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98-24855
JOHN FEIKENS

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN

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FEDERAL TRADE COMMISSION,)
) CIVIL NO.
Plaintiff,)
v.)
)
EIGHT POINT COMMUNICATIONS, INC.,) COMPLAINT FOR INJUNCTIVE
a Michigan corporation, and) AND OTHER EQUITABLE
) RELIEF
JOHN E. SPANGLER, JR.,)
) JUDGE
)
Defendants.)
)

Plaintiff, the Federal Trade Commission ("FTC" or "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), 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the United States District Court for the Eastern District of Michigan is proper under 15 U.S.C. § 53(b), as amended by the FTC Act Amendments of 1994, Pub. L. No. 103-312, 108 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, Eight Point Communications, Inc. ("EPCI"), is a for-profit Michigan corporation and has operated from offices at 551 E. Eleven Mile, Suite 300, Madison Heights, Michigan; 27224 Southfield Road, Room 6 and Room 7, Lathrup Village, Michigan; and most recently 24555 Southfield Road, Room 102, Southfield, Michigan. EPCI transacts or has transacted business in this district.

6. Defendant John E. Spangler, Jr. ("Spangler") is the owner and president of Eight Point Communications, Inc. At all times material 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. Spangler transacts or has transacted business in this district.

COMMERCE

7. 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

8. Defendants solicit individuals and small, predominantly new businesses, requesting donations on behalf of various non-profit organizations. Defendants have contracted, either directly or through a subcontract with a primary contractor, to solicit on behalf of these non-profit organizations, which include but are not limited to the American Deputy Sheriff's Association ("ADSA"), the Foundation for Disabled Firefighters ("FDF"), and the International Union of Police Associations ("IUPA").

9. On numerous occasions, while soliciting donations, defendants misrepresent facts to the prospective donor, including but not limited to falsely identifying themselves as local law enforcement officers or fire fighters, or as otherwise affiliated with local law enforcement or fire fighting organizations.

10. On numerous occasions, while soliciting donations, defendants also misrepresent that a prospective donor's contributions will benefit the prospective donor's local law enforcement or fire fighting organizations. These misrepresentations include, but are not limited to, claims that donations will pay for bullet-proof vests for local law enforcement officers and for benefits for families of local law enforcement officers and fire fighters who died in the line of duty.

11. Defendants further tell prospective business donors that their contribution will be acknowledged with an advertisement in a yearbook or other publication, and that the yearbook or

other publication will be distributed to local law enforcement officers, local fire fighters, and/or local businesses.

12. Defendants typically send prospective donors a package via United Parcel Service, demanding payment of the amount of the donation in exchange for delivery of the package. This package typically contains decals, a tax receipt, a brochure, and in some cases a return envelope for the prospective donor's business card, to be used in a yearbook acknowledgment/advertisement.

13. Prospective donors rely on defendants' false statements, believing that they are receiving calls from local law enforcement officers, fire fighters or their affiliates and believing that their donated dollars will be used to support local law enforcement or fire fighting organizations. Not only are these donors deceived personally, but charitable organizations in general suffer from defendants' deceptive practices, as individuals and businesses with limited disposable incomes have fewer dollars available to support these organizations.

COUNT I

14. In numerous instances, defendants represent, expressly or by implication, that they are members of, or otherwise affiliated with, a local law enforcement or fire fighting organization in the prospective donor's state or local area.

15. In truth and in fact, in numerous instances, defendants are not members of, or otherwise affiliated with, a local law enforcement or fire fighting organization in the prospective donor's state or local area, but rather are commissioned or paid telephone solicitors.

16. Therefore, defendants' representations, as set forth in paragraph 14 above, 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 II

17. In numerous instances, defendants represent, expressly or by implication, that the prospective donor's contributions will benefit local law enforcement or fire fighting organizations in the prospective donor's state or local area.

18. In truth and in fact, in numerous instances, the prospective donor's contributions will not benefit local law enforcement or fire fighting organizations in the prospective donor's state or local area.

19. Therefore, defendants' representations, as set forth in paragraph 17 above, 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

20. Defendants' violations of Section 5 of the FTC Act, as set forth above, have caused and continue to cause substantial injury to consumers, small businesses and non-profit organizations. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers, small businesses and non-profit organizations and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

21. 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 Federal Trade Commission.

PRAAYER FOR RELIEF

WHEREFORE, plaintiff, the Federal Trade Commission, 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:

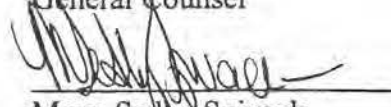
1. Award the Commission all preliminary injunctive and ancillary relief that may be necessary to avert the likelihood of consumer injury during the pendency of this action, and to preserve the possibility of effective final relief, including, but not limited to, a preliminary injunction, and an order 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) or 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: November 9, 1998

Respectfully submitted,

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