UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 06-61429-Civ-ALTONAGA/TURNOFF

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

JUAN MATOS, individually and
doing business as QTX,
BELINDA CURE, and
JACKSON SARCAR

Defendants.
_______________________________________/

AMENDED COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF

Plaintiff, Federal Trade Commission ("FTC"), by its undersigned attorneys, for its complaint alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 *et seq.*, to secure a permanent injunction, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief against Defendants for engaging in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and for engaging in deceptive telemarketing acts or practices in violation of the FTC's Trade Regulation Rule entitled

"Telemarketing Sales Rule" ("TSR"), 16 C.F.R. Part 310 as amended, in connection with the advertising, marketing and sale of work-at-home business opportunities.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over Plaintiff's claims pursuant to 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c) and 6105(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the Southern District of Florida is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

THE PARTIES

4. Plaintiff Federal Trade Commission is an independent agency of the United States Government created by the FTC Act, 15 U.S.C. § 41 *et seq*. The FTC enforces the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces the TSR, which prohibits deceptive or abusive telemarketing acts or practices. The FTC may initiate federal district court proceedings, through its attorneys, to enjoin violations of the FTC Act and the TSR, and to secure such other equitable relief, including rescission of contracts and restitution, and disgorgement of ill-gotten gains, as may be appropriate in each case. 15 U.S.C. §§ 53(b), 57b, and 6105(b).

5. Defendant Juan Matos is an individual doing business as QTX, a registered fictitious business entity with an address at 736 Don Quixote Avenue, Suite B, Orlando, Orange County, Florida. QTX uses a private mailbox at a commercial mail receiving agency located at 1835 E. Hallandale Beach Boulevard, #657, Hallandale, Florida 33009 for consumer correspondence. At all times material to this Complaint, acting alone or in concert with others, Matos has formulated, directed, controlled or participated in the acts and practices of QTX,

including the acts and practices set forth in this Complaint. Juan Matos transacts or has transacted business in the Southern District of Florida.

6. Defendant Belinda Cure is a manager, owner, principal, and/or partner of QTX. Acting alone or in concert with others, Cure has formulated, directed, controlled, or participated in the acts and practices of QTX, including the acts and practices set forth in this Complaint. Cure resides in and transacts or has transacted business in the Southern District of Florida.

7. Defendant Jackson Sarcar is a manager, owner, principal, and/or partner of QTX. Acting alone or in concert with others, Sarcar has formulated, directed, controlled, or participated in the acts and practices of QTX, including the acts and practices set forth in this Complaint. Sarcar transacts or has transacted business in the Southern District of Florida.

COMMERCE

8. 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.

COURSE OF CONDUCT

9. Since at least September 2005, and continuing thereafter, Defendants have advertised, promoted and sold work-at-home business opportunities to consumers throughout the United States, specifically targeting Hispanic consumers. Defendants, either directly or through third parties, use Spanish-language newspaper classified advertisements and magazine advertisements to promote their work-at-home business opportunities. A typical advertisement reads:

> TRABAJE DESDE SU CASA. Gane 500 semenales ensamblando productos. No exp. necesario. 321-234-1508.

The English translation of the advertisement reads, "WORK FROM YOUR HOME. Earn $500 per week assembling products. No experience necessary. 321-234-1508."

10. In numerous instances, when consumers call the number, they are instructed to leave their name and number on the answering machine. Subsequently, Defendants' representatives call the consumers back and explain that the work-at-home business opportunities involve assembling products at home, such as decorative items, including small houses made of beads. The telemarketers state that QTX will provide consumers with all of the necessary materials and instructions to assemble these items. The telemarketers assure consumers that no experience is required, and lead consumers to believe the work is easy. Moreover, in many cases, telemarketers tell consumers how many crafts they can expect to make in a day or week (*e.g.*, five houses a day or 20 a week).

11. Defendants' telemarketers promise consumers that they will be paid for assembled decorative items. For example, QTX telemarketers tell consumers that QTX will pay $25 for each bead house assembled. Defendants' representatives explain that, each week, a QTX representative will visit consumers' houses, pick up the assembled products, and pay for the completed products in cash. They also reiterate earnings claims of $500 per week, but indicate that consumers can earn even more depending upon their ability to assemble the bead houses.

12. Defendants' telemarketers state that in order to receive the necessary materials, consumers must pay a fee of $110.00 by money order to be mailed directly to a private mailbox box address given by the QTX representative. In many instances, Defendant's representatives

explain that the fee will be fully refunded after the consumers' first few weeks of work. Other consumers obtain the materials cash on delivery ("COD").

13. Approximately one week after paying the required deposit or ordering the materials COD, consumers receive a package of materials from QTX via the United States Postal Service Priority Mail, typically with the Hallandale, Florida return address. In addition to instructions, the box contains a role of plastic string, three small packages of beads and glue.

14. The instructions Defendants provide with the materials inform consumers, for the first time, that they first must complete one sample piece and submit it to QTX for approval before assembling additional crafts. In many instances, the instructions are unintelligible or incomplete, or fail to explain how certain materials are to be used.

15. Few consumers, if any, are actually able to assemble the bead houses according to the instructions provided by QTX. Consumers who complain about these deficiencies are given no assistance and are told, in essence, that it is their problem.

16. Those consumers who are actually able to assemble the bead houses (including those who only are able to construct a partial sample due to the limitations of the instructions), and subsequently send the samples to QTX, report that company representatives either reject their assembled crafts as unsatisfactory, with vague and unhelpful comments; repeatedly put them off by indicating that the product is being reviewed by a supervisor and that they will call them back; or ignore their calls together.

17. When consumers call QTX to complain or request refunds, they often experience great difficulty reaching QTX representatives by telephone. Frequently consumers, who make toll calls to contact QTX, are put on hold for lengthy periods of time, only to be told to wait for a

call back, or are hung up on. Defendants refuse to issue refunds to consumers unless they file complaints with governmental agencies or Better Business Bureaus.

18. In most cases, QTX keeps consumers' deposits and the products sent by consumers for approval.

19. Few, if any, of Defendants' work-at-home assemblers ever realize the earnings promised by Defendants.

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

VIOLATIONS OF SECTION 5(a) OF THE FTC ACT

COUNT ONE

21. In numerous instances, in the course of offering for sale and selling work-at-home business opportunities, Defendants or their employees or agents have represented, expressly or by implication, that consumers who pay Defendants a fee are likely to receive substantial earnings, such as $500 per week, assembling products at home for Defendants.

22. In truth and in fact, after paying Defendants a fee, few, if any, consumers are likely to receive substantial earnings, such as $500 per week, assembling products at home for Defendants.

23. Therefore, the representation set forth in Paragraph 21 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 TWO

24. In numerous instances, in the course of offering for sale and selling work-at-home business opportunities, Defendants or their employees or agents have represented, expressly or by implication, that in exchange for a fee, Defendants will send assembling product materials to consumers and pick up completed products for pay.

25. Defendants fail to disclose, however, that they first require consumers to complete a sample product and send it to Defendants for approval.

26. In light of the representations described in paragraph 24, the information described in paragraph 25, which the defendants fail to disclose, would be material to consumers. Therefore, the representation set forth in Paragraph 24 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

27. 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. The Commission promulgated the Telemarketing Sales Rule 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 March 31, 2003.

28. The TSR prohibits telemarketers and sellers from misrepresenting, directly or by implication, any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

29. 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).

30. 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, are covered by the TSR. 16 C.F.R. § 310.6(b)(5).

31. Defendants' work-at-home business opportunity involves consumers assembling products for QTX; consumers do not offer, sell or distribute the products. Therefore, Defendants' work-at-home business opportunity does not meet the definition of a "covered franchise."

32. The amount of money consumers pay to Defendants is $110, well below the Franchise Rule's $500 threshold, as set forth in Section 436.2(a)(3)(iii). 16 C.F.R. Part 436.

33. Therefore, Defendants' work-at-home business opportunity is not a business arrangement covered by the Franchise Rule, 16 C.F.R. Part 436.

34. Defendants are:

a. "sellers" or "telemarketers" engaged in "telemarketing," as those terms are defined in the Rule, 16 C.F.R. §§ 310.2(z), (bb) and (cc); or

b. as defined in the Rule, 16 C.F.R. § 310.3(b), persons who provide substantial assistance or support to "sellers" or "telemarketers" while knowing or consciously avoiding knowing, that the sellers or telemarketers are engaged in acts or practices that violate 16 C.F.R. §§ 310.3(a) or 310.4.

VIOLATIONS OF THE TELEMARKETING SALES RULE

COUNT THREE

35. 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 characteristic of goods or services including, but not limited to, the representation that consumers who pay Defendants a fee are likely to receive substantial earnings, such as $500 per week, assembling products at home for Defendants.

36. Defendants have thereby violated Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii).

CONSUMER INJURY

37. Consumers throughout the United States have suffered, and continue to suffer monetary losses 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 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

38. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant a permanent injunction, rescission of contracts and restitution, disgorgement of ill-gotten gains, and other equitable relief to prevent and remedy any violations of any provision of law enforced by the FTC.

39. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from Defendants' violations of the TSR, including the rescission of contracts and restitution, and disgorgement of ill-gotten gains.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, the Federal Trade Commission, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Court's own equitable powers, requests that this Court:

(a) 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 other ancillary relief;

(b) Permanently enjoin Defendants from violating the FTC Act and the Telemarketing Sales Rule as alleged herein;

(c) Award such equitable relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the Telemarketing Sales Rule including, but not limited to, rescission of contracts and restitution, and disgorgement of ill-gotten gains by Defendants; and

(d) Award plaintiff the costs of bringing this action and such other equitable and additional relief as the Court may determine to be just and proper.

Dated: December 21, 2006

Respectfully submitted,

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that true and correct copies of **AMENDED COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF** was served on Juan Matos, 4801 Fort Stevens St., Apt 518, Orlando, FL 32822, by Federal Express on December 21, 2006.

Executed on this 21st day of December, 2006.

\s\ Laura Schneider
Laura Schneider
Attorney for Plaintiff