

United States District Court
Southern District of Texas
FILED

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David J. Bradley, Clerk of Court

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

FEDERAL TRADE COMMISSION and

OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS
Plaintiffs,

v.

STARWOOD CONSULTING, LLC, a limited
liability company, also d/b/a CORPORATE
COMPLIANCE SERVICES, and

THOMAS HENRY FRED, JR., individually and as
an officer of STARWOOD CONSULTING, LLC,

Defendants,

Case No. _____

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
STATUTORY AND EQUITABLE
RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC”) and the Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Florida Attorney General”), for their Complaint allege:

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, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the sale of government regulation or labor law posters.

2. The Florida Attorney General brings this action pursuant to the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2018), to obtain preliminary and permanent injunctive relief, rescission or reformation of contracts,

consumer restitution, disgorgement of ill-gotten monies, civil penalties, reimbursement of costs and attorney's fees, and other statutory and equitable relief for Defendants' acts or practices in violation of FDUTPA. The Florida Attorney General has conducted an investigation and the head of the enforcing authority, Attorney General Pamela Jo Bondi, has determined that an enforcement action serves the public interest.

JURISDICTION AND VENUE

3. 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).

4. The Court has supplemental jurisdiction over the State of Florida's claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(2), (b)(3), (c)(2), and (d) and 15 U.S.C. § 53(b).

PLAINTIFFS

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

7. 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 rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b) and 56(a)(2)(A).

8. The Florida Attorney General is the enforcing authority under FDUTPA pursuant to Florida Statute section 501.203(2) and is authorized to pursue this action to enjoin violations of

FDUTPA and to obtain equitable and other appropriate relief including rescission or reformation of contracts, restitution, the refund of monies paid, civil penalties, disgorgement of ill-gotten monies, attorney's fees and costs, or other statutory and equitable relief as may be appropriate. Fla. Stat. §§501.207, 501.2075, and 501.2077.

DEFENDANTS

9. Defendant STARWOOD CONSULTING, LLC ("Starwood"), also doing business as CORPORATE COMPLIANCE SERVICES, is a Texas limited liability company with its principal place of business at 16385 NW 12th Street, Pembroke Pines, Florida 33028. Starwood transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Starwood has advertised, marketed, distributed, or sold labor posters to consumers throughout the United States.

10. Defendant Thomas Henry Fred, Jr., ("Fred") is the president, manager, and organizer of Starwood. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Starwood, including the acts and practices set forth in this Complaint. Defendant Fred, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

COMMERCE

11. At all times material 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 and as "trade or commerce" is defined in Florida Statutes section 501.203(8).

DEFENDANTS' BUSINESS ACTIVITIES

12. Since at least July 2014, Defendants have engaged in a scheme to deceptively sell to newly established small businesses (“consumers”) government regulation or labor law posters that can otherwise be obtained from the government for free.

13. Defendants market their labor law posters by sending mailers that are designed to mimic invoice notices being sent by a government agency or authority.

14. Defendants’ mailers are sent in envelopes (an example of which is attached to this Complaint as Exhibit A) that appear official and prominently urge consumers to “OPEN IMMEDIATELY[.] IMPORTANT INFORMATION ENCLOSED[.]”

15. Defendants’ mailers (an example of which is attached to this Complaint as Exhibit B) are entitled “LABOR LAW COMPLIANCE REQUEST FORM” and include a subheading warning consumers that “Failure to comply with posting regulations can lead to fines up to \$17,000.”

16. To convince consumers that they are receiving an invoice or bill that must be paid, Defendants’ mailers provide a supposed “Business ID” number and a response deadline. Defendants’ mailers direct the businesses to send a check or money order for \$84 and to confirm “all of the company information that is currently on file.”

17. Defendants’ mailers represent that:

Pursuant to federal law 29 USC Sec. 999 (i) & 29 USC Sec. 2005 penalties and risks of non-compliance with posting regulations can lead to potential fines of \$17,000 per instance, for failing to post federally required information. Further, lawsuits can be tolled based on failing to display mandatory posters. . . .

18. Underneath the warning that noncompliance with posting regulations can result in fines of up to \$17,000, Defendants' mailers cite two provisions of the U.S. Code: 29 USC § 999(i) and 29 USC Sec. 2005. The first provision, 29 USC § 999(i), cited by Defendants was repealed on October 13, 1982. *See* 29 USCS § 999. The second provision, 29 USC § 2005, deals with the enforcement provisions relating to employee polygraph protection. *See* 29 USCS § 2005. Under this Section, civil penalties of up to "no more than \$10,000" may be assessed for any violation of the chapter which includes a posting requirement relating to notice of employee polygraph protections. *See* 29 USCS §§ 2003 and 2005.

19. Defendants' mailers further represent that:

Your business is required by federal law to post a current compliant labor law poster in the workplace. Federal law requires that this poster be placed on the property of the business. Whether you have 1 employee or 1,000 you must post current employment posters in the workplace. The poster must also include information about workers compensation benefits.

20. Defendants' mailers claim to be sent by "Corporate Compliance Services" and include a customer service telephone number with a Washington D.C. (202) area code.

21. When consumers call Defendants' customer service number, (202) 729-9969, they hear a prerecorded message that identifies Defendants as "Corporate Compliance Services Center Labor Law Compliance Request Division." Defendants' prerecorded message gives consumers a menu of options from which to choose that include: learning more about the notice they received; checking the status of a request; reaching the billings and account receivable department; speaking with a representative; and hearing "CCSC's disclaimers and disclosures." Consumers that seek to speak with a representative often receive a message that states, "if you are receiving this message,

it means all lines are busy assisting other callers.” The message then directs consumers to “try to call again shortly” without giving consumers the option to leave a message.

22. Shortly after paying Defendants’ “document fee” using an envelope (an example of which is attached to this Complaint at Exhibit C) provided by Defendants, some consumers receive a poster that includes contact information for the Department of Labor. However, other consumers do not receive the promised labor law poster. Contrary to Defendants’ claims, Defendants’ posters do not include information about worker compensation benefits.

23. Defendants often send consumers that purchase a poster another mailer (an example of which is attached to this Complaint as Exhibit D) the following year. The subsequent mailer also resembles an invoice sent by a government agency or authority and informs consumers that there have been changes made to the law that require them to purchase an updated labor law poster. Defendants charge consumers another \$84 fee to obtain an “updated” labor law poster. In fact, consumers are not required to purchase updated labor law posters. Free posters are available from the government and need not be replaced each year.

24. Defendants are not part of or affiliated with any government agency or authority, a fact that they reveal only in disclaimers inconspicuously placed below legal citations, on the back of their mailers, and as an optional selection at the end of their recorded telephone greeting.

25. Consumers nationwide have suffered, and will continue to suffer, substantial injury as a result of Defendants’ deceptive practice of sending mailers that mimic invoices from a government agency or authority and duping them into purchasing labor law posters they can obtain for free. Defendants have generated more than \$800,000 from in excess of 9,000 consumers through their scheme.

VIOLATIONS OF THE FTC ACT

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

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

**Count I (by Plaintiff FTC)
Misrepresentations Made to Induce Payment**

28. Through the means described in Paragraphs 12-25, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Defendants are part of, or are affiliated with, a government agency or authority;
- b. Consumers are legally required to purchase labor law posters from Defendants; and
- c. Consumers owe money to Defendants for a labor law poster.

29. In truth and in fact:

- a. Defendants were not part of, or affiliated with, a government agency or authority;
- b. Consumers were not legally required to purchase a labor law poster from Defendants; and
- c. Consumers did not owe money to Defendants for a labor law poster.

30. Therefore, the making of the representations as set forth in Paragraph 28 of this Complaint constitute 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).

**VIOLATIONS OF THE FLORIDA DECEPTIVE
AND UNFAIR TRADE PRACTICE ACT
CHAPTER 501, PART II, FLORIDA STATUTES**

31. Section 501.204(1) of the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes (2018) states that “unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

32. Any entity that willfully engages in a deceptive or unfair act or practice is liable for a civil penalty of up to \$10,000 for each such violation, and up to \$15,000 per violation pursuant to Florida Statutes Section 501.2077, for violations of FDUTPA involving senior citizens or military services members; willful violations occur when the entity knew or should have known that the conduct in question was deceptive or unfair or prohibited by rule. Section 501.2075, Fla. Stat. (2018).

COUNT II (by Plaintiff Florida Attorney General)

33. Through the means described in Paragraphs 12-25, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Defendants are part of or are affiliated with a government agency or authority;
- b. Consumers are legally required to purchase labor law posters from Defendants; and
- c. Consumers owe money to Defendants for a labor law poster.

34. In truth and in fact:

- a. Defendants were not part of or affiliated with a government agency or authority;

- b. Consumers were not legally required to purchase a labor law poster from Defendants; and
- c. Consumers did not owe money to Defendants for a labor law poster.

35. Therefore, the making of the representations as set forth in Paragraph 33 of this Complaint constitute deceptive, unfair, or unconscionable acts in violation of Section 501.204(1) Fla. Stat. (2018).

CONSUMER INJURY

36. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and FDUTPA. 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

37. 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 any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

38. Pursuant to 28 U.S.C § 1367, this Court has supplemental jurisdiction to allow the Florida Attorney General to enforce state law claims against Defendants in this Court for violations of FDUTPA. Florida Statutes sections 501.207, 501.2075, and 501.2077 authorize this

Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violation of FDUTPA, including injunctive relief, rescission or reformation of contracts, the refund of monies paid, the disgorgement of ill-gotten monies, civil penalties, costs and attorney's fees, and other statutory and injunctive relief.

PRAYER FOR RELIEF

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b) and the Court's own equitable powers, and Plaintiff the Florida Attorney General, pursuant to Florida Statutes sections 501.207, 501.2075, and 501.2077, and as authorized by the Court's own equitable powers, request that the Court:

A. Award Plaintiffs 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 and FDUTPA by Defendants;

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

D. Award civil penalties in an amount up to \$10,000 per violation pursuant to Florida Statutes section 501.2075 and up to \$15,000 per violation pursuant to Florida Statutes

section 501.2077, for the willful acts or practices of the Defendants in violation of FDUTPA involving senior citizens or military services members;

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

F. Award the Florida Attorney General reasonable attorney's fees pursuant to Florida Statute section 501.2075;and

G. Award such other legal or equitable relief as may be appropriate.

Respectfully submitted,

ALDEN F. ABBOTT
General Counsel

Dated: 7/10/18

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