

UNITED STATES DISTRICT COURT
DISTRICT OF MARYLAND
GREENBELT DIVISION

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

2009 JUN 22 A 9:50

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WAGNER RAMOS BORGES, individually and
d/b/a JOB SAFETY USA, SPARKLE
INDUSTRIAL, SPARKLE
MAINTENANCE, STAR
MAINTENANCE, AIM JANITORIAL
& FLOORING, and UNITED MAINTENANCE,

Defendant.

Case No

PJM 09 CV 1634

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 Section 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, disgorgement of ill-gotten monies, and other equitable relief for Defendant's 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) and 15 U.S.C. § 53(b).

THE PLAINTIFF

4. The FTC is an independent agency of the United States government created by statute. 15 U.S.C. §§ 41 - 58. The FTC 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.

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 restitution and disgorgement. 15 U.S.C. § 53(b).

THE DEFENDANT

6. Defendant Wagner Ramos Borges, individually and doing business as Job Safety USA, Sparkle Industrial, Sparkle Maintenance, Star Maintenance, Aim Janitorial & Flooring, and United Maintenance, at all times material to this Complaint, acting alone or in concert with others, has formulated, directed, controlled, had authority to control, or participated in the acts and practices set forth in this Complaint. In connection with the matter alleged herein, he transacts or has transacted business in this district.

COMMERCE

7. At all times relevant to this Complaint, Defendant has 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.

DEFENDANT'S BUSINESS PRACTICES

8. Since at least January 2008, Defendant has conducted a nationwide advertising and telemarketing scheme to sell purported employment goods and services to consumers residing throughout the United States.

9. Defendant places classified advertisements in the employment sections of local newspapers located throughout the United States. The advertisements announce the availability of maintenance or cleaning jobs in a specified geographical area, with wages of a specified amount, and sometimes, with a specified work schedule. The advertisements invite readers to call a telephone number for additional information. The following ad, which was placed by Defendant in the December 2, 2008 *Express* edition of *The Washington Post*, is typical:

CLEANERS
(Maintenance)
For the greater Washington Metro & outskirts.
\$11-\$15/hour + benefits.
Call 202-629-9329.

10. When consumers call the phone number listed in Defendant's advertisements, Defendant's representatives tell consumers that consumers have reached a maintenance or cleaning company. Defendant's representatives refer to the purported company by a variety of names, including Sparkle Maintenance, Sparkle Industrial, and Star Maintenance.

11. Defendant's representatives then ask consumers where they live, whether they are looking for a maintenance or cleaning job, and whether they have maintenance or cleaning experience. Defendant's representatives then inform consumers that there are maintenance or cleaning jobs available in or near consumers' geographical areas. In numerous instances, Defendant's representatives additionally provide consumers with details about the available jobs such as the jobs' hours, pay, start date, and the availability of benefits.

12. Defendant's representatives ask whether consumers have a certificate registration number ("CRN") and explain that a CRN is required in order to obtain Defendant's maintenance or cleaning jobs. In numerous instances, Defendant's representatives state that the CRN is required by law to obtain a cleaning or maintenance job. Defendant's representatives tell consumers that consumers can purchase the CRNs from a company called Job Safety via the website, www.jobsafetyusa.com ("Defendant's website"), or by calling Job Safety at a phone number provided by Defendant's representatives. Finally, Defendant's representatives tell consumers that once they obtain their CRNs, they must fax their resumes, along with the CRNs, to a fax number provided by Defendant's representatives, and that Defendant's representatives will then contact consumers with further information about the maintenance or cleaning jobs.

13. Following Defendant's representatives' instructions, consumers contact Job Safety and request CRNs either by calling Job Safety or by visiting Defendant's website. In numerous instances, consumers who contact Job Safety by telephone ask why the CRN is necessary. In numerous instances, Defendant's representatives who purport to work for Job Safety state that the CRN is required by law for all maintenance or cleaning jobs in which hazardous chemicals are used. Defendant's representatives tell consumers that the CRN costs \$98 and that consumers can pay using a credit card or debit card. After consumers pay \$98 for the CRN, Defendant's representatives provide a five-digit CRN and tell consumers that they can visit Job Safety's website, www.jobsafetyusa.com, to take a 10-question, true or false test, and download Defendant's hazardous material training information.

14. Defendant's website allows consumers to purchase a CRN online without speaking with Defendant's representatives. The CRNs sold on Defendants's website also cost \$98. Consumers who choose to purchase a CRN online are prompted to click through to the

order pages on Defendant's website and pay the fee online by entering either their credit card or debit card information information. The fee is then either charged to or debited from those accounts.

15. Consumers who purchase a CRN can download a copy of a certificate containing their CRN from Defendant's website.

16. In numerous instances, consumers who have purchased a CRN from Defendant, and have faxed their resumes and CRNs to Defendant, have never received maintenance or cleaning jobs promised by Defendant's representatives.

VIOLATIONS OF THE FTC ACT

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

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

Count I

19. In numerous instances, through the means described in Paragraphs 8 through 16, Defendant has represented, expressly or by implication, that Defendant will place consumers who obtain CRNs and fax their resumes with the CRNs to Defendant in maintenance or cleaning jobs within the consumers' geographic areas.

20. In truth and in fact, in numerous of these instances, Defendant has failed to place consumers who obtain CRNs and fax their resumes with the CRNs in maintenance or cleaning jobs.

21. Therefore, the making of the representation as set forth in Paragraph 19 of this Complaint constitutes a deceptive act or practice, in or affecting commerce in violation of

Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

22. Consumers have suffered and will continue to suffer substantial injury as a result of Defendant's violations of the FTC Act. In addition, Defendant has been unjustly enriched as a result of his unlawful acts and practices. Absent injunctive relief by this Court, Defendant is likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

23. 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 the FTC Act. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission of contracts and restitution, and the disgorgement of ill-gotten monies, to prevent and remedy violations of any provision of law enforced by the FTC.

PRAYER FOR RELIEF

Wherefore, Plaintiff Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, request 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, and an order freezing assets;
- B. Enter a permanent injunction to prevent future violations of the FTC Act by Defendant;
- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendant's 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 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 SHONKA
Acting General Counsel

Dated: June 22, 2009

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