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By: *[Signature]*
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL TRADE COMMISSION

Plaintiff,

v.

Prophet 3H, Inc.,

a Nevada corporation;

Prophet 3H, LLC,

a Georgia company;

Georgia Home Health Care

License and Certification

Institute, Inc., dba GHLCI,

a Georgia corporation;

Healthcare State License and

Certification Institute, Inc.,

dba HSLCI and HSLCC,

a Georgia corporation;

M7 Holdings, LLC,

a Georgia company;

Jeffrey Wayne McLain,

individually and as an

officer of one or more of

the above companies;

Victor McLain,

individually and as a manager

of one or more of the above

companies;

and

Alexander McLain,

Civil Action No. _____

06 CV 1692

COMPLAINT

individually and as an)
officer of one or more of)
the above companies)
)
Defendants.)
_____)

Plaintiff, the Federal Trade Commission (“FTC” or the “Commission”), for its complaint alleges:

1. The Commission brings this action under 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, to obtain temporary, preliminary, and permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for defendants’ violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Trade Regulation Rule entitled “Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures” (“Franchise Rule” or “Rule”), 16 C.F.R. Part 436.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 53(b) and 57b. This action arises under 15 U.S.C. § 45(a)(1).

3. Venue in the United States District Court for the Northern District of Georgia is proper under 28 U.S.C. §§ 1391(b)-(c), and 15 U.S.C. § 53(b).

PLAINTIFF

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The Commission is charged, inter alia, with enforcement of 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, as well as the enforcement of the Franchise Rule, 16 C.F.R. § 436. The Commission is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the Franchise Rule in order to secure such equitable relief as may be appropriate in each case, and to redress injury to consumers. 15 U.S.C. §§ 53(b) and 57b.

CORPORATE DEFENDANTS

5. Defendant Prophet 3H, LLC is a Georgia limited liability company with its office and principal place of business at 1395 Marietta Parkway in Marietta, Georgia, that has engaged in the acts and practices set forth in this complaint. Defendant Prophet 3H, LLC transacts or has transacted business in the Northern District of Georgia.

6. Defendant Prophet 3H, Inc. is a Nevada corporation with its office and principal place of business at 1395 Marietta Parkway in Marietta, Georgia, that has engaged in the acts and practices set forth in this complaint. Defendant Prophet 3H, Inc. transacts or has transacted business in the Northern District of Georgia. Defendants Prophet 3H, Inc. and Prophet 3H, LLC are hereafter referred to collectively as "Prophet 3H."

7. Defendant Georgia Home Health Care License and Certification Institute, Inc., d/b/a Georgia Home Health Care License and Certification Institute, Inc. and GHLCI ("GHLCI"), is a Georgia corporation with its office and principal place of business at 1395 Marietta Parkway in Marietta, Georgia, that has engaged in the acts and practices set forth in this complaint. Defendant GHLCI transacts or has transacted business in the Northern District of Georgia.

8. Defendant Healthcare State License and Certification Institute, Inc., d/b/a HSLCI and HSLCC (hereafter collectively "HSLCI"), is a Georgia corporation with its office and principal place of business at 1395 Marietta Parkway in Marietta, Georgia, that has engaged in the acts and practices set forth in this complaint. Defendant HSLCI transacts or has transacted business in the Northern District of Georgia.

9. Defendant M7 Holdings, LLC (“M7 Holdings”), is a Georgia limited liability company with its office and principal place of business at 1395 Marietta Parkway in Marietta, Georgia, that has engaged in the acts and practices set forth in this complaint. Defendant M7 Holdings transacts or has transacted business in the Northern District of Georgia.

INDIVIDUAL DEFENDANTS

10. Defendant Jeffrey Wayne McLain, a/k/a J.W. McLain (“J.W. McLain” or “McLain”), is the chief executive officer of Prophet 3H and M7 Holdings. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of defendants Prophet 3H, GHLCI, HSLCI and M7 Holdings set forth in this complaint. Defendant J.W. McLain resides or has transacted business in the Northern District of Georgia.

11. Defendant Victor McLain has acted as manager of Prophet 3H, GHLCI, and HSLCI. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of defendants Prophet 3H, GHLCI, HSLCI and M7 Holdings set

forth in this complaint. Defendant Victor McLain resides or has transacted business in the Northern District of Georgia.

12. Defendant Alexander McLain is the president of HSLCI and GHLCI. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of defendants Prophet 3H, GHLCI, HSLCI and M7 Holdings set forth in this complaint. Defendant Alexander McLain resides or has transacted business in the Northern District of Georgia.

COMMON ENTERPRISE

13. Corporate defendants Prophet 3H, GHLCI, HSLCI and M7 Holdings have operated as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. Individual defendants J.W. McLain, Victor McLain, and Alexander McLain have formulated, directed, controlled or had authority to control, or participated in the acts and practices of the corporate defendants that comprise the common enterprise.

COMMERCE

14. At all times material to this complaint, the defendants' course of business, including the acts and practices alleged herein, has been in or affected commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS PRACTICES

15. Beginning in at least 1999 and continuing until at least June 2005, individual defendant J.W. McLain sold an herbal tea product through Prophet 3H. McLain marketed this tea as possessing healing powers. According to Prophet 3H's advertisements, the tea purportedly cured arthritis, diabetes, heart disease, lupus, and a variety of other ailments.

16. Beginning in at least March 2005, defendants began developing a marketing campaign for an opportunity in the healthcare industry.

17. Defendants state that purchasers of defendants' business opportunity will operate businesses providing healthcare services to Medicaid recipients. These include businesses providing home healthcare services such as nursing, transportation, companion sitting, home management, and medical assessments.

18. In addition to operating businesses providing healthcare services to Medicaid eligible patients, defendants state that purchasers of defendants'

business opportunity will operate their businesses by referring Medicaid recipients to other members of defendants' healthcare network in exchange for fees.

19. The actual marketing and sale of defendants' healthcare business opportunity began in at least June 2005 and has continued to the date of this complaint.

20. In marketing this healthcare business opportunity, defendants have held themselves out as the purveyors of a network of healthcare providers that have access to hundreds of millions of dollars in Medicaid funds. They claim that thousands of participants in their network, including members of the McLain family, are multimillionaires and that new participants will earn similar monies within one to five years.

21. Defendants market and sell their scheme through seminars they set up at large hotels and convention centers. Since June 2005, defendants have held at least fifteen such conferences in cities throughout the United States. The conferences have been attended by as many as 1,200 persons per conference.

22. Defendants' conferences are announced through their website, www.hslcc.com. Defendants' web pages state that the speaker at the conferences is an internationally known and "highly successful, self-made multi-millionaire

Dr. J.W. McLain.” The web pages further state that Dr. J.W. McLain “will be sharing his unique wealth creating business model strategies that has [sic] helped him turn, in just one of his businesses, a \$2,400 investment into 15 million dollars, in just five years.” The web page further states that “Dr. McLain’s family has been in the Healthcare Industry for a combined 30 years.” A separate web page states that participants at the conference will learn how to “Retire in 2 to 5 years with an income of \$45,000 plus, a month.” On still another web page, prospective attendees are told that at the conference they will learn how to secure “Guaranteed Medicaid Clients” and grow “multi-million dollar” businesses in one year or less. The cost of attending a conference is \$65 per person.

23. The HSLCC website profit representations are reinforced in advertising on “Hallelujah 95.7” and other radio stations, as well as in registration materials and brochures sent to conference attendees. For instance, a brochure distributed before a conference held in Jacksonville, Florida on February 4, 2006, repeated the claim that J.W. McLain had turned a \$2,400 investment into \$15 million dollars and further asserted that he had done this in three years. (The Internet ads claimed that it had taken J.W. McLain five years to achieve this financial result.) One of defendants’ brochures asserted that attendees would

“learn how to . . . grow a company into a multi-million dollar business in one year or less.”

24. At the conferences, individual defendant J.W. McLain delivers a motivational speech of more than three hours, speaking in a manner similar to that of a religious sermon with comments such as “praise the Lord” and “the Lord taught me business strategy models...and within a year or two years, they became multi-million dollar businesses.”

25. The thrust of McLain’s speech involves frequent references to a method of obtaining “unlimited” and “guaranteed” Medicaid clients that will enable participants in his network to access hundreds of millions of dollars in federal and state program funds and make annual incomes in the millions. McLain has stated, “If you follow the plan that I’m going to lay out before you, it’s impossible for you to fail.”

26. McLain describes the methodology of his business opportunity as follows:

a. Participants in his network should incorporate two corporations: a healthcare company such as a home healthcare services provider “agency” for which the participant will seek Medicaid licensing approval and a

separate non-profit corporation such as a church, to be incorporated under Section 501(c)(3) of the Internal Revenue Code.

b. With respect to the non-profit, participants should hide their ownership and control and, instead, use surrogates who have no traceable connection to the participant's separate healthcare company. Thus, for instance, at one conference, McLain told the audience to put the ownership of the non-profit in "Junebug's name."

c. The primary purpose of the non-profit is to distribute donations such as food, clothing, and furniture to indigent persons, requiring as a *quid pro quo* that the recipient supply the non-profit with his or her Medicaid information. The non-profit then funnels the Medicaid information to the participant's medical services company, which can use the information to bill Medicaid for its services.

d. Alternatively, if the owner of the medical services company does not have a product suitable for the recipient, he or she can refer the Medicaid number to defendants' healthcare network and receive referral fees valued between \$100 and \$500 from others in the network. The referral fees alone can be a lucrative source of income. For instance, in one conference McLain described a network member named "Jerry" who had earned \$17,000 from referrals generated

by his non-profit even before he obtained a license for his for profit health services company.

27. McLain represents that past purchasers of his business opportunity have become millionaires. McLain similarly represents that members of his family have become millionaires in the healthcare business.

28. Defendants state that they have lawyers and mentors on staff who will guide new participants through the incorporation and licensing of their healthcare companies and non-profits, as well as the startup phases of their businesses. In a promotional CD, which they provide to prospective purchasers who have paid the conference registration fee, defendants state that they will provide “training in the rules and regulation for health care,” “online training,” “[access] to networking with ongoing client support,” “Website and Online support,” “Legal Support,” and “Client Support.” Defendants represent that they will continuously provide support to participants throughout the life cycle of participants’ business, including incorporation, business development, business management and operation.

29. Defendants represent, expressly or by implication, that the assistance provided as part of the purchase price for their business opportunity includes providing purchasers with a set of clients for their new businesses.

30. McLain represents that his network operates in states across the nation and that purchasers of his business opportunity gain access to this network. McLain represents that purchasers may use this network to draw upon a store of Medicaid clients whom purchasers may service. McLain represents that purchasers may also avail themselves of this network in order to find network members who may provide service to a Medicaid client that the purchaser solicited but cannot service.

31. Defendants stress the importance of networking to prospective purchasers as a tool to enhance their wealth. Defendants represent that they will provide mentorship in networking. Defendants describe the "HSLCI Support System" in the CD, described in paragraph 28. This CD states that HSLCI provides "member to member networking" and that "network professional service" (purportedly worth "\$250,000 + a year") and the "H.S.L.C.I. Network Center" (purportedly worth "\$1,000,000 + a year") provide the "multiple streams of

income” which, in addition to incorporating and operating the home healthcare businesses marketed by defendants, are key to realizing true wealth.

32. At the conclusion of his speech, McLain directs the audience to sign-up tables. The regular price of his business opportunity, he states, is \$7,495. He offers to give worthy candidates a grant of \$5,000 if they sign up immediately, thereby reducing the price to \$2,495.

33. McLain states that the price of \$2,495 ensures the purchaser access to defendants’ network of Medicaid clients and provides them with the assistance and support described in paragraph 28.

34. Defendants also operate a telemarketing operation based in Marietta, Georgia, that solicits prospects in response to inbound calls. Persons who call defendants’ phone number receive detailed representations about defendants’ business opportunity that mirror the conference representations.

35. In promoting their business opportunity, defendants represent, either expressly or by implication, that purchasers of their business opportunity will legally earn substantial incomes. In reality, defendants fail to inform purchasers of many federal and state laws and regulations that proscribe the implementation of key components of defendants’ business opportunity and are likely to prevent

purchasers from earning the substantial revenues described by defendants. These include, but are not necessarily limited to:

- a. Provisions prohibiting the filing of false or misleading information in incorporation documents;
- b. Provisions prohibiting the use of non-profit corporations to further the revenues of for-profit corporations;
- c. Provisions prohibiting the offering of inducements to Medicaid beneficiaries to influence their selection of a particular provider unless the inducements fall within a limited class of "safe harbor" exceptions;
- d. Provisions prohibiting the giving or accepting of remuneration by providers in return for the referral of a person for whom the provider, by supplying services, will receive Medicaid reimbursement;
- e. Provisions prohibiting the use of identity information, such as Medicaid identification numbers, without the authorization of the user;
- f. Provisions prohibiting the filing of false statements in relation to healthcare matters.

36. Defendants do not provide prospective business opportunity purchasers with a basic disclosure document, as required by the Franchise Rule.

37. Defendants do not have a reasonable basis for the earnings claims they make.

38. Defendants have failed to disclose, in immediate conjunction with each earnings claim, and in a clear and conspicuous manner, that material which constitutes a reasonable basis for the claim is available to prospective business opportunity purchasers.

39. Defendants have failed to provide prospective business opportunity purchasers with earnings claim documents as prescribed by the Franchise Rule.

40. Defendants have failed to disclose clearly and conspicuously, in immediate conjunction with such generally disseminated earnings claim, additional information including the number and percentage of prior purchasers known by the defendants to have achieved the same or better results.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

COUNT I

Defendants' Failure to Disclose Material Terms Underlying their Business Opportunity

42. In numerous instances, in connection with the advertising, promotion, marketing, or offering for sale of their business opportunity, defendants have represented, expressly or by implication, that consumers must engage in the following practices in order to secure the profits represented by defendants:

- a. Incorporate and operate a non-profit corporation which utilizes an ownership structure that hides the participant's interests in the non-profit entity;
- b. Incorporate and operate a non-profit corporation whose primary purpose is to further the revenues of a for profit company;
- c. Use inducements such as clothing and furniture, without limitation, to obtain Medicaid information from potential clients;
- d. Give or accept remuneration to or from members of defendants' healthcare network for the referral of persons for whom a provider, by supplying services, will receive Medicaid reimbursement; or
- e. Utilize defendants' referral network to provide Medicaid client information to other network participants in exchange for referral fees.

43. Defendants have failed to disclose or to disclose adequately to consumers that the acts described in paragraph 42 expose a participant in defendants' business opportunity to either criminal penalties or civil penalties for violating federal or state laws, statutes, and related case law in the following areas:

- a. The filing of false or misleading information in incorporation documents;
- b. The incorporation of a non-profit entity whose primary purpose is to further the revenues of for-profit corporations;
- c. The offering of inducements to Medicaid beneficiaries to influence their selection of a particular provider;
- d. The giving or accepting of remuneration by providers in return for the referral of a person for whom the provider, by supplying services, will receive Medicaid reimbursement;
- e. The use of identity information without the authorization of the user; or
- f. The filing of false statements in relation to healthcare matters.

These facts would be material to consumers in their decision to purchase defendants' business opportunity.

44. In light of the representations set forth in paragraph 42, defendants' failure to disclose or to disclose adequately the material information set forth in paragraph 43 is a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

Misrepresentations Regarding Earnings

45. In numerous instances in the course of offering for sale or selling their healthcare services business opportunity, the defendants, directly or indirectly, represent, expressly or by implication, that purchasers of their business opportunity are likely to earn substantial income without violating federal or state law.

46. In truth and in fact, purchasers of the defendants' business opportunity are not likely to earn substantial income without violating federal or state law.

47. Therefore, defendants' representations as set forth in paragraph 45 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 III

Misrepresentations of Assistance Provided to Participants

48. In numerous instances in the course of offering for sale and selling their healthcare services business opportunity, the defendants, directly or indirectly, represent, expressly or by implication, that they will provide purchasers of their business opportunity with significant assistance in the operation of their business, including but not limited to, claims that defendants will provide purchasers with: (a) legal and technical assistance, including mentoring, with the formation, development and operation of purchasers' healthcare businesses, or (b) clients for whom purchasers may obtain Medicaid reimbursement.

49. In truth and in fact, defendants do not provide business opportunity purchasers with the significant assistance described in paragraph 48.

50. Therefore, the defendants' representations as set forth in paragraph 48 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).

THE FRANCHISE RULE

51. The business opportunities sold by the defendants are franchises, as “franchise” is defined in Sections 436.2(a)(1)(ii), (a)(2), and (a)(5) of the Franchise Rule, 16 C.F.R. §§ 436.2(a)(1)(ii), (a)(2), and (a)(5).

52. The Franchise Rule requires a franchisor to provide prospective franchisees with a complete and accurate basic disclosure document containing twenty categories of information, including information about the owners and officers of the franchisor, information about the terms and conditions under which the franchise operates, the litigation history of the franchisor and its principals, and information identifying existing franchisees. 16 C.F.R. § 436.1(a)(1) - (a)(20). The pre-sale disclosure of this information required by the Rule enables a prospective franchisee to contact prior purchasers and take other steps to assess the potential risks involved in the purchase of the franchise.

53. The Franchise Rule specifically prohibits franchisors from making any claim or representation that contradicts information required to be disclosed pursuant to Section 436.1 of the Rule. 16 C.F.R. § 436.1(f).

54. The Franchise Rule additionally requires that a franchisor:

- (a) have a reasonable basis for any oral, written, or visual earnings claim it makes, 16 C.F.R. § 436.1(b)(2), (c)(2) and (e)(1);
- (b) disclose, in immediate conjunction with any earnings claim it makes, and in a clear and conspicuous manner, that material which constitutes a reasonable basis for the earnings claim is available to prospective franchisees, 16 C.F.R. § 436.1(b)(2) and (c)(2);
- (c) provide, as prescribed by the Rule, an earnings claim document containing information that constitutes a reasonable basis for any earnings claim it makes, 16 C.F.R. § 436.1(b) and (c); and
- (d) clearly and conspicuously disclose, in immediate conjunction with any generally disseminated earnings claim, additional information including the number and percentage of prior purchasers known by the franchisor to have achieved the same or better results, 16 C.F.R. § 436.1(e)(3)-(4).

55. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), and 16 C.F.R. § 436.1, violations of the Franchise Rule constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATION OF THE FRANCHISE RULE

COUNT IV

Basic Disclosure Violation

56. In connection with the offering of franchises, as “franchise” is defined in Section 436.2(a) of the Rule, the defendants violate Section 436.1(a) of the Rule by failing to provide prospective franchisees with accurate and complete disclosure documents within the time period prescribed by the Rule.

COUNT V

Earnings Disclosure Violations

57. In connection with the offering of franchises, as “franchise” is defined in Section 436.2(a) of the Franchise Rule, the defendants violate Sections 436.1(b)-(e) of the Rule by making earnings claims to prospective franchisees which: (1) lack a reasonable basis for each claim at the times it is made; (2) fail to disclose, in immediate conjunction with each earnings claim, and in a clear and

conspicuous manner, that material which constitutes a reasonable basis for the claim is available to prospective franchisees; (3) fail to provide earnings claims documents to prospective franchisees; and (4) fail to disclose, in immediate conjunction with each earnings claim for general dissemination, and in a clear and conspicuous manner, the number and percentage of prior purchasers known by the franchisor to have achieved the claimed earnings or better and the corresponding length of time these prior purchasers required to make such earnings.

CONSUMER INJURY AND UNJUST ENRICHMENT

58. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of defendants' unlawful acts or practices. 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

59. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including rescission of contracts, disgorgement and restitution to prevent and remedy any violations of

any provision of law enforced by the Federal Trade Commission.

60. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from defendants' violations of the Franchise Rule, including the rescission and reformation of contracts, and the refund of money.

61. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to remedy injury caused by the defendants' law violations.

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, as authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and pursuant to its own equitable powers:

62. Award plaintiff such preliminary injunctive and ancillary relief, including a temporary restraining order and preliminary injunction which, among other things, freezes defendants' assets and appoints a receiver, 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;

63. Permanently enjoin the defendants from violating the FTC Act and the Franchise Rule, as alleged herein;

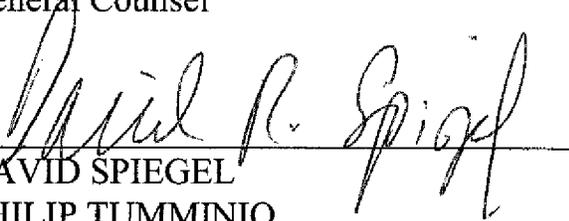
64. Award such relief as the Court finds necessary to redress injury to consumers resulting from the defendants' violations of the FTC Act and the Franchise Rule, including but not limited to, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and;

65. Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Dated: July 18, 2006

Respectfully Submitted,

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