

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ALABAMA**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil No. _____
)	
AMERICAN CAREER SERVICES, INC., and)	
DOUGLAS HOLCOMB,)	
)	
Defendants.)	
)	

COMPLAINT FOR INJUNCTION AND OTHER EQUITABLE RELIEF

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

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to secure permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief against Defendants for engaging in unfair or deceptive acts or practices in connection with the selling of employment goods and services in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

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

3. Venue in the Southern District of Alabama is proper under 28 U.S.C. § 1391(b) and (c) and 15 U.S.C. § 53(b).

THE PARTIES

4. Plaintiff **Federal Trade Commission** is an independent agency of the United States government created by the FTC Act, 15 U.S.C. §§ 41-58. The Commission enforces the FTC Act,

which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission 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 is appropriate in each case, including restitution and disgorgement. 15 U.S.C. § 53(b).

5. Defendant **American Career Services, Inc.** ("ACS") is an Alabama corporation with its principal place of business at 335 Turmac Court, Mobile, Alabama. ACS transacts or has transacted business in this district.

6. Defendant **Douglas Holcomb** is the president of ACS. Individually or in concert with others, he directs, controls, formulates or participates in the acts and practices set forth herein. He resides, transacts, or has transacted business in this district.

COMMERCE

7. Defendants' course of trade is in or affecting commerce within the meaning of Section 4 of the FTC Act, 15 U.S.C. § 44.

BACKGROUND TO POSTAL SERVICE HIRING PROCEDURES

8. The United States Postal Service ("Postal Service") is an independent self-supporting, Federal agency within the executive branch. It is one of the largest civilian employers in the United States. The Postal Service requires most applicants seeking permanent employment to take a competitive written examination. Test 470 is required for all persons seeking permanent employment as city carriers, clerks, mail handlers, mail processors, and mark-up clerks to take Test 470, an aptitude test designed to evaluate four abilities: visual perception, memory for codes, sequencing, and following oral instructions. The Postal Service offers Test 470 on an irregular basis, depending on hiring needs in a particular locality. Several years may pass before Test 470 is offered to the public in a given area. A person who receives a scaled score of 70 or higher on Test 470 (out of a possible 100) is eligible for employment. Very few applicants (less than one out of 200) earn scaled scores of 95 or higher on Test 470.

DEFENDANTS' BUSINESS PRACTICES

9. Since at least June 1999, Defendants have conducted a nationwide Internet scheme to sell purported employment goods and services to consumers interested in obtaining jobs with the Postal Service. Defendants operate several Internet websites, including <www.datasync.com/PostalJobs>, <www.ametro.net/PostalJobs>, <www.postaljobs.net>, <www.postaljob.net>, <www.govtempment.com>, <www.postaljobs.org>, and <www.postaljob.org>.

10. Attached to this Complaint as Exhibit 1 is a copy of Defendants' Internet website <www.postaljobs.net> from on or about August 24, 2000. This Internet website is the same or similar to Defendants' other Internet websites. This Internet website's window title states "Postal Jobs Available - Post Office Employment Opportunities & Job Information." This Internet website includes, among others, the following statements:

- a. The US Post Office will need approximately 42,000 new employees for the year 2000 period.
- b. Postal Jobs starting at \$14.68/hr plus full Federal Government benefits.
- c. This is an opportunity for steady federal employment as a Postal Service Employee that shouldn't be missed.
- d. A career with the U.S. Postal Service offers you secure employment with a opportunity for advancement at a competitive salary with a excellent benefits package.
- e. Don't let this opportunity pass you by!
- f. There are several positions available at the Postal Service. The position you will be offered will be one of these listed below.
- g. For those unemployed or underemployed, the permanent career position and pay is enticing enough. The benefit package is an extra bonus.
- h. The U.S. Postal Service is an equal opportunity employer. Applicants are hired on the basis of their exam score.

11. In order to obtain a high score, Defendants offer a Postal Service study package containing the following three booklets:

- a. Postal Service Study Guide & Job Information Source Book, which Defendants'

Internet website describes as containing "a comprehensive, simple to understand, study guide for Battery 470. With tips & hints on how to score higher on the three required examinations. This book also will show you how to apply for your exam and cover some of the Postal Service rules & regulations, and the grading of the exams";

- b. Questions, Answers & Explanation for Number Series, Address Checking & Memory for Addresses Test Book, which Defendants' Internet website describes as containing "questions & answers from previous Postal exams. (Note: The Postal Service does not reinvent this exam every time they give the exam. They just simply tend to rearrange the questions from the master list.)"; and
- c. Postal Service National Directory Book, which Defendants' Internet website describes as containing "over 290 phone numbers and addresses to assist you in getting a job in your area."

12. Defendants' study package costs \$39.95 plus \$5.00 shipping and handling, for a total of \$44.95. Defendants state that the packages come with a money-back guarantee — if the consumer does not receive a score of at least 95% or higher on the postal exam and if the consumer does not receive a job within 30 days of his or her interview, Defendants will refund the cost of the package. Consumers are told that they must have a copy of their notice of rating (the Postal Service form containing the consumer's score) in order to get the refund.

13. Consumers who choose to order Defendants' package are prompted to move to the order pages on Defendants' Internet websites and pay the fee online by entering either their credit card or checking account information. The fee is then either charged to or debited from those accounts. Consumers also have the option of paying by check or money order. Shortly thereafter, Defendants ship to consumers the exam study guide package that includes the three booklets described on Defendants' Internet websites.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

COUNT I

14. Through the use of representations and statements contained in their Internet websites, including but not limited to Exhibit 1, Defendants represent, expressly or by implication, that their

employment services are affiliated with or endorsed by the Postal Service.

15. In truth and fact, Defendants' employment services are not affiliated with or endorsed by the Postal Service.

16. Therefore, the representations set forth in paragraph 14 are false and misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

17. Through the use of representations and statements contained in their Internet websites, including but not limited to Exhibit 1, Defendants represent, expressly or by implication, that consumers who purchase Defendants' materials are likely to obtain postal positions within a short period of time.

18. In truth and fact, consumers who purchase Defendants' materials are not likely to obtain postal positions within a short period of time.

19. Therefore, the representations set forth in paragraph 17 are false and misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

20. Through the use of representations and statements contained in their Internet websites, including but not limited to Exhibit 1, Defendants represent, expressly or by implication, that consumers who purchase Defendants' materials are likely to receive scores of 95% or higher on Test 470.

21. In truth and fact, consumers who purchase Defendants' materials are not likely to receive scores of 95% or higher on Test 470.

22. Therefore, the representations set forth in paragraph 20 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 IV

23. Through the use of representations and statements contained in their Internet websites, including but not limited to Exhibit 1, Defendants represent, expressly or by implication, that they pay refunds to each consumer who purchases Defendants' materials and does not receive at least 95% on Test 470 and a job within 30 days of his or her interview.

24. In truth and fact, Defendants do not pay refunds to each consumer who purchases Defendants' materials and does not receive at least 95% on Test 470 and a job within 30 days of his or her interview.

25. Therefore, the representations set forth in paragraph 23 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).

CONSUMER INJURY

26. Consumers throughout the United States have been injured and will continue to be injured by Defendants' violations of the FTC Act as set forth above. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public.

THIS COURT'S POWER TO GRANT RELIEF

27. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement and restitution, to prevent and remedy violations of any provision of law enforced by the Commission.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

(1) Permanently enjoin and restrain Defendants engaging or assisting others in engaging in violations of the FTC Act;

(2) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of Section 5(a) of the FTC Act, including, but not limited to, rescission of contracts and restitution, other forms of redress, and the disgorgement of unlawfully obtained monies; and

(3) Award Plaintiff the costs of bringing this action as well as such additional equitable relief as the Court may determine to be just and proper.

Dated: August 2, 2002

Respectfully submitted,

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