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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

DAVISON & ASSOCIATES, INC., a corporation,
GEORGE M. DAVISON III, individually,
THOMAS DOWLER, individually,
GORDON M. DAVISON, individually,
BARBARA MIELE, individually,
MANUFACTURER'S SUPPORT SERVICES, INC.,

a corporation,
Defendants,

BARBARA DAVISON, individually,

Relief Defendant.

CIVIL ACTION NO. 97-1278

GARY L. LANCASTER
United States District Judge

AMENDED COMPLAINT FOR
INJUNCTION AND OTHER
EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission (“Commission”), by its undersigned attorneys, 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 secure preliminary and permanent injunctive relief and other equitable relief, including rescission, restitution, and disgorgement against defendants for their violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over plaintiff’s claims pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a) and 53(b).

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

THE PARTIES

4. Plaintiff Commission is an independent agency of the United States Government created by the FTC Act, 15 U.S.C. §§ 41-58. The Commission enforces the FTC Act, 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 equitable relief as is appropriate in each case, including redress for injured consumers. 15 U.S.C. §§ 53(b).

5. Defendant Davison & Associates, Inc. (“Davison & Associates”), is a Pennsylvania corporation with two business addresses in the Western District of Pennsylvania: 521 Eighth Street, Oakmont, Pennsylvania, 15139-1322, and 207 Route 910, Indianola, Pennsylvania, 15051. Davison & Associates transacts or has transacted business in the Western District of Pennsylvania.

6. Davison & Associates offers for sale research reports, the processing of patents, and services related to attracting potential licensees, marketers, and manufacturers (“invention-promotion services”) to consumers located throughout the United States and Canada.

7. Defendant George M. Davison III, is President and CEO of Davison & Associates. Individually, or in active concert or participation with others, he formulates, directs, controls, or participates in the acts or practices of Davison & Associates, including those alleged herein. He resides and transacts business in the Western District of Pennsylvania.

8. Defendant Thomas Dowler is an associate or sales representative for Davison & Associates. Individually, or in active concert or participation with others, he formulates, directs, controls, or participates in the acts or practices of Davison & Associates, including those alleged herein. He resides and transacts business in the Western District of Pennsylvania.

9. Defendant Gordon M. Davison is or has been an employee of Davison & Associates and an officer of defendant MSSSI. Individually, or in active concert or participation with others, he has formulated, directed, controlled, or participated in the acts or practices of Davison & Associates and MSSSI, including those alleged herein. He resides and transacts business in the Western District of Pennsylvania.

10. Defendant Barbara Miele is the wife of defendant Gordon Davison and is or has been an employee of Davison & Associates. Individually, or in active concert or participation with others, she has formulated, directed, controlled, or participated in the acts or practices of Davison & Associates, including those alleged herein. She resides and transacts business in the Western District of Pennsylvania.

11. Defendant Manufacturer’s Support Services, Inc. (“MSSSI”), is a Pennsylvania

corporation with a business address in the Western District of Pennsylvania of 521 Eighth Street, Oakmont, Pennsylvania. MSSSI transacts or has transacted business in the Western District of Pennsylvania.

12. Defendants Davison & Associates and MSSSI share office space and employees, and act in concert to carry out the acts and practices complained of herein. They constitute a common enterprise for purposes of this proceeding.

13. Relief defendant Barbara Davison is the wife of defendant George M. Davison III. Individually or jointly with her spouse, she has received funds and other property that were derived wrongfully or unlawfully from payments by consumers as a consequence of defendants' acts and practices complained of herein. She resides in the Western District of Pennsylvania.

DEFENDANTS' COURSE OF CONDUCT

14. Since approximately December 1989, and continuing thereafter, defendants have maintained a substantial course of trade in offering and selling research, patenting, and invention-promotion services to individual inventors who want to profit from the sale of their ideas for inventions.

15. Defendants have solicited the sale of patent and invention-promotion services through the use of, among other things, advertisements on television, in newspapers and in magazines, including but not limited to *Entertainment Weekly*, correspondence and contracts sent through the United States mail and telephone sales presentations.

16. Defendants' advertisements invite consumers to call an 800 number. When consumers call the 800 number, they are asked to give their name, address and telephone number, and are sent sales literature.

17. In a typical letter consumers receive, defendants state that “[o]ur firm’s team is made up of international award winning designers, engineers, marketers, former U.S. Patent Examiners and many other support staff members. We have hundreds and hundreds of corporate executives who are working with our organization in the development of new products.”

18. Several days after receiving the sales literature, a sales representative for Davison & Associates typically telephones the consumer. After soliciting information about the consumer’s invention, the sales representative typically invites the consumer to send in a form describing the invention and represents that Davison & Associates will review it to determine whether it is patentable and marketable.

19. In most cases, the sales representative then tells the consumer that the idea has passed the scrutiny of the reviewers at the company. The sales representative then attempts to sell the consumer a product research report and patent search costing approximately \$790.

20. The product research report is a document about seventy pages long and consists of copies of prior patents, journal articles, and an engineer’s report. The product research report purportedly evaluates the marketability of an idea or product. In most cases, the product research report concludes that, based on the research in the report, the product should be commercialized.

21. After the consumer has received the product research report, the sales representative typically calls the consumer again and attempts to persuade the consumer to enter into a promotion agreement authorizing Davison & Associates to promote a customer’s idea for an invention, for a service fee of as much as \$12,000. The agreement provides that, in exchange for this service fee, Davison & Associates will promote the idea or product to industry in an effort to secure a licensing, marketing or manufacturing agreement for the customer.

22. Consumers who utilize Davison & Associates' services virtually never recoup their investment. Of the hundreds of sales made by Davison & Associates, only a handful have resulted in a licensing agreement, and of those actually licensed, few if any have resulted in consumers making an appreciable amount of money.

23. Defendants' course of trade is in or affecting commerce, within the meaning of Section 4 of the FTC Act, 15 U.S.C. § 44.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

24. Defendants represent, expressly or by implication, that:

a. consumers who buy defendants' invention-promotion services stand a reasonably good chance of realizing financial gain;

b. defendants' invention-promotion services helped many of their customers' invention ideas become profitable products;

c. defendants' invention-promotion services helped some or more of the following invention ideas become profitable products: Bark Buddies, the Spot-lite, the Snag-Buster, the Puzzle Sorter, and the EnviroGolf;

d. defendants have a vast network of corporations with whom they have ongoing relationships and regularly negotiate successful licensing agreements;

e. defendants' invention marketing services are necessary for consumers to license their invention ideas; and

f. defendants prepare objective and expert analyses of the patentability and marketability of consumers' invention ideas.

25. In truth and in fact:

a. consumers who buy defendants' invention-promotion services do not stand a reasonably good chance of realizing financial gain, and in fact, virtually all of defendants' customers lose their entire investment;

b. defendants' invention-promotion services have not helped many of their customers' invention ideas become profitable products. In fact, few of defendants' inventor-clients entered into licensing agreements that paid royalties, and virtually none earned more from their inventions than they paid defendants in fees;

c. defendants' invention-promotion services did not help some or more of the following become profitable products: Bark Buddies, the Spot-lite, the Snag-Buster, the Puzzle Sorter, and the EnviroGolf. In fact, some or all of these invention ideas, as well as others, generated either no royalties or only a small amount, and nowhere near enough to recoup the cost consumers typically pay for defendants' invention-promotion services;

d. defendants do not have a vast network of corporations with whom they have ongoing relationships and regularly negotiate successful licensing agreements;

e. defendants' invention marketing services are not necessary for consumers to license their invention ideas; and

f. defendants do not prepare objective and expert analyses of the patentability and marketability of consumers' invention ideas.

26. Therefore, the representations set forth in Paragraph 24 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

27. Defendants' violations of Section 5(a) of the FTC Act have injured and will continue to injure consumers. Because of defendants' misrepresentations of material facts consumers have made and will continue to make investments that are likely to cause substantial financial injury, absent injunctive relief.

THIS COURT'S POWER TO GRANT RELIEF

28. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to issue injunctive and other relief against violations of the FTC Act and, in the exercise of its equitable jurisdiction, to award redress to remedy the injury to consumers, to order disgorgement of monies resulting from defendants' unlawful acts or practices and to order other ancillary equitable relief.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Court:

1. Award the Commission all temporary and 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, temporary and preliminary injunctions and an order freezing each defendant's assets;
2. Enjoin defendants permanently from violating Section 5(a) of the FTC Act including committing such violations in connection with the advertising, offering for sale or other promotion of invention promotion services;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of Section 5(a) of the FTC Act including, but not limited to, the rescission of contracts or refund of money, and the disgorgement of unlawfully obtained

monies;

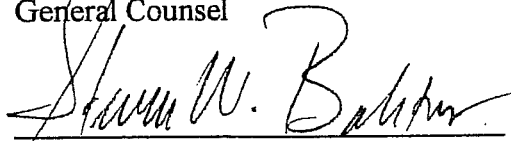
4. Award such relief against the relief defendant that the court finds necessary to protect and return funds and other property that were derived from defendants' violations of the FTC Act, including an asset freeze and an order to disgorge all ill-gotten profits or proceeds that they have received as a result of the acts and practices complained of herein, and an order imposing a constructive trust upon such profits and proceeds; and

4. Award plaintiff the cost of bringing this action, as well as such other and additional equitable relief as the Court may determine to be just and proper.

DATED: 3/20/98

Respectfully submitted,

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