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ATTORNEYS FOR PLAINTIFF

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WEST COAST ADVERTISING &
MARKETING, INC.; MIKE S. THOMAS; and
MARK A. CHRISTIANSEN,

Defendants.

Civ. No.

COMPLAINT

Plaintiff, the Federal Trade Commission ("Commission"), for its complaint 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 obtain preliminary and permanent injunctive relief

against the defendants to prevent them from engaging in unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including rescission, restitution and disgorgement, as is necessary to redress injury to consumers and the public interest resulting from defendants' violations of the FTC Act.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.
3. Venue in the United States District Court for the Southern District of California is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

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 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 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 and disgorgement. 15 U.S.C. § 53(b).
5. Defendant West Coast Advertising & Marketing, Inc., ("West Coast") is a California for profit corporation with its office and principal place of business at 2707 Garnet Ave., #200, San Diego, California 92109. West Coast receives mail at 1380 Garnet Ave., #E-121, San Diego, California 92109 and 3639 Midway Dr. Suite B-125, San Diego, CA 92110. West Coast also does business as MTI or MTI Publications, Professional Fundraisers, and Professional Communications Network or PROCOMM. West Coast maintains other offices or phone rooms at 6784 El Cajon Blvd, Suite B, San Diego, California 92008, 375 S. Rancho Santa Fe Rd., #201, San Marcos, California 92069, and 105 N. Rose St., Suite 202, Escondido, California 92027. West Coast transacts business in the Southern District of California.

6. Defendant Mark A. Christiansen is an owner and President of West Coast. 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 West Coast set forth in this Complaint. He transacts business in the Southern District of California.

7. Defendant Mike S. Thomas is an owner and Vice-President and Secretary of West Coast. 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 West Coast set forth in this Complaint. He transacts business in the Southern District of California.

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.

DEFENDANTS' BUSINESS PRACTICES

9. West Coast is a commercial fundraising company. West Coast solicits donations for non-profit organizations, including the Junior Police Academy ("JPA") and the American Veterans Network ("AVN").

10. West Coast fundraisers claim that JPA sends veteran police officers into the middle and high schools in the donor's local area and state to give children a positive alternative to drugs and gangs and to teach respect for the law and the benefits of a career in law enforcement. They represent that the consumer is being solicited to support these charitable programs and that the consumer's donation will in fact be spent to support these charitable purposes.

11. JPA does not use charitable donations solicited by West Coast to send veteran police officers into the middle and high schools in the donor's local area and state to give children a positive alternative to drugs and gangs and to teach respect for the law and the benefits of a career in law enforcement. Donor contributions are used to provide a "Youth Outreach Kit," that is available for free to schools and police departments upon request. The "Youth Outreach Kit" is primarily a promotional item that describes the benefits of and promotes the "JPA Program Kit," which sells for about \$595. Few schools or police departments in the State of California have purchased or used the JPA Program Kit. Moreover, JPA does not fund those programs based on the JPA Program Kit it sells and it does not send volunteers into the schools as part of a JPA Program. Between January 1998, and December 2001, JPA received over \$4 million in contributions. Eighty-eight percent of that amount was paid to fundraisers, including West Coast. In 2001, West Coast collected \$478,288.19 on behalf of JPA. Of this amount, West Coast retained \$406,544.96. Of the total donations received by JPA only 2.4%, or approximately \$96,000.00 was spent on program services (the Youth Outreach Kit) over the four year period from 1998 to 2001.

12. West Coast fundraisers tell donors in telephone solicitations and pledge invoices that AVN provides gifts at the holidays and outings for "shut-in" veterans, funding for programs that assist veterans in obtaining their benefits, medical necessities, equipment and financial support, including shelter, food and clothing for homeless veterans and their families. AVN does not provide the services described by West Coast. AVN is run by Shiloh International Ministries. West Coast retains between 85% and 90% of the money that is donated to AVN to cover fundraising costs. According to Shiloh's tax returns, of the approximately \$1.4 million fundraised on behalf of Shiloh in 2000, Shiloh donated

\$4500 to unspecified disabled veteran's organizations, and paid to provide a musical program at a veteran's medical center. In 2001 and 2002 through November, Shiloh made only a \$1000 donation to a veteran's hospital in Dallas, Texas, and provided another musical entertainment at a veteran's hospital in Loma Linda, California.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

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

COUNT I

POLICE AFFILIATION

15. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants represent, expressly or by implication, that Junior Police Academy has an official connection to, or is otherwise affiliated with a law enforcement agency, often in the consumer's local area.

16. In truth and in fact, the Junior Police Academy has no official connection to, and is not otherwise affiliated with any law enforcement agency, but rather is a private nonprofit organization that sells educational materials to police agencies and schools.

17. Therefore, the representation described in Paragraph 15 above 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

LOCAL BENEFIT

18. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants represent, expressly or by implication, that donors' contributions to JPA will directly benefit middle and high schools or other institutions in the donors' state or local area, or will otherwise be spent in the donors' state or local area.

19. In truth and in fact, in numerous instances, little or none of donors' contributions to JPA directly benefit middle or high schools or other institutions in the donors' state or local area, or are otherwise spent in the donors' state or local area.

20. Therefore, the representations described in Paragraph 18 above 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 III

JPA PROGRAM BENEFIT

21. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants represent, expressly or by implication, that donors' contributions to JPA will be used for charitable purposes, such as sending veteran police officers into the middle and high schools to give children a positive alternative to drugs and gangs and to teach respect for the law and the benefits of a career in law enforcement.

22. In truth and in fact, in numerous instances, donors' contributions to JPA are not used for charitable purposes and are not used to send veteran police officers into the middle and high schools to give children a positive alternative to drugs and gangs and to teach respect for the law and the benefits of a career in law enforcement.

23. Therefore, the representations described in Paragraph 21 above 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 IV

AVN PROGRAM BENEFIT

24. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants have represented, expressly or by implication, that donors' contributions to AVN will be used for charitable purposes, such as providing gifts at the holidays and outings for “shut-in” veterans, and funding programs that assist veterans in obtaining their benefits, medical necessities, equipment and financial support, including shelter, food and clothing for homeless veterans and their families.

25. In truth and in fact, in numerous instances, donors' contributions are not used for charitable purposes and will not be used to provide gifts at the holidays and outings for “shut-in” veterans, or to fund programs that assist veterans in obtaining their benefits, medical necessities, equipment and financial support, including shelter, food and clothing for homeless veterans and their families.

26. Therefore, the representation described in Paragraph 24 is false and misleading and constitutes an unfair or deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

27. Defendants' violations of Section 5 of the FTC Act, as set forth above, have caused and continue to cause substantial injury to consumers throughout the United States. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers, small businesses and nonprofit organizations, and harm the public interest.

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 preliminary and permanent injunctions against defendants' violations of the FTC Act and, in the exercise of its equitable jurisdiction, to order such ancillary relief as restitution and disgorgement of profits resulting from defendants' unlawful acts or practices, and other remedial measures.

PRAYER FOR RELIEF

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

1. Award the Commission such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of injury to the public interest during the pendency of this action;
2. Permanently enjoin defendants from violating Section 5(a) of the FTC Act as alleged in this complaint;
3. Award such relief as the Court finds necessary to remedy the defendants' violations of Section 5(a) of the FTC Act, including, but not limited to the refund of monies paid and the disgorgement of ill-gotten gains; and
4. Award the Commission the costs of bringing this action, as well as such other and additional equitable relief as the Court may determine to be proper and just.

DATED: _____, 2003.

Respectfully submitted,

WILLIAM KOVACIC
General Counsel

ELEANOR DURHAM
THOMAS ROWAN
Attorneys for Plaintiff
Federal Trade Commission