

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL TRADE COMMISSION, :
: Plaintiff, : CIVIL ACTION NO.
v. : : 1:06-CV-2939-CAP
: :
HOLIDAY ENTERPRISES, INC., :
et al. :
: Defendants. :

FINAL JUDGMENT AGAINST
DEFENDANT NMC PROPERTIES, INC.

This matter comes before the court on the motion for summary judgment [Doc. No. 62] by the plaintiff, the Federal Trade Commission ("FTC"), against defendants Holiday Enterprises, Inc.; Holiday Ink, Inc.; Holiday Ink Half Price, Inc. (collectively, the "Corporate Defendants"); Richard ("Nick") J. Morrell; Richard ("Rick") J. Cascario (collectively, the "Individual Defendants"). On December 4, 2006, the FTC filed a complaint for a permanent injunction and other equitable relief in this matter pursuant to Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 57b. The FTC charged the Corporate and Individual Defendants with engaging in deceptive acts or practices in connection with the marketing and sale of ink cartridge business opportunities, in violation of Section 5 of the FTC Act, 15 U.S.C. § 45, and the Trade Regulation Rule regarding

Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures ("Franchise Rule" or "Rule"), 16 C.F.R. Part 436. The FTC charged NMC Properties, Inc. ("NMC") as a relief defendant with liability for the amount of funds derived from the business of the Corporate Defendants and transferred to it from the other defendants.

The FTC filed a request for entry of default against the Corporate Defendants on January 24, 2007 [Doc. No. 38]; the clerk entered the default the same day. The court granted default judgment against the Corporate Defendants on August 3, 2007 [Doc. No. 75]. The FTC filed a motion for summary judgment [Doc. No. 62] prior to the entry of default judgment against the Corporate Defendants. The court grants summary judgment against the remaining defendants in the summary judgment order issued contemporaneously with this order.

This order (the "final order") constitutes a final judgment against NMC. It is hereby ORDERED, ADJUDGED, AND DECREED:

FINDINGS

1. This court has jurisdiction of the subject matter of this case and the parties hereto pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(a), 53(b), and 57b.

2. Venue in the Northern District of Georgia is proper as to all parties.
3. The activities of NMC Properties, Inc. are in or affecting commerce, as defined in the FTC Act, 15 U.S.C. § 44.
4. The complaint states a claim upon which relief may be granted against defendant NMC Properties, Inc. under Sections 5(a), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b), and 57b.
5. This final order is in addition to, and not in lieu of, any other civil or criminal remedies that may be provided by law.
6. Entry of this final order is in the public interest.

ORDER

I. Monetary Relief

IT IS ORDERED that NMC pay to the FTC the entire amount of funds received from the Corporate Defendants - Holiday Enterprises, Inc., Holiday Ink, Inc., and Holiday Ink Half Price, Inc. - and the Individual Defendants - Richard J. Morrell and Richard J. Cascario - derived from the business of the Corporate Defendants. This amount shall be at least \$250,000 plus any residual value in the properties held by NMC after the mortgages are repaid.

A. Any funds received by the FTC pursuant to this final order shall be deposited into a fund administered by the FTC or its agent to be used for equitable relief,

including but not limited to consumer redress and any attendant expenses for the administration of any redress funds. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the FTC may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to the defendants' practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the U.S. Treasury as equitable disgorgement. NMC shall have no right to challenge the FTC's choice of remedies or the manner of distribution.

B. The judgment entered pursuant to this final order is equitable monetary relief, solely remedial in nature, and not a fine, penalty, punitive assessment, or forfeiture.

II. Retention of Jurisdiction

IT IS FURTHER ORDERED that this court shall retain jurisdiction of this matter for purposes of construction, modification and enforcement of this final order.

SO ORDERED, this 5th day of February, 2008.

/s/ Charles A. Pannell, Jr.
CHARLES A. PANNELL, JR.
United States District Judge