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CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

Case No. 8:16 -cv- 1435 T 35 UA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

D & S MARKETING SOLUTIONS LLC,
also d/b/a US Corporate Compliance Office,
Office of Compliance and Safety Standards, and
Occupational Safety and Compliance
Administration, a Florida limited liability
company; and

SEAN K. JUHL, individually and as an owner,
officer, or manager of D & S MARKETING
SOLUTIONS LLC;

Defendants.

FILED UNDER SEAL

**PLAINTIFF FEDERAL TRADE COMMISSION'S COMPLAINT
FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

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

1. The FTC brings this action under Sections 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

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monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices 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 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)(1), (b)(2), (c)(1), and (c)(2), 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.

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 **D & S MARKETING SOLUTIONS LLC** ("D&S") also doing business as US Corporate Compliance Office, Office of Compliance and Safety Standards, and Occupational Safety and Compliance Administration, as well as a variety of other names, is a Florida limited liability company with its principal place of business in Clearwater,

Florida. At all times material to this Complaint, acting alone or in concert with others, D&S transacts or has transacted business in this District and throughout the United States.

7. Defendant **SEAN K. JUHL** (“Juhl”) is an owner, officer, and manager of D & S Marketing Solutions LLC. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of D&S including the acts and practices set forth in this Complaint. Defendant Juhl resides in this district and, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

COMMERCE

8. At all times material to this complaint, the Defendants have maintained a substantial course of trade in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS PRACTICES

Overview

9. Defendants operate a telemarketing scheme that deceives owners of newly-opened small businesses into spending hundreds of dollars for government regulation posters that can otherwise be obtained from the government for free. Since at least 2011, Defendants have bilked at least \$1.3 million from small business owners throughout the United States. To achieve this, Defendants trick the small business owners into believing that they are being contacted by the Occupational Safety and Health Administration (“OSHA”) or another government agency. During telemarketing calls, Defendants scare the owners by telling

them that their businesses are not compliant with federal law because they do not have required government regulation posters, such as occupational safety posters, at their business premises. Further, Defendants threaten that unless the business owner immediately purchases the posters from Defendants, a government inspector will fine and/or shut down their business. Then, Defendants require a payment typically ranging from \$179.99 to \$189.99 for the posters.

Defendants Trick Business Owners to Induce Purchase

10. Beginning in 2011, and continuing thereafter, Defendants have operated a scheme in which telemarketers cold-call owners of newly-opened small businesses and deceptively represent that they are part of or affiliated with OSHA or another government agency. The telemarketers identify themselves as “US Corporate Compliance Office,” “Occupational Safety and Compliance Administration,” and “Office of Compliance and Safety Standards,” or, in other instances, by a variety of similar government-sounding names such as “Occupational Compliance and Safety Administration” or “US Compliance Office.”

11. None of the Defendants is part of or affiliated with OSHA or any other government agency.

12. During the sales pitch, telemarketers notify business owners that their business is not in compliance with federal law and that they are required to purchase government regulation posters from Defendants in order to be in compliance. Further, Defendants threaten that the government will soon be arriving at their business location to inspect the premises and that the government will assess a fine and/or shut down the business

if it is not compliant in displaying the posters.

13. Defendants then ask for a credit card number for payment so that the business will be in compliance and tell the business owners the price for the posters.

14. After making the purchase, the small business owners often discover that they have been dealing with a Florida company – not the government – and that these government regulation posters can be obtained at no cost from the government. In addition, business owners generally find, subsequently, that the government inspection that Defendants characterized as imminent did not, in fact, occur at all, and that no government agency or representative contacted the business owners to confirm their compliance in posting government regulations at their place of business.

15. In numerous instances, business owners who purchased posters from Defendants have sought to return the posters and obtain a refund, but find that they cannot reach anyone at D&S, and can only leave a voicemail message with the company. Frustrated by their inability to speak to anyone at D&S, business owners have sought assistance and filed complaints with third parties, such as the Better Business Bureau and the FTC. Despite their efforts, many business owners have been unsuccessful in obtaining a refund.

VIOLATIONS OF THE FTC ACT

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

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

COUNT I

Misrepresentations to Induce Payment

18. In numerous instances, in connection with the marketing, offering for sale, and selling of government regulation posters, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Defendants are part of or affiliated with OSHA or another government agency; or
- b. Businesses are required to purchase government regulation posters from Defendants.

19. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 18 of this Complaint:

- a. Defendants are not part of or affiliated with OSHA or another government agency; or
- b. Businesses are not required to purchase government regulation posters from Defendants.

20. Therefore, Defendants' representations as set forth in Paragraph 18 of this Complaint are false or misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

21. Consumers have suffered and will continue to suffer substantial injury as a result of the 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

22. 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 Sections 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, temporary and preliminary injunctions, an order providing for immediate access to business premises, the turnover of business records, an asset freeze, and the appointment of a receiver;
- 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 the 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 FTC 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,

DAVID C. SHONKA
Acting General Counsel

Dated: 6/2/16


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