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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

FEDERAL TRADE COMMISSION, Plaintiff,

v.

ELECTRONIC PROCESSING SERVICES, INC., a
Nevada Corporation, and

DAVID STEWART, individually and as an officer of
Electronic Processing Services, Inc., Defendants.

**COMPLAINT FOR INJUNCTIVE
AND OTHER EQUITABLE
RELIEF**

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

1. The FTC brings this action under Sections 5(a) and 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a) and 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement, and other equitable relief for defendants' deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

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

3. Venue in the District of Nevada is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

PLAINTIFF

4. Plaintiff 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 unfair or deceptive acts or practices in or affecting commerce. The Commission may 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 for injured consumers. 15 U.S.C. § 53(b).

DEFENDANTS

5. Defendant Electronic Processing Services, Inc. ("EPS"), a Nevada corporation with its principal place of business at 4820 Alpine Place, Las Vegas, Nevada, promotes and sells work-at-home medical billing employment opportunities. EPS transacts or has transacted business in the District of Nevada.

6. Defendant David Stewart is an officer and owner of EPS. 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 the corporate defendant, including the acts and practices set forth in this complaint. Defendant David Stewart resides and transacts business in the District of Nevada.

COMMERCE

7. At all times relevant to this complaint, defendants have maintained a substantial course of business in the offering for sale and sale of medical billing employment opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS PRACTICES

8. Since at least November 2000, defendants have offered and sold work-at-home medical billing employment opportunities to consumers throughout the United States. Defendants have promoted their medical billing employment opportunities to prospective purchasers in a variety of media, including classified advertisements in newspapers and on the Internet.

9. In their classified advertisements, defendants offer medical billing jobs that will pay "up to \$5,000 per month," thereby making representations about the earnings potential of their work-at-home medical billing employment opportunity. Defendants' advertisements state that no experience is necessary and that they will provide training. The advertisements urge consumers to call defendants' toll-free telephone number to learn more about the opportunity. For example, defendants' classified advertisements typically state:

DATA ENTRY. We need claim processors now. No experience needed. Will train.
Computer required. Up to \$5,000/month.

Check BBB. 1-888-240-1548 Department 708.

www.epsmed.net

10. Defendants also advertise their medical billing employment opportunity on their Internet web site, www.epsmed.net, where defendants claim that medical billing is one of the top home-based businesses; that EPS has helped hundreds of people get started in a profitable medical billing practice; that EPS, unlike other companies that sell medical billing opportunities, acts as a clearinghouse for medical billers and, therefore, has a vested interest in the success of its medical billers; that over 60% of physicians are still filing paper claims; and that EPS has a nationwide list of physicians who are still filing paper claims. Defendants also state in their web site that Congress is going to pass a law requiring that all medical claims be submitted electronically. Defendants' web site urges consumers to call defendants' toll-free telephone number to learn more about the opportunity.

11. Consumers who call defendants' toll-free telephone number are ultimately connected to defendants, or to their employees or agents, who represent to consumers that, in exchange for a payment of at least \$480, consumers will receive what they need to get started in medical billing, including: (1) contact information for physicians who are in need of outside medical billing work and likely to hire defendants' billers; (2) the computer software necessary to do electronic claims processing for physicians; and (3) training, technical support, and other assistance.

12. Defendants also make representations about the earnings potential of their medical billing employment opportunity. For example, defendants typically represent that it is easy for consumers to obtain physician clients, and that through these physicians, they will receive a certain number of medical billing claims to process each week (generally a minimum of between 100 and 200 claims per week per physician). Defendants claim that consumers will be paid at a rate of at least \$3 to \$7 per claim. Defendants also claim that consumers can expect to earn \$60 or more per hour, from \$300 to \$1,000 per week, or from \$30,000 to \$40,000 per year.

13. Once consumers pay EPS the required fee, they receive a password to access EPS's training on the Internet. Consumers who complete the training must then pass a 20-question, multiple-choice test. Only after passing the test do consumers receive a list of physicians whom defendants

claim are not yet filing their medical claims electronically and are likely to hire the consumer to do so.

14. When consumers contact the physicians on the list provided by defendants, most physicians do not respond at all. Those that do respond tell the consumers that they are already processing electronically and that they neither want nor need medical billing services from consumers.

15. Few, if any, consumers who purchase defendants' medical billing employment opportunity earn, or will earn, any income.

VIOLATIONS OF SECTION 5 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.

COUNT I

17. In numerous instances, in the course of offering for sale and selling their medical billing employment opportunities, defendants or their employees or agents have represented, expressly or by implication, that they will furnish the names and addresses of physicians who are likely to use the consumers to process their medical claims.

18. In truth and in fact, in numerous instances, the defendants do not furnish the names and addresses of physicians who are likely to use the consumers to process their medical claims.

19. Therefore, defendants' representations as set forth in Paragraph 17 are false and misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

20. In numerous instances, in the course of offering for sale and selling their medical billing employment opportunities, defendants or their employees or agents have represented, expressly or by implication, that consumers who purchase defendants' medical billing employment opportunity will earn a specific level of earnings, such as an income as high as \$35,000 to \$40,000 per year, \$300 to \$1,000 per week, \$60 per hour, or from \$3 to \$7 per claim processed.

21. In truth and in fact, few, if any, consumers who purchase defendants' medical billing employment opportunity earn, or will earn, the specific level of earnings represented by defendants, such as an income as high as \$35,000 to \$40,000 per year, \$300 to \$1,000 per week, \$60 per hour, or from \$3 to \$7 per claim processed.

22. Therefore, defendants' representations as set forth in Paragraph 20 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).

CONSUMER INJURY

23. Consumers in many areas of the United States have suffered substantial monetary loss as a result of defendants' unlawful acts or practices. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

24. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement and restitution, to prevent and remedy any violations of any provision of law enforced by the Commission.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiff the 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, requests that the Court:

1. 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;
2. Permanently enjoin defendants from violating the FTC Act as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from 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
4. 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: April 8, 2002

Respectfully Submitted,

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