

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

Civil Action No. 4:03CV179

THE COLLEGE ADVANTAGE, INC.,
also doing business as College Funding
Center,

ALAN E. BARON,

C FUNDING GROUP, LLC, also doing
business as College Funding Group, and

EDWARD F. JACOBS,

Defendants, and

DONNA S. BARON and

CLAUDIA L. JACOBS,

Relief Defendants.

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

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its complaint against

The College Advantage, Inc., doing business as College Funding Center, Alan E. Baron, C Funding Group, LLC, doing business as College Funding Group, and Edward F. Jacobs (“defendants”), and Donna S. Baron and Claudia L. Jacobs (“relief defendants”), alleges:

1. The Commission brings this action under Sections 5(a) and 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 53(b), to obtain preliminary and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement, and other equitable relief for defendants’ deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), in connection with the marketing of its college financial aid assistance program.

JURISDICTION AND VENUE

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

3. Venue in the Eastern District of Texas is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b)(1).

PLAINTIFF

4. Plaintiff Federal Trade Commission is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58, as amended. 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 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 restitution for injured consumers. 15 U.S.C. § 53(b).

DEFENDANTS

5. Defendant The College Advantage, Inc. (“College Advantage”) is a Texas corporation, with its principal place of business at 2828 West Parker, Plano, Texas 75026. College Advantage conducts business under the name College Funding Center. College Advantage operates a college financial aid assistance program whose primary function is to secure the funds for students to attend college. College Advantage transacts or has transacted business in the Eastern District of Texas.

6. Defendant Alan E. Baron is the owner and president of College Advantage. 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 defendant College Advantage, including the acts and practices set forth in this complaint. Defendant Alan E. Baron transacts or has transacted business in the Eastern District of Texas.

7. Defendant C Funding Group, LLC is a Texas corporation, with its principal place of business located at 1222 Wellshire Drive, Katy, Texas 77494. C Funding Group conducts business under the name College Funding Group. College Funding Group promotes and markets

the college financial aid assistance program offered by College Advantage. C Funding Group transacts or has transacted business in Texas.

8. Defendant Edward F. Jacobs is an owner and member of C Funding Group, LLC. He also conducts business under the name College Funding Group. At all times material to this complaint, acting alone or in concert with others, defendant Edward F. Jacobs has formulated, directed, controlled, or participated in the acts and practices of defendant C Funding Group, LLC, including the acts and practices set forth in this complaint. He transacts or has transacted business in Texas.

9. The foregoing defendants -- The College Advantage, Inc., doing business as College Fundi Alan E. Baron, C Funding Group, LLC, also doing business as College Funding Group, and Edward F. Ja together as part of a common enterprise to promote and market college financial aid assistance programs.

10. Relief defendant Donna S. Baron is an individual who has received funds that can be traced directly to the deceptive acts or practices of the defendants, and holds purchaser funds in constructive trust for the benefit of purchasers. She resides in the State of Texas.

11. Relief defendant Claudia L. Jacobs is an individual who has received funds that can be traced directly to the deceptive acts or practices of the defendants, and holds purchaser funds in constructive trust for the benefit of purchasers. She resides in the State of Texas.

COMMERCE

12. 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’ COURSE OF CONDUCT

13. Since at least March, 2000, defendants have marketed a college financial aid assistance program to consumers throughout the country, falsely promising to procure 100% of the funding necessary for their children to attend college in exchange for a fee of \$895. The college financial aid assistance program is operated by College Advantage, doing business as College Funding Center. Promotion and marketing of the college financial aid assistance program is conducted by C Funding Group, doing business as College Funding Group.

14. Typically, defendants mail letters to parents of college-bound high school students inviting them to attend seminars at or near the students’ high schools at which the defendants’ financial assistance program will be discussed. Parents interested in attending a seminar are instructed to call a toll-free number to reserve a place. The letter touts the features of the program, focusing primarily on the defendants’ promise that the program will secure 100% of the funding necessary for the student to attend college. Defendants promise to secure funding from financial sources that will reduce the consumer’s out-of-pocket expenditures. This invitation letter contains numerous representations, including, but not limited, to the following:

- (a) . . . will secure 100% of the funding needed for [student’s] college education.

- (b) College Funding Center will secure 100% of the financial aid needed for [student's] college education through Federal, State, and Private Grants, Loans, Awards, Endowments, and College Scholarships.
- (c) College Funding Center's professional staff has helped **many families of all income levels** reduce their out of pocket costs of education. [Emphasis in original].

The letter also describes other lesser aspects of the program, such as career counseling and preparation of various college forms.

15. Defendants also operate two websites, www.cfcservice.com and www.collegefundinggroup.com. The first website contains a general description of the company and the services offered to consumers. A video describing the program is available free-of-charge via the website. The second website also describes the program, touts the ability of the defendants to procure 100% of the students' required college funding, and contains numerous representations, including, but not limited to, the following:

- (a) College Funding Group will find 100% of the funds for your child's college education.
- (b) We GUARANTEE To Secure 100% of Costs.

16. At the seminars, consumers are shown a short film in which the college financial aid assistance program is discussed. Salesmen then speak to the consumers as a group and, finally, one-on-one. In the film and oral presentations, defendants emphasize the amount of financial aid

that the program will provide for college. Consumers are told that if they participate in the program, defendants will obtain 100% of the funds necessary to attend college. In addition to loans which have to be repaid, defendants emphasize that the program will reduce the consumers' out-of-pocket expenses by obtaining "free money," such as scholarships and grants. Defendants promise consumers that they will be sent lists of available scholarships and grants which are tailored to the individual needs, interests, and qualifications of their children. Defendants reassure consumers by representing that the program has a 100% money-back guarantee. Consumers are also informed that the defendants have a website which discusses the college financial aid assistance program.

17. Consumers who wish to participate in the program must sign a contract and pay an up-front fee of \$895. The contract contains numerous representations, including, but not limited to, the following:

- (a) 100% GUARANTEED PLAN.
- (b) If the parents and/or student is not offered 100% of "Cost of Education" the parent may request and receive a full refund of the fee paid. . . .
- (c) The plan guarantees 100% funding

18. After consumers enter into a contract with defendants, they discover that they do not receive what the defendants have promised. The lists of scholarships, awards, grants, and endowments provided by the defendants appear to have been copied from a book or a free website. The lists are not tailored to the individual needs, interests, and qualifications of the consumers' high school students, and students meet the criteria for very few of the sources of

funding on the lists. In those limited instances in which the students are eligible to apply, they generally fail to receive any financial aid. Those students who obtain financial aid generally do so because of their own efforts -- not those of defendants. When students qualify for aid through the efforts of the defendants, it is usually in the form of loans -- loans which do not cover 100% of the students' college expenses and which do not reduce the parents' out-of-pocket expenses.

19. Consumers who seek refunds because of defendants' failure to meet their obligations are met with resistance in the form of delay tactics and excuses. Typically, defendants refuse to honor their 100% refund guarantee, and very few consumers obtain refunds.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

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

COUNT ONE

22. In numerous instances, in connection with the promotion and marketing of their college financial aid assistance program, defendants have represented, expressly or by implication, that they will secure 100% of the funding necessary for consumers' children to attend college.

23. In truth and in fact, in numerous instances, defendants do not secure 100% of the funding necessary for consumers' children to attend college.

24. Therefore, the representations set forth in Paragraph 22 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 TWO

25. In numerous instances, in connection with the promotion and marketing of their college financial aid assistance program, defendants have represented, expressly or by implication, that they will secure funding for consumers' children to attend college which will reduce the consumers' out-of-pocket expenses.

26. In truth and in fact, in numerous instances, defendants do not secure funding for consumers' children to attend college which reduces the consumers' out-of-pocket expenses.

27. Therefore, the representations set forth in Paragraph 25 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 THREE

28. In numerous instances, in connection with the promotion and marketing of their college financial aid assistance program, defendants have represented, expressly or by implication, that consumers will receive a 100% refund if defendants do not secure 100% of the funding necessary for consumers' children to attend college.

29. In truth and in fact, in numerous instances, defendants refuse to provide refunds when they do not secure 100% of the funding necessary for consumers' children to attend college.

30. Therefore, the representations set forth in Paragraph 28 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).

DISGORGEMENT OF RELIEF DEFENDANTS' ILL-GOTTEN GAINS

COUNT FOUR

31. The relief defendants received, directly or indirectly from the defendants, funds and property which either are the proceeds or are traceable to the proceeds of the unlawful activities alleged herein. The relief defendants have no legitimate claim to these assets.

32. The relief defendants obtained the assets as part of, and in furtherance of, the violations of the FTC Act alleged above, and under circumstances in which it is unjust, inequitable, or unconscionable for them to retain the assets, and the relief defendants have been unjustly enriched.

33. The Commission is entitled to an order requiring that the relief defendants disgorge those assets.

CONSUMER INJURY

34. Consumers throughout the United States have suffered, and continue to suffer, substantial monetary loss as a result of defendants' unlawful acts and practices. In addition, defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief, defendants are likely to continue to injure consumers, reap unjust enrichment, and

harm the public.

THIS COURT'S POWER TO GRANT RELIEF

35. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), authorizes this Court to issue a permanent injunction against defendants' violations of the FTC Act and, in the exercise of its equitable jurisdiction, to order such ancillary relief as temporary and preliminary injunctions, consumer redress, rescission, restitution, disgorgement of profits resulting from defendants' unlawful acts or practices, and other remedial measures.

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

PRAYER FOR RELIEF

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

1. Award plaintiff 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;
2. Permanently enjoin defendants from violating the FTC Act, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers

resulting from defendants' violations of the FTC Act, including, but not limited to, rescission or reformation of contracts, restitution, refund of monies paid, and disgorgement of ill-gotten monies;

4. Award such relief against relief defendants Donna S. Baron and Claudia L. Jacobs that the Court finds necessary to protect and return funds and other property that were derived from defendants' violations of Section 5 of the FTC Act, including an asset freeze and an order to disgorge all ill-gotten gains or proceeds that relief defendants have received as a result of the acts and practices complained of herein, and an order imposing a constructive trust upon such gains or proceeds; and

5. 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.

Dated: _____

Respectfully Submitted,

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