woman]. Look at yourself in the mirror, it is time to lose weight and look better, it’s time for Moulding Motion 5, we all know that the sauna is a traditional and very effective method to lose weight. Moulding Motion 5 has already shown to millions of people around the world that it is indeed possible to improve your figure, lose weight and look sexy even in a bathing suit.

49. A woman then appears on the commercial and states, “I just activate it, I put it on and I lose weight naturally.”

50. A man appears on the commercial and states, “The heat is generated by Moulding Motion 5, and from the first minute, I am losing weight.”

51. The advertisement contains seven consumer testimonials with before-and-after photos, including: a before-and-after picture of a man with the statement “lost 25 lbs”; a before-and-after picture of a woman with the statement “lost 15 lbs”; a before-and-after picture of a woman with the statement “lost 18 lbs”; a before-and-after picture of a woman with the

statement “lost 25 lbs”; a before-and-after picture of a woman with the statement “lost 21 lbs”; a before-and-after picture of a woman with the statement “lost 25 lbs”; and a before-and-after picture of a woman with the statement “lost 22 lbs.” In all seven instances, the “after” pictures show significantly slimmer individuals.

52. The disclaimer displayed with these consumer testimonials is “Results may vary,” in small, inconspicuous typeface. This disclaimer is insufficient to change consumers’ net impressions that users of the Moulding Motion 5 can generally expect to achieve the results represented in the advertisements.

53. Another disclaimer that briefly appears in small, inconspicuous typeface and difficult to read white font is “While used, this product should be part of a low-calorie diet and exercise regime.” This disclaimer is insufficient to change consumers’ net impressions that the Moulding Motion 5 causes rapid and substantial weight loss regardless of diet and exercise habits.

54. In some instances, Defendants’ representatives tell consumers who call the telephone numbers listed on the commercials that they will lose substantial weight by using the product.

55. In fact, the Moulding Motion 5 does not cause rapid and substantial weight loss, and Defendants do not possess or rely upon a reasonable basis to substantiate representations that consumers who use the Moulding Motion 5 will lose a substantial amount of weight rapidly.

56. In fact, consumers who use the Moulding Motion 5 are not likely to achieve the results reported by Defendants’ testimonialists.

VIOLATIONS OF THE FTC ACT

57. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

58. Acts or practices are unfair under Section 5 of the FTC Act if they cause substantial injury to consumers that consumers cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

59. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

60. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, the Moulding Motion 5 is a “device” as defined in Section 15(d) of the FTC Act, 15 U.S.C. § 55(d).

COUNT I

Unfairness

61. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of products, Defendants send consumers an incorrect product, a non-working product, an incomplete order, the wrong product size or color, and then refuse to provide refunds or impose substantial fees to exchange unwanted or unusable products.

62. Defendants’ actions cause or are likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition.

63. Therefore, Defendants' practices as described in Paragraph 61 above constitute unfair acts or practices in violation of the FTC Act, 15 U.S.C. §§ 45(a) and 45(n).

COUNT II

Misrepresentations in Sales Practices

64. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of their products, Defendants have represented, directly or indirectly, expressly or by implication, that consumers who purchase a product from Defendants can return the product, even after use, and receive a full refund without any additional expense, including shipping, handling, or other costs.

65. In fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 64 of this Complaint, consumers who purchase a product from Defendants cannot return the product and receive a full refund without additional expense, including shipping, handling, or other costs.

66. Therefore, Defendants' representations as described in Paragraph 64 above are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

False or Unsubstantiated Claims for Moulding Motion 5

67. Through the means described in Paragraphs 40 to 56, Defendants have represented, expressly or by implication, that:

- a. Moulding Motion 5 causes rapid and substantial weight loss;
- b. Moulding Motion 5 causes rapid and substantial weight loss regardless of users' diet and exercise habits; and

c. Consumers are likely to obtain the weight loss results reported by Defendants' testimonialists.

68. The representations set forth in paragraph 67 above are false or were not substantiated at the time the representations were made.

69. Therefore, Defendants' representations as described in Paragraph 67 above constitute a deceptive act or practice, and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

70. Consumers in Florida and throughout the United States have suffered and will continue to suffer substantial injury because of Defendants' violations of the FTC Act. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

71. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, an order freezing assets;

B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

D. Award Plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

Dated: June 2, 2014



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