

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

FEDERAL TRADE COMMISSION,)
)
)
Plaintiff,)
)
v.)
)
1522838 ONTARIO INC., a corporation, d/b/a)
International Industrial Trade Directory,)
)
GERHARD MINTZ, a/k/a Gerry Mintz,)
individually and as an owner and director of)
the corporate defendant,)
)
WILLIAM GEORGE FISK, a/k/a Michael Robert)
Petreikis, a/k/a Michael Kelly, individually, and)
)
EMMA G. WANJIKU, individually,)
)
)
Defendants.)

060 5378
Civil No. 060 5270

JUDGE GETTLEMAN

MAGISTRATE JUDGE MELAN

RECEIVED

OCT 04 2006

MICHAEL W. DOBBINS
CLERK, U.S. DISTRICT COURT

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

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

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 secure temporary, preliminary, and permanent injunctive relief, rescission of contracts and restitution, disgorgement of ill-gotten gains, 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).

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

THE PARTIES

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 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. 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, including restitution for injured consumers, as may be appropriate in each case. 15 U.S.C. § 53(b).

5. Defendant 1522838 Ontario Inc. is a Canadian corporation with its registered office and principal place of business located at 7305 Woodbine Avenue, Suite 304, Markham, Ontario, Canada L3R 3V7. Defendant 1522838 Ontario Inc. operates under the registered business name "International Industrial Trade Directory," which it registered in Ontario on April 16, 2003. 1522838 Ontario Inc. transacts or has transacted business in the Northern District of Illinois and throughout the United States.

6. Defendant Gerhard Mintz, also known as Gerry Mintz, is or was an owner, officer, or director of 1522838 Ontario Inc. At all times material to this complaint, acting alone or in concert with others, Mintz 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. Defendant Mintz transacts or has transacted business in the Northern District of

Illinois and throughout the United States.

7. Defendant William George Fisk also goes by the names Michael Robert Petreikis and Michael Kelly. At the time a search warrant was executed by members of the Toronto Strategic Partnership on a property located in Aurora, Ontario, on May 5, 2006, Defendant Fisk resided in the residence on that property. 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 set forth herein. Defendant Fisk transacts or has transacted business in the Northern District of Illinois and throughout the United States.

8. Defendant Emma G. Wanjiku owns and resides at the property in Aurora, Ontario where a search warrant was executed by members of the Toronto Strategic Partnership on May 5, 2006. At all times material to this complaint, acting alone or in concert with others, she has formulated, directed, controlled, or participated in the acts and practices set forth herein. Defendant Wanjiku transacts or has transacted business in the Northern District of Illinois and throughout the United States.

9. Since at least 2001, defendants have acted as a common enterprise while engaging in the deceptive acts and practices and other violations of law alleged below. They have shared officers, employees, and office locations, have commingled funds, are commonly controlled, and have engaged in a common scheme. The common enterprise has operated under multiple business names, including but not limited to the following: American Register of Manufacturers, International Industrial Trade Directory, National Register, Official Register of Commerce and Industry, Traders International Trade Directory, Hotel & Conventions International, Hotel & Resorts Index, Hotel & Resorts International, Hotel Index, International Hotel &

Accommodations Directory, International Hotel Index, Official Hotel & Resort Guide, Official Hotel & Travel Guide, Bradley Siddons & Associates, and Foremost Business Supplies. At the direction of the common enterprise, these business names were registered in Ontario by the same group of individuals, including Elio Ferrara, James R. Hickey, Diane Porter, Anita G. Sebastiano, Bradley D. Siddons, and Lori M. Storm. All of the business names employed by the common enterprise operate out of mailbox drops located in the Toronto, Ontario area. The various business names employed by the common enterprise sometimes even share the same mailbox drop addresses and telephone numbers.

COMMERCE

10. 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 PRACTICES

11. Since at least 2001, and continuing thereafter, defendants have engaged in a plan, program, or campaign to induce businesses in the United States to pay for unordered and unauthorized listings and print advertisements in non-existent business and travel directories. In the course of their plan, program, or campaign, defendants also have attempted to induce businesses and municipalities (“consumers”) in the United States to pay for unordered and undelivered office supplies and consulting services.

Business Directory Listings and Advertisements

12. Using the business names American Register of Manufacturers, International Industrial Trade Directory, National Register, Official Register of Commerce and Industry, and

Traders International Trade Directory, defendants mail to businesses in the United States invoices for unordered listings and print advertisements in alleged business directories. The unsolicited invoices are not preceded by any type of telemarketing call or other attempt to sell advertising space or a listing in defendants' business directories. Defendants' first contact with consumers is instead through the mailing of their invoices.

13. Defendants' invoices purport to be for bold-faced listings in defendants' business directories or for varying sizes of print advertisements. The invoices seek payment of between a few hundred dollars for brief listing information to a few thousand dollars for large print advertisements.

14. In numerous instances, defendants attach actual print advertisements to the invoices they send to U.S. consumers, making the invoices appear like printer's proofs of ads that are being sent for the consumer's review and approval. In some instances, consumers are directed by the invoice to "make any and all changes" to the advertisement and to return the revised ad with their payment.

15. Defendants do not create the print advertisements that are attached to their invoices. In most instances, defendants cut those print advertisements out of an existing publication called the *Thomas Register of American Manufacturers* ("Thomas Register") and attach the ads to their own invoices. The Thomas Register is a multi-volume directory of manufacturing and service companies located in the United States and Canada that is published annually. It includes detailed listings of more than 165,000 companies, as well as print advertisements placed by some of the listed companies. In numerous instances, the ads attached to defendants' invoices have Thomas Register listings and other print advertisements on the

reverse side, demonstrating that those advertisements were cut out of the Thomas Register.

16. The listing information shown on some of defendants' invoices also generally has been copied from the Thomas Register. In some instances, the ads and listing information found on defendants' invoices are out-of-date, in that they do not reflect the consumer's current address or other business information.

17. In numerous instances, defendants' invoices show a contract or reference number as well as the name of the sales representative who allegedly sold the invoiced advertising. Consumers who receive defendants' invoices have never heard of or been contacted by the sales representative whose name appears on the invoice. They also have not entered into any type of contract for or otherwise authorized the advertisement or listing for which they are being billed. In most instances, consumers have never even heard of the business directory that is named on the invoice.

18. Upon receiving one of defendants' invoices, consumers often call the telephone number on the invoice to inquire about who authorized the advertisement or listing. Consumers who make such calls are never able to speak to a live person. Instead, their calls are answered by a voicemail service, which invites callers to leave a message. In numerous instances, consumers find that the voicemail box is full when they attempt to leave a message. Those consumers who are able to leave messages never receive return calls. Their messages are simply ignored by defendants.

19. In numerous instances, consumers proceed to pay defendants' invoices, not realizing that the advertising reflected on the invoices was unauthorized. Those consumers who pay defendants' invoices never receive a business directory or any other indication from

defendants that their advertisement or listing was published anywhere.

20. In other instances, consumers do not pay defendants' invoices because they realize that no one in their organization ever authorized the advertising reflected on the invoices. Those consumers who fail to pay defendants' invoices never receive past due notices or collection calls relating to those invoices.

21. In some instances, consumers complain to the Better Business Bureau ("BBB") about defendants' invoices, and the BBB then forwards those complaints on to defendants. In numerous instances, defendants respond to consumers' BBB complaints by acknowledging that no one in the consumer's organization authorized the advertisement or listing.

Travel Directory Listings and Advertisements

22. Using the business names American Register of Manufacturers, Hotel & Conventions International, Hotel & Resorts Index, Hotel & Resorts International, Hotel Index, International Hotel & Accommodations Directory, International Hotel Index, Official Hotel & Resort Guide, and Official Hotel & Travel Guide, defendants mail to hotels and resorts in the United States and at least twenty-five foreign countries invoices for unordered listings and print advertisements in alleged travel directories. The unsolicited invoices are not preceded by any type of telemarketing call or other attempt to sell advertising space or a listing in defendants' travel directories. Defendants' first contact with consumers is instead through the mailing of their invoices.

23. Defendants' invoices purport to be for listings in defendants' travel directories or for varying sizes of print advertisements. The invoices seek payment of between a few hundred dollars for small advertisements or listings to more than \$8,000.00 for full page print

advertisements.

24. In numerous instances, defendants attach actual print advertisements to the invoices they send to hotels and resorts located around the world, making the invoices appear like printer's proofs of ads that are being sent for the consumer's review and approval. In some instances, consumers are directed by the invoice to "make any applicable changes" to the advertisement and to return the revised ad with their payment. The invoices often indicate that the ads will not be run unless they are prepaid.

25. Defendants do not create the print advertisements that are attached to their invoices. In most instances, defendants cut those print advertisements out of an existing travel publication such as the *Hotel & Travel Index* ("HTI") or the *Official Meeting Facilities Guide* ("OMFG"). Defendants then attach the ads to their own invoices. The HTI and the OMFG are published either quarterly or semi-annually by Northstar Travel Media, LLC, in Secaucus, New Jersey. These publications include detailed listings of thousands of hotels and resorts located around the world, as well as print advertisements placed by some of the listed hotels and resorts. The HTI and the OMFG are widely used by travel agents and corporate travel and meeting planners. In numerous instances, the ads attached to defendants' invoices have hotel and resort listings and other print advertisements on the reverse side, demonstrating that those advertisements were cut out of an existing travel publication.

26. In numerous instances, defendants' invoices show a contract or reference number as well as the name of the sales representative who allegedly sold the invoiced advertising. In some instances, the invoice also indicates that it relates to a "Display Listing Renewal." Consumers who receive defendants' invoices have never heard of or been contacted by the sales

representative whose name appears on the invoice. They also have not entered into any type of contract or otherwise authorized the advertisement for which they are being billed. In most instances, consumers have never heard of the travel directory that is named on the invoice, although the name used by defendants generally is similar to that of an existing travel industry publication.

27. Upon receiving one of defendants' invoices, consumers often call the telephone number on the invoice to inquire about who authorized the advertisement or listing. Consumers who make such calls are never able to speak to a live person. Instead, their calls are answered by a voicemail service, which invites callers to leave a message. In numerous instances, consumers find that the voicemail box is full when they attempt to leave a message. Those consumers who are able to leave messages never receive return calls. Their messages simply are ignored by defendants.

28. In numerous instances, consumers proceed to pay defendants' invoices, not realizing that the advertising reflected on the invoices was unauthorized. Those consumers who pay defendants' invoices never receive a travel directory or any other indication from defendants that their advertisement or listing was published anywhere.

29. In other instances, consumers do not pay defendants' invoices because they realize that no one associated with their hotel or resort ever authorized the advertising reflected on the invoice. Those consumers who fail to pay defendants' invoices never receive past due notices or collection calls relating to those invoices.

Office Supplies and Consulting Services

30. Using the business names Bradley Siddons & Associates and Foremost Business

Supplies, defendants also mail to businesses and municipalities in the United States invoices for unordered office supplies and consulting services that consumers never received. These unsolicited invoices also are not preceded by any type of telemarketing call or other attempt to sell the invoiced office supplies or consulting services. Defendants' first contact with consumers is instead through the mailing of their invoices.

31. Defendants' invoices seek payment of hundreds of dollars for toner and inkjet cartridges, or of nearly \$2,000 for "consulting services rendered." In some instances, the invoices purport to come from the sender's "International Division" and indicate that a "3% discount" will be applied if payment is made within thirty days.

32. Upon receiving one of defendants' invoices, consumers often call the telephone number on the invoice to inquire about why they received an invoice for office supplies or consulting services that were never ordered or delivered. Consumers who make such calls are never able to speak to a live person. Instead, their calls are again answered by a voicemail service, which invites callers to leave a message. In numerous instances, consumers find that the voicemail box is full when they attempt to leave a message. Those consumers who are able to leave messages never receive return calls. Their messages are simply ignored by defendants.

33. In numerous instances, consumers proceed to pay defendants' invoices, not realizing that the office supplies or consulting services were never ordered or received. Those consumers who pay defendants' invoices do not subsequently receive any office supplies or consulting services.

34. In other instances, consumers do not pay defendants' invoices because they realize that no one in their organization ordered any office supplies or consulting services from

defendants and that no office supplies or consulting services were ever received. Those consumers who fail to pay defendants' invoices never receive past due notices or collection calls relating to those invoices.

35. In some instances, consumers complain to the BBB about defendants' invoices, and the BBB then forwards those complaints on to defendants. In numerous instances, defendants respond to consumers' BBB complaints by acknowledging that no one in the consumer's organization ordered the products or services reflected on defendants' invoices.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

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

COUNT ONE

38. In numerous instances, in connection with the dissemination of their invoices for advertisements and listings in business directories, defendants have represented to consumers, expressly or by implication, that consumers have agreed to purchase the business directory advertisements or listings shown on defendants' invoices.

39. In truth and in fact, consumers have not agreed to purchase the business directory advertisements or listings shown on defendants' invoices.

40. Therefore, the representation set forth in Paragraph 38 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

COUNT TWO

41. In numerous instances, in connection with the dissemination of their invoices for advertisements and listings in business directories, defendants have represented to consumers, expressly or by implication, that consumers owe money to defendants for the business directory advertisements or listings shown on defendants' invoices.

42. In truth and in fact, consumers do not owe money to defendants for the business directory advertisements or listings shown on defendants' invoices.

43. Therefore, the representation set forth in Paragraph 41 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

COUNT THREE

44. In numerous instances, in connection with the dissemination of their invoices for advertisements and listings in travel directories, defendants have represented to consumers, expressly or by implication, that consumers have agreed to purchase the travel directory advertisements or listings shown on defendants' invoices.

45. In truth and in fact, consumers have not agreed to purchase the travel directory advertisements or listings shown on defendants' invoices.

46. Therefore, the representation set forth in Paragraph 44 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

COUNT FOUR

47. In numerous instances, in connection with the dissemination of their invoices for advertisements and listings in travel directories, defendants have represented to consumers, expressly or by implication, that consumers owe money to defendants for the travel directory

advertisements or listings shown on defendants' invoices.

48. In truth and in fact, consumers do not owe money to defendants for the travel directory advertisements or listings shown on defendants' invoices.

49. Therefore, the representation set forth in Paragraph 47 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

COUNT FIVE

50. In numerous instances, in connection with the dissemination of their invoices for office supplies and consulting services, defendants have represented to consumers, expressly or by implication, that consumers have agreed to purchase the office supplies or consulting services shown on defendants' invoices.

51. In truth and in fact, consumers have not agreed to purchase the office supplies or consulting services shown on defendants' invoices.

52. Therefore, the representation set forth in Paragraph 50 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

COUNT SIX

53. In numerous instances, in connection with the dissemination of their invoices for office supplies and consulting services, defendants have represented to consumers, expressly or by implication, that consumers owe money to defendants for the office supplies or consulting services shown on defendants' invoices.

54. In truth and in fact, consumers do not owe money to defendants for the office supplies or consulting services shown on defendants' invoices.

55. Therefore, the representation set forth in Paragraph 53 is false and misleading and

constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act.

CONSUMER INJURY

56. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of defendants' unlawful acts and practices. Absent injunctive relief from this Court, defendants are likely to continue to injure consumers and to harm the public interest.

THE COURT'S POWER TO GRANT RELIEF

57. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers the Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act.

58. The Court, in the exercise of its equitable jurisdiction, may award other ancillary relief, including but not limited to, rescission of contracts, restitution, and the disgorgement of ill-gotten gains, to prevent and remedy injury caused by defendants' law violations.

PRAYER FOR RELIEF

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

1. Award plaintiff such temporary and 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 equitable 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 of contracts, restitution, and the disgorgement of ill-gotten gains; and

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

Respectfully submitted,

WILLIAM BLUMENTHAL
General Counsel

Dated: October 2, 2006

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