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14 FEDERAL TRADE COMMISSION

15
16 UNITED STATES DISTRICT COURT
17 CENTRAL DISTRICT OF CALIFORNIA

18
19 FEDERAL TRADE COMMISSION,

20 Plaintiff,

21 -v.-

22 TERRY SOMENZI, individually and as
23 an officer of International Advisory
24 Services, Inc., and also doing business as
25 Paulson Independent Distributors,
26 International Procurement Center, Phelps
27 Ingram Distributors, and Keller Sloan &
28 Associates,

MILLENIUM DIRECT

Case No.: 2:16-CV-07101

COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
EQUITABLE RELIEF

1 INCORPORATED, a Florida corporation,
2
3 DAVID RAFF, individually and as an
4 officer of Millenium Direct Incorporated,
5 and
6 IAN GAMBERG, individually and as a
7 manager of Printmail Corporate Solutions,
8 Inc.,
9
10 Defendants.

11 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

12 1. The FTC brings this action under Section 13(b) of the Federal Trade
13 Commission Act (“the FTC Act”), 15 U.S.C. § 53(b), to obtain preliminary and
14 permanent injunctive relief, rescission or reformation of contracts, restitution, the
15 refund of monies paid, disgorgement of ill-gotten monies, and other equitable
16 relief against Defendants for engaging in deceptive or unfair acts or practices in
17 connection with their cash prize notification mailers in violation of Section 5(a) of
18 the FTC Act, 15 U.S.C. § 45(a).

19 **JURISDICTION AND VENUE**

20 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§
21 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

22 3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1)-(3) and
23 (c)(1)-(3), and (d), and 15 U.S.C. § 53(b).

24 **PLAINTIFF**

25 4. The FTC is an independent agency of the United States Government
26 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the
27 FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices
28 in or affecting commerce.

1 5. The FTC is authorized to initiate federal district court proceedings,
2 by its own attorneys, to enjoin violations of the FTC Act and to secure such
3 equitable relief as may be appropriate in each case, including rescission or
4 reformation of contracts, restitution, the refund of monies paid, and the
5 disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

6 **DEFENDANTS**

7 6. Defendant **Terry Somenzi** was the president of International
8 Advisory Services, Inc. (“IAS”), a now dissolved Wyoming corporation with its
9 registered address at 21143 Hawthorne Blvd, #130, Torrance, CA 90503.
10 Defendant Somenzi, acting both individually and as an officer of IAS, also did
11 business under the names Paulson Independent Distributors, International
12 Procurement Center, Phelps Ingram Distributors, and Keller Sloan & Associates.
13 At all times material to this Complaint, acting alone or in concert with others, he
14 has formulated, directed, controlled, had the authority to control, or participated in
15 the acts and practices of IAS, Paulson Independent Distributors, International
16 Procurement Center, Phelps Ingram Distributors, and Keller Sloan & Associates,
17 including the acts and practices set forth in this Complaint. In connection with the
18 matters alleged herein, Defendant Somenzi transacts or has transacted business in
19 this district and throughout the United States.

21 7. Defendant **Millenium Direct Incorporated (“MDI”)**, also doing
22 **business as MDI Lists**, is a Florida corporation with its registered address and
23 principal place of business at 2798 Center Court Drive, Weston, Florida 33332.
24 MDI transacts or has transacted business in this district and throughout the United
25 States.

26 8. Defendant **David Raff** is the president of MDI. At all times material
27 to this Complaint, acting alone or in concert with others, he has formulated,
28

1 directed, controlled, had the authority to control, or participated in the acts and
2 practices of MDI, including the acts and practices set forth in this Complaint. In
3 connection with the matters alleged herein, Defendant Raff transacts or has
4 transacted business in this district and throughout the United States.

5 9. Defendant **Ian Gamberg** was the general manager of Printmail
6 Corporate Solutions, Inc. (“Printmail”), a now inactive Florida Corporation with
7 its principal place of business and registered address at 4651 Sheridan Street,
8 Suite 200, Hollywood, FL 33021. At all times material to this Complaint, acting
9 alone or in concert with others, he has formulated, directed, controlled, had the
10 authority to control, or participated in the acts and practices of Printmail,
11 including the acts and practices set forth in this Complaint. In connection with the
12 matters alleged herein, Defendant Gamberg transacts or has transacted business in
13 this district and throughout the United States.

14
15 **COMMERCE**

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

19 **DEFENDANTS’ BUSINESS PRACTICES**

20 11. Since at least 2013, Defendants have caused hundreds of thousands
21 of personalized cash prize notifications to be mailed to mostly elderly consumers
22 in the United States and other countries announcing that the named recipient has
23 won a substantial cash prize of nearly \$1 million or more. The cash prize
24 notifications instruct the named recipients to pay a “document processing fee,”
25 “folio release fee,” or other “fee” of approximately \$25 to collect their prizes.

26 12. Consumers who sent in the fees to collect their cash prizes did not
27 receive the promised cash prize money. Many of these consumers have paid
28

1 multiple fees that amount to substantial sums in response to Defendants’ deceptive
2 cash prize notification scheme. In addition, Defendants reused and sold
3 responding consumers’ personal information to others, causing those consumers to
4 be inundated with additional false cash prize notifications and other deceptive
5 offers.

6 **The Deceptive Cash Prize Notifications**

7 13. The cash prize notifications Defendants mailed to consumers are
8 from fictitious companies, including Paulson Independent Distributors,
9 International Procurement Center, Keller, Sloan & Associates, and Phelps Ingram
10 Distributors. The notifications instruct the named recipients to fill out and return
11 an enclosed form with a check or money order (or, in some cases, credit card
12 payment information) payable to the initials of the fictitious company named on
13 the notification letter (for example, “PID,” “IPC,” or “KSA”) to receive the cash
14 prize. The notifications also instruct consumers to mail their payments and forms
15 in enclosed envelopes pre-addressed to post office boxes in the Netherlands.

16 14. To create the impression that consumers have been specially selected
17 to receive a substantial cash prize, the personalized notifications contain, among
18 other things, the following or similar statements:
19

20 A. Pursuant to the headline above and through which we are now
21 contacting you via this dated correspondence, please understand that
22 this is NOT a preliminary or qualification letter of cash prize status;
23 **YOU HAVE WON A CASH PRIZE!**

24 This letter constitutes actual designation of [JANE DOE] as a cash
25 prize winner! . . . Your name was identified among a tiny percentage
26 of ALL eligible Individuals who could have received this notice. The
27
28

1 fact that you have won a cash prize must be thrilling and somewhat
2 overwhelming – we ask that you read carefully. . . .

3 Sweepstakes report documentation for the total aggregate funds
4 amount of \$1,943,543.54 as noted above is awaiting your reply with
5 proceeding fee [sic]. . . for outright access to the amount listed above.
6 {This is not a mistake.} (Exhibits A, B; also Exhibits C, D except
7 that amount is \$943,543.54).

8 B. You have won a GUARANTEED CASH PRIZE payment per
9 disclosed terms and conditions noted within. Your check will be paid
10 by bank check cashable at any banking institution. (Exhibit C)

11 C. REPORT OF ACCESS TO PRIZE AGGREGATE IS CONFIRMED
12 AND THE FULL AMOUNT VERIFIED << <<***\$943,543.54 –
13 Nine Hundred Forty Three Thousand Five Hundred Forty Three
14 Dollars and Fifty Four Cts. *** >> >> . . . PLEASE READ – You
15 have been selected as a WINNER of a CASH PRIZE by KSA. Your
16 prize is awaiting disbursement to you in accordance with all rules and
17 conditions stated herein through which no purchase is necessary and
18 provided you reply before the expiration date. . . . Enclose Fee
19 REQUIRED to process Report Documents and final record
20 >>\$25.00 . . . TOTAL TO BE ENCLOSED >>\$25.00. (Exhibit D)

21 D. [JANE DOE], HOLDER OF PRIVATE LISTING NUMBER
22 20069751097 CAN RECEIVE CASH PRIZE WINNERS CHECK
23 IMMEDIATELY! (Exhibit G)

24 E. As a CASH PRIZE WINNER you are entitled to acquire
25 \$1,463,995.00 Claim Documentation. This documentation attesting
26 to \$1,463,995.00 is ready to be sent to [Jane Doe]. (Exhibit G)
27
28

1 F. Furthermore, [JOHN], I am thrilled to advise you that Report of
2 Payout by Independent sponsors in the amount of \$936,143.00 has
3 now been confirmed for delivery to your address. (Exhibits I and J)

4 15. To bolster the impression that the consumer has won a prize, the
5 personalized notifications congratulate the recipient on his or her winnings and
6 include the following or similar statements:

7 A. May we offer our warmest wishes at this moment from the
8 management and executive offices, as well as our entire organization
9 and staff of the KSA control office. (Exhibits C and D)

10 B. Congratulations, [Jane Doe]: . . .Congratulations on your good
11 fortune. (Exhibit F)

12 C. CONGRATULATIONS [JOHN DOE]! YOU ARE OUR NEWEST
13 CONFIRMED CASH PRIZE WINNER! (Exhibits I and J)

14 D. [JOHN], rest assured that there is no mistake, misprint or error. This
15 is the notice you have been waiting for all your life! Please accept
16 my most sincere congratulations. (Exhibits I and J)

17 E. Congratulations again on your guaranteed cash prize win! (Exhibits I
18 and J)

19
20 16. The personalized notifications further reinforce that the consumer has
21 won a prize by stating that the recipient has been specially selected to receive the
22 notification, and include the following or similar language:

23 A. CONFIRMED PRIZE WINNER NAME: [JANE DOE] (Exhibit B)

24 B. Therefore, I ask that you now immediately direct your attention to
25 FORM 110(b) which is a special Claim and Entitlement work order
26 prepared for [JANE DOE of CITY, STATE]. (Exhibit C)

1 C. Congratulations, [Ms. Jane Doe]: On October 31, 2014, you were
2 confirmed by a data audit for receipt of a check issued in your name.
3 (Exhibits E and F)

4 D. [JANE DOE], HOLDER OF PRIZE LISTING NUMBER
5 20069751097 CAN RECEIVE CASH PRIZE WINNERS CHECK
6 IMMEDIATELY! (Exhibit G)

7 E. Dear [JOHN DOE], This is your Official Notification that at 11:30
8 this morning you, [JOHN DOE], were confirmed as a **Cash Prize**
9 **Winner! . . .** As you might expect, Directive Report for the
10 \$936,143.00 Payout is intended and valid only for you, [JOHN
11 DOE]. (Exhibits I and J)

12
13 17. The notifications bolster the impression that consumers have won a
14 prize by stating that consumers have a limited amount of time within which to
15 claim the cash prize, using the following or similar statements:

16 A. To initiate issuance of your Prize Check, you must RETURN THE
17 ACCOMPANYING DOCUMENT before the deadline date specified
18 on the enclosed according to the rules and terms herein. Failure to do
19 so will invalidate the prize confirmation and result in forfeiture of the
20 Check awaiting dispatch to you directly by secured mail. (Exhibits
21 A, B, C, D)

22 B. Your prize is awaiting disbursement to you in accordance with all
23 rules and conditions stated herein provided you reply before the
24 expiration date. . . . Your reply request within 14 days is strongly
25 urged to avoid misplacement of this documentation. (Exhibit B)

26 C. AS A GUARANTEED CASH PRIZE WINNER, YOU ARE
27 REQUIRED TO SIGN AND RETURN RELEASE FORM 110(b)
28

1 PER STATED INSTRUCTIONS ON REVERSE NO LATER THAN
2 THE POSTED DEADLINE. . . ALL CLAIM DEADLINES ARE
3 ENFORCED WITHOUT EXCEPTION. (Exhibit C)

4 D. Deadline Date: 11/31/2014 . . . SPECIAL BONUS FOR PROMPT
5 REPLY: If your document is one of the first we receive from WA,
6 you will also receive a \$100.00 U.S. Treasury Savings Bond sent
7 under separate cover . . . We anticipate your immediate reply.

8 (Exhibit E)

9
10 E. This GUARANTEED PAYMENT has been registered, pending
11 timely receipt of your claim filing pursuant to the deadline and posted
12 disclosures herein. This is the only notice you will receive and
13 failure to file on or before the deadline will void any and all
14 payments due from this official notification. (Exhibit F)

15 F. THIS FORM MUST BE RETURNED AS DIRECTED BEFORE
16 THE REQUESTED DEADLINE IN ORDER FOR [JANE DOE] TO
17 RECEIVE YOUR CHECK FOR THE FULL AMOUNT YOU
18 HAVE WON. (Exhibit G)

19 G. [JANE DOE], As you can see, entry directives for the full amount
20 indicated above regarding cash and prizes is fully confirmed for
21 release in the next 90 days. (Exhibit H)

22 H. You must respond at once. To in initiate secure delivery, you **must**
23 provide Authorization and Identity Confirmation by returning the
24 form below within 10 days. . . . Remember, [JOHN], your immediate
25 response is required to avoid expiration of your prize delivery and
26 payout notification re: the **\$936,143.00** that is Now Guaranteed to
27 You.” (Exhibits I and J)
28

1 18. The notifications assure consumers that the prize is official and
 2 legitimate, using the following or similar statements and depictions:

3 A. Cash Winner Identification and Claimant Transfer Paper. . . The
 4 Office of Administration and Accounting will initiate all proceedings
 5 pertaining to the CASH PRIZE you have won, and will issue a check
 6 for the Full Amount due you as guaranteed by the rules which now
 7 designate you a formal Winner. (Exhibits A and B)

8 B.

9 DOCUMENT NO. 738716

10 OFFICIAL NOTIFICATION

11 DATE OF NOTIFICATION: October 31, 2014

12 This document was validated on the above date and issued to the confirmed recipient
 13 prize winner named within this document. Valid only to party addressed below. Not
 14 transferable.



15 Joseph Steelman
 16 Prize Director

17 Official Notification
 18 Payments Office

19 Sweepstakes
 20 Administrators

21 Processing Division

22 Keller, Sloan & Associates
 23 P.O. Box 208
 24 3950 CE Bunnik
 25 The Netherlands

26 BEVERLY [REDACTED]
 27 PEORIA, AZ [REDACTED]
 28 [REDACTED]

APPROVED
 FOR RELEASE

By my signature below I do confirm and attest:

1. You have won a GUARANTEED CASH PRIZE payment per disclosed terms and conditions noted within. Your check will be paid by bank check cashable at any banking institution.

(Exhibit C)

> > > DISBURSEMENT ADVISORY < < < PAULSON INDEPENDENT DISTRIBUTORS · P.O. BOX 2647, 6401 DC Heerlen, THE NETHERLANDS THIS IS NOT AN ERROR: Your Cash Award has been registered in our Payments Office and you are further certified for procurement of an Advisory Folio to access the amount so entered below.	
Office Instructions: Type or Print Carefully Nature of Document: Cash Prize Notification Issued on: 10/31/2014 T20 P1 *****AUTO**MIXED AADC 320 [REDACTED]	Document Number: 0067229 Your I.D. Number: 60117474027 Deadline Date: 11/31/2014 Amount of Disbursements Total: \$813,650.99 <small>PID-P03</small>
IMPORTANT: Please be careful not to lose or misplace these Important papers made out to you.	Payment Officer: <i>William Paulson</i> [REDACTED - DOCUMENT]
Congratulations, Ms Joyce [REDACTED]:	

(Exhibit E)

1 19. The notifications often contained language in small print stating in
2 vague terms that they are a reporting service that provides information on various
3 sweepstakes. This language does not adequately inform the consumer that the
4 consumer has not won a prize.

5 20. Many consumers who received the personalized notifications
6 believed they had won a substantial prize and, as instructed, mailed the “fees” to
7 the addresses in the Netherlands.

8 21. Consumers who paid the “fees” to the fictitious companies did not
9 receive the promised prize.

10 22. Many consumers who paid the “fees” later received numerous other
11 deceptive personalized cash prize notifications from Defendants and other
12 companies who purchased lists containing the consumers’ personal information.

13 23. Defendants have received substantial sums from consumers in
14 response to these personalized notifications.

15
16 **The Deceptive Cash Prize Notification Scheme**

17 24. In July of 2013, Defendant Somenzi, through IAS, his now dissolved
18 corporation, entered into arrangements with Defendants MDI, Raff, and Gamberg,
19 who was operating through Printmail, his now inactive corporation, to print and
20 mail the deceptive cash prize notifications to consumers. Under these
21 arrangements, Defendant Gamberg provided or procured editing, printing, and
22 mailing services for the deceptive cash prize notifications provided by Defendants
23 Somenzi, MDI, and Raff.

24 25. On numerous occasions, Defendants Somenzi, MDI, and Raff
25 provided or arranged to provide to Gamberg the electronic templates of the
26 different cash prize notifications, the outer envelopes to be addressed to
27 consumers, and the return envelopes. Defendants Somenzi, MDI, and Raff also
28

1 provided or arranged to provide to Defendant Gamberg work orders instructing
2 him to print specified cash prize notifications in specified quantities, and to mail
3 them on specified dates. In the course of this arrangement, on numerous
4 occasions, Defendants exchanged emails with each other discussing edits to be
5 made to the language in the cash prize notifications and on the outer envelopes, as
6 well as edits to be made to the layout of the notifications and envelopes. These
7 emails often attached copies and mock-ups of the final electronic template to be
8 used in the mailings.

9
10 26. Defendants MDI and Raff also provided or arranged to provide to
11 Defendant Gamberg electronic lists of consumers, including their names and
12 addresses (“lead lists”), to whom the deceptive cash prize notifications were to be
13 mailed. Some lead lists contained the names of consumers who had previously
14 responded to and paid money to participate in similar deceptive cash prize or other
15 schemes.

16 27. The lead lists also contained an 11-digit number and corresponding
17 bar code, referred to as a “findercode,” assigned to each consumer on the list.
18 Defendants ensured that a unique findercode was printed on each printed mailer
19 corresponding to the consumer to whom the cash prize notification was sent. The
20 findercodes enabled Defendants to track the effectiveness of each lead list and
21 mailer based on consumers’ rates of response. In this manner, Defendants tracked
22 which lead lists generated the highest response rate and income. Defendants
23 refined and reused the lead lists and sold the lead lists to other direct marketers,
24 many of whom then sent those consumers other deceptive offers and promotions.

25 28. Defendant Gamberg, acting as the agent of the other defendants,
26 arranged for a Miami, Florida printer to produce the final approved versions of the
27 cash prize notifications, merge consumers’ names and addresses from the lead
28

1 lists provided by Defendants MDI and Raff with the final versions of the cash
2 prize notifications and envelopes, and place them in the U.S. Mail. Defendant
3 Gamberg paid the printer's invoices for these services.

4 29. Since at least 2013, Defendants have sent hundreds of thousands of
5 the deceptive cash prize notifications to consumers. Consumers who responded to
6 the cash prize notifications paid substantial sums to Defendants to collect their
7 purported cash prize winnings.

8 **VIOLATIONS OF THE FTC ACT**

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

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

13 **COUNT ONE**

14 **Misrepresentations**

15 32. Through the means described in Paragraphs 11 - 29, Defendants have
16 represented, directly or indirectly, expressly or by implication, that consumers
17 who pay a specified fee will receive a substantial cash prize.

18 33. In truth and in fact, consumers who pay the specified fee do not
19 receive a substantial cash prize.

20 34. Therefore, Defendants' representation as set forth in Paragraph
21 32 of this Complaint constitutes a deceptive act or practice, in or affecting
22 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. §45(a).

23 **CONSUMER INJURY**

24 35. Consumers have suffered and will continue to suffer substantial
25 injury as a result of Defendants' violations of the FTC Act. In addition,
26 Defendants have been unjustly enriched as a result of their unlawful acts or
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1 practices. Absent injunctive relief by this Court, Defendants are likely to continue
2 to injury consumers, reap unjust enrichment, and harm the public interest.

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

4 36. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this
5 Court to grant injunctive and such other relief as the Court may deem appropriate
6 to halt and redress violations of any provision of law enforced by the FTC. The
7 Court, in the exercise of its equitable jurisdiction, may award ancillary relief,
8 including rescission or reformation of contracts, restitution, the refund of monies
9 paid, and the disgorgement of ill-gotten monies, to prevent and remedy any
10 violation of any provision of law enforced by the FTC.

11 **PRAYER FOR RELIEF**

12 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
13 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

14 A. Enter a permanent injunction to prevent future violations of the
15 FTC Act by Defendants;

16 B. Award such relief as the Court finds necessary to redress injury
17 to consumers resulting from Defendants' violations of the FTC Act, including but
18 not limited to, rescission or reformation of contracts, restitution, the refund of
19 monies paid, and the disgorgement of ill-gotten monies.

20 C. Award Plaintiff the costs of bringing this action, as well as
21 such other and additional relief as the Court may determine to be just and proper.
22

23 Dated: September __, 2016

24 Respectfully Submitted,

25
26 DAVID C. SHONKA
27 Acting General Counsel
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1 CHARLES A. HARWOOD
2 Regional Director

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4 _____
5 NADINE S. SAMTER
6 Attorney for Plaintiff
7 FEDERAL TRADE COMMISSION
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