

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Case No. 4:96CV02225 SNL
v.)	
)	
RICHARD C. NEISWONGER)	COMPLAINT FOR INJUNCTIVE
500 Shetland Road)	AND OTHER EQUITABLE RELIEF
Las Vegas, Nevada 89107)	
individually, d/b/a)	
"MARKETING SYSTEMS")	
and as an officer of each corporate defendant)	
)	
-and-)	
)	
S&K GROUP, INC.)	
55 Westport Plaza, Suite 555)	
St. Louis, Missouri 63146)	
)	
-and-)	
)	
SHAPIRO, KOSSMEYER & FLOM PC)	

MEDICAL RECOVERY SERVICE, INC.)
233 Springfield Avenue)
Joliet, Illinois 60435)
))
-and-)
))
MEDICAL RECOVERY SERVICE, INC.)
1701 West Charleston Boulevard)
Suite 110)
Las Vegas, Nevada 89102)
))
-and-)
))
NANCY FREEMAN)
411 Westridge Road)
Joliet, Illinois 60431)
individually and as an officer of)
Medical Recovery Service, Inc.,)
))
-and-)
))
MARC FREEMAN)
411 Westridge Road)
Joliet, Illinois 60431)
individually and as an officer of)
Medical Recovery Service, Inc.,)
))
Defendants.)
)

**COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF**

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

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act

relief, rescission of contracts, restitution, disgorgement, and other equitable relief to redress consumers for the injury resulting from defendants' deceptive 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 jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. § 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).

PLAINTIFF

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 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 in order to secure such equitable relief as may be appropriate in each case, and to obtain consumer redress. 15 U.S.C.

5. Defendant S&K Group, Inc. ("S&K") is a Missouri corporation with its principal office at 55 Westport Plaza, Suite 555, St. Louis, Missouri 63146. Defendant S&K incorporated in Missouri on August 22, 1994. Defendant S&K is a subsidiary of Shapiro, Kossmeyer & Flom PC, an accounting firm. Defendant S&K operates or has operated a branch office in Las Vegas, Nevada. At all relevant times, defendant S&K has transacted business in this district.

6. Defendant Shapiro, Kossmeyer & Flom PC ("S&K PC") is a Missouri professional corporation with its principal office at 12161 Lackland Road, St. Louis, Missouri 63146. Defendant S&K PC is an accounting firm formed in 1994. Defendant S&K PC owns 100 percent of the capital stock of defendant S&K. In advertisements, promotional literature and person-to-person sales pitches, defendants S&K and S&K PC represent that they are one and the same entity. Defendants S&K and S&K PC share a principal officer, Carl F. Kossmeyer. At all relevant times, defendant S&K PC has transacted business in this district.

7. Defendant Carl F. Kossmeyer ("Kossmeyer") is president of both defendant S&K and defendant S&K PC. Kossmeyer resides and transacts business in this district. Kossmeyer conducts S&K training sessions and takes overall responsibility for the operations of S&K. Kossmeyer has conducted the business of both S&K and S&K PC from his office at 12161 Lackland Road, St. Louis, Missouri.

8. Defendant Medical Recovery Service, Inc. ("MRS") is an Illinois corporation with its principal offices at 233 Springfield Avenue, Joliet, Illinois 60435, and 1701 West Charleston Boulevard, Suite 110, Las Vegas, Nevada 89102. Defendant MRS incorporated on November 30, 1995. Defendant MRS sometimes does business under the name "Medical Recovery Service Marketing." At all relevant times, defendant MRS has transacted business in this district.

9. Defendant Nancy Freeman is president of defendant MRS. She resides at 411 Westridge Road, Joliet, Illinois 60431. She conducts MRS training sessions and takes overall responsibility for the operations of MRS. At all relevant times, she has transacted business in this district.

10. Defendant Marc Freeman is the sole shareholder and director of defendant MRS and serves as its secretary and treasurer. He resides at 411 Westridge Road, Joliet Illinois 60431. At all relevant times, he has transacted business in this district. Nancy and Marc Freeman are husband and wife.

11. Defendant Richard C. Neiswonger ("Neiswonger") is a principal officer, executive vice president and/or general partner of defendant MRS. Neiswonger is or has been a principal officer, executive vice president and/or general partner of S&K. Neiswonger wholly owns, and sometimes does business under, the Missouri fictitious registration Marketing Systems, 111 Westport Plaza, Suite 1021, St. Louis, Missouri 63146. Neiswonger founded S&K with Kossmeyer in 1994. Neiswonger founded MRS with Nancy Freeman in 1995. Upon information and belief, Neiswonger continues to derive income from S&K. At all relevant times, Neiswonger has transacted business in this district.

COMMERCE

12. At all times relevant to this complaint, defendants have maintained a substantial course of trade in the offering for sale and sale of business training, training materials and support, in or affecting commerce, a "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' COURSE OF CONDUCT

13. Since at least 1993, defendants have marketed and sold business training courses and affiliations to consumers throughout the United States. Defendants S&K, S&K PC, Neiswonger and Kossmeyer (the "S&K defendants") sell a course and affiliation they market as "S&K Group." Defendants MRS, Neiswonger, Nancy Freeman and Marc Freeman (the "MRS defendants") sell a course and affiliation they market as "Medical Recovery Service." The courses and affiliations consist of a two-day training session, class manuals, computer software, a newsletter, a six-month (S&K) or one-year (MRS) period of support, and a national network of independent business consultants.

14. The S&K defendants offer consumers the opportunity to become business consultants, called "S&K associates," in two fields. The first field is capital acquisition, where the consultant applies for bank loans on behalf of clients and keeps a percentage of each loan as a fee. The second field is expense reduction, where the consultant helps clients identify areas where money could be saved and keeps a percentage of the savings as a fee. The S&K defendants represent to prospective purchasers that S&K associates earn client consulting fees from operating such a business, full-time or part-time, resulting in a six-figure income and/or a \$150,000 income from one or two projects per month. The price of the S&K training and association is \$12,900 payable by certified check at the beginning of the training session. S&K's president Carl F. Kossmeyer teaches the capital acquisition portion of the program.

15. The S&K defendants represent to consumers that S&K loses money on the

16. The MRS defendants offer consumers the opportunity to become business consultants, called "MRS affiliates," in the field of medical bill auditing. Consumers who purchase the MRS program attend a two-day training session in Joliet, Illinois, taught in whole or part by defendant Nancy Freeman, at the beginning of which they pay \$9,900. The MRS defendants represent to consumers that MRS affiliates earn doctor's income or a surgeon's income.

17. The MRS defendants represent to consumers that MRS works with affiliates on joint ventures, large projects on which MRS and an affiliate work together and split a large consulting fee. The MRS defendants represent to consumers that they need no business, medical, or other specialized background or experience in order to succeed as an MRS affiliate and that MRS affiliates easily attract clients.

18. Both MRS and S&K provide prospective purchasers with promotional literature, a videotape and a reference list. Defendants encourage consumers to telephone and speak with the references before making a purchase decision. Defendants represent to consumers that the persons in the literature, on the videotapes and on the reference lists are actual, typical MRS affiliates or S&K associates who paid for and attended the training session, are operating their own consulting businesses, are earning high incomes from consulting fees and are willing to share their success stories with prospective purchasers without compensation.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

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

COUNT ONE

20. Plaintiff realleges and incorporates the preceding paragraphs as if fully rewritten herein.

21. In numerous instances in connection with the advertising, promotion, marketing, offering for sale, or sale of business consultant training and affiliation, defendants have represented, directly or by implication, that consumers will earn a six-figure income, \$150,000 income, doctor's income or surgeon's income from client fees generated using defendants' programs.

22. In truth and in fact, in numerous instances MRS and S&K affiliates do not earn a six-figure income, a \$150,000 income, a doctor's income or a surgeon's income from client fees generated using defendants' programs, and in numerous instances do not recoup the \$9,900 or \$12,900 fee or generate any revenue.

23. Therefore, defendants' representations regarding affiliate income estimates as set forth in paragraph 21, above, were and 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

24. Plaintiff realleges and incorporates the preceding paragraphs as if fully rewritten herein.

25. In numerous instances in connection with the advertising, promotion, marketing, offering for sale, or sale of business consultant training and affiliation, defendants have represented, directly or by implication, that defendants work with consumers on joint ventures

26. In truth and in fact, defendants do not work with consumers on joint ventures or split large consulting fees on joint ventures with consumers.

27. Therefore, defendants' representations regarding joint ventures, as set forth in paragraph 25 above, were and 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. Plaintiff realleges and incorporates the preceding paragraphs as if fully rewritten herein.

29. In numerous instances in connection with the advertising, promotion, marketing, offering for sale, or sale of business consultant training and affiliation, defendants have represented, directly or by implication, that defendants' references have purchased one of the defendants' business ventures, or will provide reliable descriptions of the references' experiences with defendants' business ventures.

30. In truth and in fact, in numerous instances, the defendants' references have not purchased one of the defendants' business ventures, and will not provide reliable descriptions of the references' experiences with defendants' business ventures.

31. Therefore, defendants' representations regarding joint ventures, as set forth in paragraph 29 above, were and are, false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.

CONSUMER INJURY

32. Consumers in many areas of the United States have suffered substantial monetary loss as a result of defendants' unlawful acts or practices. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

33. Section 13(b) of the FTC Act, 15 U.S.C.

- (2) permanently enjoin defendants from violating the FTC Act;
- (3) award such relief as this Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act, including, but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- (4) award plaintiff the costs of bringing this action, as well as such other and additional relief as this Court may determine to be just and proper.

STEPHEN CALKINS
General Counsel

Virginia A. Davidson (0025773)
Gerald C. Zeman (0055386)
Larissa L. Bungo (0066148)
Federal Trade Commission
Cleveland Regional Office
668 Euclid Avenue, Suite 520-A
Cleveland, Ohio 44114-3006
(216) 522-4210

Attorneys for Plaintiff