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FILED

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION

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STEPHEN J. ... CLERK  
U.S. DISTRICT COURT  
FOR THE NORTHERN DISTRICT  
OF INDIANA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

TRI-STATE ADVERTISING  
UNLIMITED, INC.,  
a corporation, and  
JEROME ANTHONY WILKINS,  
individually and as an officer  
of said corporation, and  
DARYL ALLEN BENDER,  
individually,

Defendants.

CIVIL NO.

1:98CV0302

COMPLAINT FOR INJUNCTIVE  
AND OTHER EQUITABLE RELIEF

JUDGE

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

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 obtain preliminary and permanent injunctive relief against the defendants to prevent them from engaging in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including rescission, restitution and disgorgement, as is necessary to redress injury to consumers and the public interest resulting from defendants' violations of the FTC Act.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the United States District Court for the Northern District of Indiana is proper under 15 U.S.C. § 53(b), as amended by the FTC Act Amendments of 1994, Pub. L. No. 103-312, 103 Stat. 1691, and 28 U.S.C. § 1391(b) and (c).

#### **PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 *et seq.* The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits deceptive acts or practices in or affecting commerce. The Commission may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case, including redress and disgorgement. 15 U.S.C. § 53(b).

#### **DEFENDANTS**

5. Defendant Tri-State Advertising Unlimited, Inc., is an Indiana corporation whose principal place of business has been at 1220 N. 200 W. Suite B1, Angola, Indiana 46703 and at 3466 E. Bellefontaine Rd., Hamilton, Indiana 46742. Tri-State Advertising Unlimited, Inc., also has done business as:

Aids Awareness Circular	Anthony Wilkinson
Aids Awareness Digest	Central Cities Collections
Aids Prevention Digest	Central Drug Abuse
Alcohol & Chemical Prevention Digest	Child Abuse Awareness
American Child Safety Periodical	Child Protection Guide
Anthony Corporation	Child Safety Guide
Anthony Enterprises	Citizens For A Cleaner Environment

Community Against Drugs	Indiana Life Support
Community Drug Abuse Enforcer	Indiana's Forgotten Veterans
Community Drug Abuse Journal	Keep America Working
Concerned Citizens Against Child Abuse	Keep Our Children Safe
Crime Prevention	Kentucky Drug Free Community
Defeat Aids Now	Kentucky Life Support
Disabled Veterans	Kentucky Drug Abuse Guide
Don't Drink & Drive	Kentucky Parent-Child Protection
Drug Abuse Prevention Guide	Labor Digest
Drug Free Community	Labor Dispatch
Educate Our Youth	Labor Post
Eliminate Drug Usage	Labor Review
Environmental Awareness Guide	Labor Sentinel
Find Our Lost Children	Labor Voice
Fire Safety Guide	Miller Enterprises
Forgotten Veterans	Ohio Drug Abuse Guide
Frank Enterprises	Ohio Life Support
Frank Larsen Advertising	Our Children's Education
Franklin Company	Parent-Child Protection
Gang Alert Digest	Parents Against Drug & Alcohol Abuse
Halt Teenage Drinking & Driving	Parents Against Narcotics United
Help Our Children	Parents Drug Free Environment
Help Save A Life	People Against Aids
Hugs Not Drugs	Prevent Aids-Save Our Youth
Indiana Building Review	Prevent Alcohol Abuse
Indiana Drug Abuse Guide	Prevent Child Neglect
Indiana Drug Free Community	Protect Our Children
Indiana Firefighters Association	Protect Our Young

Protect the Environment

Save Our Environment

Stay In School

Stop Child Neglect

Stop Crime

Stop Drug Abuse

Stop the Killing

Stop The Insanity

Stop Violence Against Children

Substance & Alcohol Abuse Review

Substance Abuse Review

Teens Against Alcohol

Think Before You Drink

Watkins Agency

Wilkes Collections

Wilkie Agency

and possibly other d/b/a's. Tri-State Advertising Unlimited, Inc. transacts business in this District.

6. Defendant Jerome Anthony Wilkins is the President, Incorporator, Director and Registered Agent of Tri-State Advertising Unlimited, Inc. At all times relevant to this complaint, individually or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He transacts business in this District.

7. Defendant Daryl Allen Bender is a collector for Tri-State Advertising Unlimited, Inc. At all times relevant to this complaint, individually or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He transacts business in this District.

#### COMMERCE

8. At all times relevant to this complaint, 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 ACTIVITIES**

9. Since at least 1983, Defendant Jerome Anthony Wilkins has engaged in a program of misrepresentation targeted at public-spirited businesses and individuals in many states. Defendant has conducted his operation using various corporate entities, including B & W Publishing, Inc., Gerbel Sales & Consultants, Inc., and most recently, defendant Tri-State Advertising Unlimited, Inc. Defendant Daryl Allen Bender, since at least 1993, has engaged in the same deceptions as Defendant Jerome Anthony Wilkins. Defendants solicit individuals or businesses, including many small businesses, to advertise in publications defendants claim to publish and distribute. In numerous instances, defendants misrepresent that the individual or business or a named person acting on behalf of the business needs to pay for an advertisement previously ordered in defendants' publication. Defendants often misrepresent that they have incurred the cost of printing the advertisement in order to make the business or individual pay for it. Defendants then send a collector to the individual or business to deliver an invoice for the unordered advertising. Many businesses and individuals pay for the invoice because they believe they owe for the advertisement. They also expect to receive a publication containing their advertisement. Contrary to defendants' representations, such businesses and individuals do not owe for the advertisement and do not receive a publication.

10. If an individual or business refuses to pay for unordered advertising, defendants frequently threaten to take, and frequently take, action to collect payment of bills for the advertisements, thereby reinforcing the misrepresentation that the individual or business has ordered the advertisement and is obligated to pay for it.

11. In addition to misrepresenting that individuals or businesses have approved advertisements in defendants' publications, defendants also represent that by advertising in their publications, which have titles such as INDIANA FIREFIGHTERS ASSOCIATION, FORGOTTEN VETERANS and INDIANA LIFE SUPPORT, individuals and businesses are provided with a meaningful opportunity to support important causes in their community. Defendants represent, expressly or by implication, that payment for their advertisement constitutes a donation. Contrary to this representation, payment for an advertisement in defendants' publications does not constitute a donation.

12. Defendants also represent, expressly or by implication, that the publication containing the individual's or business' advertisement is widely distributed in their local community and state.

13. Contrary to defendants' representations, the publication containing the individual's or business' advertisement is not widely distributed in their local community and state.

14. Defendants' representations have caused individuals and businesses to pay hundreds, and sometimes thousands, of dollars for advertisements in defendants' publications.

#### COUNT ONE

15. In numerous instances, in connection with the offering for sale and sale of advertisements, defendants have represented, expressly or by implication, that an individual or business or a named person acting on behalf of the business previously authorized placement of the advertising in defendants' publications.

16. In truth and in fact, in numerous instances, the individual or business or a named person acting on behalf of the business did not previously authorize placement of the advertising in defendants' publications.

17. Therefore, defendants' representations set forth in paragraph 15 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 TWO

18. In numerous instances in connection with the offering for sale and sale of advertisements, defendants have threatened to take, or have taken, action against individuals or businesses to collect payment of bills for such advertisements, thus representing, expressly or by implication, that such individuals and businesses have ordered the advertisements and, therefore, are obligated to pay for them.

19. In truth and in fact, in numerous instances, such individuals and businesses have not ordered the advertisements and, therefore, are not obligated to pay for them.

20. Therefore, defendants' representations set forth in paragraph 18 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 THREE

21. In numerous instances in connection with the offering for sale and sale of advertisements, defendants have represented, expressly or by implication, that payment for an advertisement in their publications constitutes a donation.

22. In truth and in fact, payment for an advertisement in defendants' publications does not constitute a donation.

23. Therefore, defendants' representation set forth in paragraph 21 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### COUNT FOUR

24. In numerous instances in connection with the offering for sale and sale of advertisements, defendants have represented, expressly or by implication, that the publication containing the individual's or business' advertisement is widely distributed in their local community and state.

25. In truth and in fact, in numerous instances the publication containing the individual's or business' advertisement is not widely distributed in their local community and state.

26. Therefore, defendants' representation set forth in paragraph 24 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### CONSUMER INJURY

27. Defendants' violations of Section 5 of the FTC Act, as set forth above, have caused and continue to cause substantial injury to consumers, namely the individuals and businesses defrauded by defendants' activities. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers.



### **THIS COURT'S POWER TO GRANT RELIEF**

28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to issue a permanent injunction against defendants' violations of the FTC Act and, in the exercise of its equitable jurisdiction, grant such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act, including restitution and disgorgement of unjust enrichment.

### **PRAYER FOR RELIEF**

WHEREFORE, the Commission respectfully 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. Award the Commission all temporary and preliminary injunctive and ancillary relief that 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, appointment of a receiver, and an order freezing each defendant's assets.

2. Permanently enjoin the defendants from violating the FTC Act as alleged in this complaint;

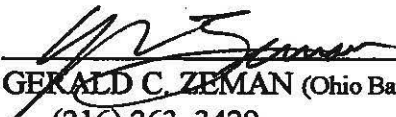
3. Award all relief that the Court finds necessary to remedy the defendants' violations of Section 5(a) of the FTC Act, including, but not limited to, the refund of monies paid and the disgorgement of ill-gotten monies; and

4. Award the Commission the costs of bringing this action, as well as any other equitable relief that the Court may determine to be just and proper.

Date: 10/5/98

Respectfully submitted,

DEBRA A. VALENTINE  
General Counsel

  
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