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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION, Plaintiff, v. MEDICAL BILLERS NETWORK, INC., a a New York corporation, CHRIS TAYLOR, individually and as an officer of said corporation, CACERES QUALITY DISTRIBUTION, INC., a Nevada corporation, and WILSON JOSE CACERES, individually and as an officer of said corporation, Defendants.	Civ. No. **COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF**

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

1. Plaintiff FTC brings this action under Sections 5(a), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 53(b) and 57b, to obtain temporary, preliminary, and permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for the defendants' violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred on this Court by 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. § 53(b). This action arises under 15 U.S.C. § 45(a)(1) and the FTC's Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310.

3. Venue in the United States District Court for the Southern District of New York is proper under 28 U.S.C. §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

THE PARTIES

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 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. The Commission also enforces the TSR, 16 C.F. R. Part 310, which prohibits deceptive or abusive telemarketing acts or practices. The Commission is authorized to initiate federal district court proceedings by its own attorneys, to enjoin violations of the FTC Act and the TSR, and to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U. S.C. §§ 53 (b), 57(b),

6102(c), and 6105(b).

5. Defendant Medical Billers Network, Inc. ("MBN") is a New York corporation with its principal place of business listed at 244 Fifth Avenue, F27, New York, NY 10001, that promotes and sells work-at-home medical billing opportunities. MBN has transacted business in the Southern District of New York. MBN acts in concert with defendant Caceres Quality Distribution, Inc. to carry out MBN's business practices as alleged herein.

6. Defendant Chris Taylor is an officer, director or principal owner of defendant MBN. 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 MBN, including the acts and practices set forth in this Complaint. He resides at 295 Graham Ave., #1, Brooklyn, New York 11211 and has transacted business in the Southern District of New York.

7. Defendant Caceres Quality Distribution, Inc. ("Caceres Quality") is a Nevada corporation with its principal place of business at 4560 S. Decatur Blvd., Suite 202, Las Vegas, Nevada 89103 as well as a place of business at 6308 Woodman Avenue, Van Nuys, California 91401, that promotes and sells work-at-home medical billing opportunities. Caceres Quality has transacted business in the Southern District of New York. Caceres Quality acts in concert with defendant MBN to carry out MBN's business practices as alleged herein.

8. Defendant Wilson Jose Caceres is an officer, director or principal owner of defendant Caceres Quality. 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 Caceres Quality and MBN, including the acts and practices set forth in this Complaint. He resides at 1739 N. Niagara Street, Burbank, California 91505 and has transacted business in the Southern District of

New York.

COMMERCE

9. At all times relevant to this complaint, defendants have maintained a substantial course of trade in the offering for sale and sale of work-at-home 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 ACTIVITIES

10. Since at least 2001, and continuing thereafter, defendants have offered and sold medical billing employment opportunities to consumers. The defendants typically promote their medical billing employment opportunities to prospective purchasers in classified advertisements in newspapers. These advertisements state that consumers can work at home processing medical claims and urge consumers to call defendants' toll-free telephone number to learn more about the opportunity. In numerous instances, defendants' classified newspaper advertisements also indicate that consumers can earn significant income, such as $500 per week, with the work-at-home medical billing opportunity.

11. Consumers who call the toll-free telephone number listed in defendants' classified advertisements are connected to the defendants, or their employees or agents, who represent to consumers that in exchange for a payment which ranges from approximately $200 to $295, consumers will receive what they need to get started in medical billing, including: (1) electronic medical billing training and customer assistance and support; (2) the software necessary to do electronic billing for physicians in the consumer's local area; and (3) the names of physicians ready, willing, and able to pay defendants' business opportunity purchasers to process their

medical billing claims.

12. Defendants' advertising and telephone sales pitch make false claims to induce consumers to pay the various program fees to defendants. First, through the defendants' advertisements and subsequent sales solicitations, the defendants or their employees or agents make representations about the earnings potential of the medical billing employment opportunity. For example, the defendants or their employees or agents typically represent that consumers can process a certain number of claims for medical billing per week or earn a certain amount of money per month. The defendants or their employees or agents claim that consumers will be paid at a rate of $2.50 to $5.00 per claim they process from the physicians who are interested in having their medical billing done and/or that they can make substantial weekly or monthly earnings at home, for example, $500 per week working part time and as much as $2,500 per week working full time. Second, through the defendants' advertisements and subsequent sales solicitations, consumers expect that they will receive, in addition to adequate training, numerous leads for physicians in their area who have told or otherwise indicated to defendants that they are ready, willing, and able to pay defendants' medical billing program purchasers, working at home with a computer, to process their medical billing claims.

13. In fact, defendants' program purchasers typically do not make substantial monthly earnings. Moreover, defendants have never directly contacted the physicians provided to purchasers of its program and never ascertained whether these physicians have any interest, need, or use for any third party—including defendants' program purchasers--to process medical bills.

14. In addition, defendants' program purchasers after paying defendants for the program must then gain access to defendants' training materials through the Internet. In order to gain

access to these materials the purchasers must first click to accept defendants' terms and conditions, which include a no-cancellation policy which is not disclosed prior to payment.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

15. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), provides that "unfair or deceptive acts or practices in or affecting commerce are hereby declared unlawful."

COUNT I

16. In numerous instances in the course of offering for sale and selling their medical billing work-at-home employment opportunities, defendants or their employees or agents have represented, expressly or by implication, that consumers who purchase defendants' business venture are likely to earn a substantial income, such as $500 or more per week.

17. In truth and in fact, consumers who purchase defendants' medical billing work-at-home employment opportunities are not likely to earn substantial income, such as $500 or more per week.

18. Therefore, defendants' representation as set forth in Paragraph 16 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

19. 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 give purchasers the names and addresses of physicians who are likely to use the purchasers to process the physicians' medical claims.

20. In truth and in fact, defendants do not give purchasers the names and addresses of

physicians who are likely to use the purchasers to process the physicians' medical claims.

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

THE FTC'S TELEMARKETING SALES RULE

22. In 1994, Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108. On August 16, 1995, the FTC adopted the TSR, 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a Statement of Basis and Purpose and the final amended TSR. 68 Fed. Reg. 4580, 4669. Except for specific provisions not alleged in this action, the amended TSR became effective on March 31, 2003.

23. On or after December 31, 1995, the TSR prohibits telemarketers and sellers from misrepresenting, directly or by implication, in the sale of goods or services, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer; and from failing to disclose, before a customer pays, a policy of not making refunds, cancellations, exchanges, or repurchases. 16 C.F.R. §§ 310.3(a)(2)(iii), 310.3(a)(1)(iii).

24. On or after December 31, 1995, except for certain specified types of transactions, the TSR exempted from the scope of the TSR telephone calls initiated by a customer in response to an advertisement through any media, other than direct mail solicitations. 16 C.F.R. § 310.6(e). On or after March 31, 2003, the amended TSR modified Section 310.6(e) (now renumbered as Section 310.6(b)(5)) to exclude from this exemption telephone calls initiated by a customer in

response to an advertisement relating to business opportunities other than business arrangements covered by the Franchise Rule, 16 C.F.R. Part 436. 16 C.F.R. § 310.6(b)(5).

25. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), violations of the TSR constitute unfair or deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

26. Defendants are "sellers" or "telemarketers" engaged in "telemarketing," as those terms are defined in the FTC Telemarketing Sales Rule. 16 C.F.R. §§ 310.2(z), (bb) & (cc). Defendants' work-at-home business opportunity is not a business arrangement covered by the Franchise Rule, 16 C.F.R. Part 436.

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT III

27. In numerous instances, in the course of offering for sale and selling work-at-home business opportunities through telemarketing, defendants or their employees or agents have misrepresented, directly or by implication, material aspects of the performance, efficacy, nature, or central characteristics of goods or services, including but not limited to the misrepresentations that:

(i) purchasers who pay defendants a fee are likely to earn a substantial income, such as $500 or more per week; and (ii) defendants will give purchasers the names and addresses of physicians who are likely to use the purchasers to process the physicians' medical claims. Defendants have thereby violated Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii).

COUNT IV

28. In numerous instances, in the course of offering for sale and selling work-at-home business opportunities through telemarketing, defendants or their employees or agents have failed to disclose, before a customer pays for the work-at-home business opportunity, their policy of not making refunds or cancellations after a purchaser accesses training materials. Defendants have thereby violated Section 310.3(a)(1)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(1)(iii).

CONSUMER INJURY

29. Consumers nationwide have suffered or will suffer substantial monetary loss as a result of defendants' violations of Section 5(a) of the FTC Act and the TSR. In addition, defendants have been unjustly enriched as a result of their unlawful acts and 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

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

31. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from the defendants' violations of the TSR, including the rescission and reformation of contracts, and the refund of money.

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

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, as authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and pursuant to its own equitable powers:

1. Award plaintiff such preliminary injunctive and ancillary relief, including a temporary restraining order and asset freeze 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 the defendants from violating the FTC Act and the TSR, as alleged herein;

3. Award such relief as the Court finds necessary to redress injury to consumers resulting from the defendants' violations of the FTC Act and the TSR, including but not limited to rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains; 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.

Respectfully submitted,

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