

UNITED STATES OF AMERICA
BEFORE FEDERAL TRADE COMMISSION

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In the Matter of)

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THE ADMINISTRATIVE COMPANY,)

)

a Texas Corporation,)

)

MICHAEL P. MCINTYRE, individually)

)

and as an officer and director of) **DOCKET NO. C-3731**

The Administrative Company, and)

)

PRE-PAID LEGAL SERVICES, INC.,)

)

an Oklahoma Corporation.)

)

COMPLAINT

The Federal Trade Commission, having reason to believe that The Administrative Company, a corporation, Michael P. McIntyre, individually and as an officer and director of The Administrative Company, and Pre-Paid Legal Services, Inc. ("Pre-Paid"), a corporation (collectively, "respondents"), have violated the provisions of Section 5 of the Federal Trade Commission Act, as amended, 15 U.S.C. § 45, and it appearing to the Commission that a proceeding by it in respect thereof would be in the public interest, alleges:

PARAGRAPH ONE: Respondent Michael P. McIntyre's current address is 4328 Hollow Oak, Dallas, Texas 75287.

Respondent The Administrative Company has ceased doing business. Its address is the same as that of Michael P. McIntyre.

Respondent Pre-Paid Legal Services, Inc., is an Oklahoma corporation, with its principal office or place of business at 321 E. Main Street, Ada, Oklahoma 74820.

PARAGRAPH TWO: Respondents, at all times relevant to this complaint, have advertised, promoted, offered for sale, and sold living trusts to consumers. A living trust is a trust into which an individual can place all of his or her assets during his or her lifetime and, by transferring ownership of the assets to the name of the trust, thereby remove the assets from the individual's estate.

PARAGRAPH THREE: The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

PARAGRAPH FOUR: In the course of marketing their products to the public, respondents, directly or through commissioned sales agents, have caused to be disseminated sales literature concerning living trusts, including, but not necessarily limited to, the attached Exhibits 1 and 2. This literature contains the following statements:

- (a) It is your legal right as a UNITED STATES Tax Payer to establish a Living Trust. By establishing a Living Trust, at your death your estate avoids PROBATING YOUR WILL which can COST SEVERAL THOUSANDS of dollars in legal and executor fees and TAKE SEVERAL YEARS before being transferred to your family and loved ones. YOU RETAIN FULL CONTROL OF ALL ASSETS!

YOU COULD SAVE THOUSANDS
OF HARD EARNED DOLLARS!

Exh. 1.

- (b) **A LIVING TRUST** eliminates ALL PROBATE FEES and COST. . . . With a LIVING TRUST, your family will not have to go through probate, and can avoid paying expensive probate fees and costs. Exh. 2, p. 18.
- (c) **A LIVING TRUST** allows a quick DISTRIBUTION to your heirs. Assets in probate court are often frozen two years or more, even with a WILL. A LIVING TRUST allows these same assets to be distributed within days to your loved ones, since a LIVING TRUST avoids Probate Court. Exh. 2, p. 17.
- (d) Total assets [pass through a] living trust [to] spouse or heirs [in] 1-3 days. Exh. 2, p. 24.
- (e) **A LIVING TRUST** prevents a WILL CONTEST. . . . Through a LIVING TRUST your wishes will be carried out without interference. Exh. 2, p. 17.
- (f) Membership entitles you to:

1. FREE LEGAL SERVICES FOR PREPARATION OF A REVOCABLE LIVING TRUST BY A QUALIFIED ATTORNEY IN YOUR STATE AND A FREE "POUR-OVER" WILL . Exh. 2, p. 8.

(g) **AN A-B LIVING TRUST** protects against catastrophic MEDICAL COSTS. . . . With an A-B LIVING TRUST, if you become seriously ill, your trustee can make gifts of your property to your heirs, and three years

thereafter, can seek government benefits for your care, so that the bulk of your estate will go to your heirs. Exh. 2, p. 19.

- (h) Is There Anything Bad About a Living Trust? No. There is nothing bad about a Living Trust. Exh. 2, p. 20.

PARAGRAPH FIVE: Through the use of the statements contained in the sales literature referred to in PARAGRAPH FOUR, including, but not necessarily limited to, the sales literature attached as Exhibits 1 and 2, respondents have represented, directly or by implication, that:

- (a) The use of a living trust avoids all probate and administrative costs.
- (b) At death, a living trust allows assets to be distributed immediately or almost immediately.
- (c) A living trust cannot be challenged.
- (d) Living trusts are prepared by local attorneys.
- (e) A living trust protects against catastrophic medical costs.
- (f) A living trust is the appropriate estate planning device for every consumer.
- (g) There are no disadvantages to a living trust.

PARAGRAPH SIX: In truth and in fact:

- (a) A living trust does not always avoid probate and administrative costs.
- (b) The use of a living trust does not necessarily result in immediate distribution of assets since creditors may file claims against the trust instrument.
- (c) A living trust is not immune from challenge.
- (d) Most living trusts prepared for AASC members were not prepared by local attorneys. Instead, of the 3,064 living trusts prepared for AASC members in 43 states, approximately 3,000 were prepared by an Arizona attorney licensed to practice law solely in Arizona and New York.

- (e) A living trust does not protect against catastrophic medical costs.
- (f) A living trust is not appropriate for everyone. The determination of whether a living trust is appropriate for a particular consumer requires an examination of the assets that compose the consumer's estate, the potential tax consequences of the estate plan, and the objectives of the consumer.
- (g) There are disadvantages to a living trust. For example, while probate law imposes a statutory deadline beyond which creditors can no longer file claims against a will, in some states, there is no law limiting the time that creditors may file claims against a trust instrument.

Therefore, the representations set forth in PARAGRAPH FIVE were, and are, false and misleading.

PARAGRAPH SEVEN: Through the use of the statements contained in the sales literature referred to in PARAGRAPH FOUR, including, but not necessarily limited to, the sales literature attached as Exhibits 1 and 2, respondents have represented, directly or by implication, that at the time they made the representations set forth in PARAGRAPH FIVE, respondents possessed and relied upon a reasonable basis that substantiated such representations.

PARAGRAPH EIGHT: In truth and in fact, at the time they made the representations set forth in PARAGRAPH FIVE, respondents did not possess and rely upon a reasonable basis that substantiated such representations. Therefore, the representation set forth in PARAGRAPH SEVEN was, and is, false and misleading.

PARAGRAPH NINE: In their advertising, promoting, offering for sale, and sale of living trusts, respondents have failed to disclose that the transfer of an individual's assets into the living trust was not included in the price paid for creating the living trust and that it would be the responsibility of the individual purchaser to transfer assets into the trust, once created, or to arrange for another individual or entity to do so. This fact would be material to consumers in deciding whether to purchase a living trust and from whom to purchase a living trust. The failure to disclose this fact was, and is, a deceptive act or practice.

PARAGRAPH TEN: The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission, on this fourteenth day of April, 1997, issues this complaint against said respondents.

By the Commission.

SEAL

Donald S. Clark
Secretary