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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

FEDERAL TRADE COMMISSION,

Plaintiff,

Civ. No.

v.

PROGRESSIVE MEDIA, INC., COLLEGIATE
COMMUNICATIONS GROUP, INC.,
MATTHEW G. LUCAS, KEVIN
LUSTGARTEN and MARK BUCHAN,

COMPLAINT FOR

Defendants.

FEDERAL TRADE COMMISSION
915 Second Ave., Su. 2806
Seattle, Washington 98174
(206) 220-6350

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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 may be appropriate in each case, including consumer restitution and disgorgement. 15 U.S.C. § 53(b).

5. Defendant Progressive Media, Inc. ("PMI"), d/b/a Alaska Employment Services, Student Employment Services, Aztec Group, Cruise Employment Services, International Employment Group, Vertical Employment Group, Resort Employment Services, Casino Employment Group and Student Financial Services, is a Washington corporation with its office and principal place of business at 3513 NE 45th Street, Seattle, Washington. PMI transacts business in the Western District of Washington through the marketing and sale of employment opportunity and scholarship programs to consumers throughout the United States.

6. Defendant Collegiate Communications Group, Inc. ("CCGI") is a Washington corporation with its registered agent's office located at 1501 Fourth Avenue, #2600, Seattle, Washington. CCGI transacts business in the Western District of Washington through the dissemination of advertisements for employment and scholarship programs to consumers throughout the United States.

7. Defendant Matthew Lucas ("Lucas") is a co-founder and director of PMI and PMI's president, treasurer and co-owner. Individually, or in concert with others, Lucas formulates, directs, controls or participates in the acts and practices of PMI alleged below. He resides and transacts business in the Western District of Washington.

8. Defendant Kevin Lustgarten ("Lustgarten") is a director of PMI and PMI's vice-president and secretary. Individually, or in concert with others, Lustgarten formulates, directs, controls or participates in the acts and practices of PMI alleged below. He resides and transacts business in the Western District of Washington.

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9. Defendant MarkBuchan ("Buchan") is the president and chairman of the board of directors of CCGI and aco-owner andco-founder of PMI. From 1987 to at least November 1993, Buchan was the president and a member of the board of directors of PMI. Individually, or in concert with others,Buchan formulates, directs, controls or participates in the acts and practices of CCGI alleged below. He resides and transacts business in the Western District of Washington.

COMMERCE

10. At all times relevant to this complaint, defendants have maintained a substantial course of trade in or affecting commerce, a"commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS COURSE OF CONDUCT

11. Since at least 1987, and continuing thereafter, defendants LucasJustgarten and Buchan, through PMI, doing business under various names, and later through PMI and CCGI, have disseminated or caused the dissemination of advertisements offering consumers employment in the Alaskan fishing industry. Since at least 1992, defendants LucasJustgarten andBuchan, through PMI, and later through PMI and CCGI, also have disseminated or caused the dissemination of advertisements offering consumers employment in the cruise ship industry, as well as offering them thousands of dollars worth of free grants and scholarships for college in other advertisements. These advertisements appear in the"Help Wanted" sections of college newspapers; the"Help Wanted" sections of the classified advertisements of national publications such as *Rolling Stone* and *Entertainment Weekly*magazines; are printed on postcards that defendant CCGI packages and mails to college bookstores for insertion instudents' bookbags with their purchases; and are printed on flyers that are posted on college bulletin boards across the United States.

12. PMI's advertisements for cruise ship employment promise consumers that they can earn \$2000 or more each month working on cruise ships or for land tour companies that are

1 currently hiring. PMI's advertisements state that particular types of full-time or seasonal jobs are
2 available that require no experience or special qualifications.

3 13. Typical statements made in PMI's advertisements for employment on cruise ships
4 or with land tour companies include, but are not limited to, the following:

- 5 A. GET A CRUISE JOB! Earn up to \$2000+ a month.
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1 18. Consumers calling the numbers listed in PMI's advertisements speak with a PMI
2 sales representative regarding the particular "program" in which they are interested. The PMI
3 sales representative then describes the particular "program" advertised and invites callers to enroll.
4 Callers interested in the cruise or Alaska employment "programs" are told that the fee for
5 enrolling is \$49.95. Callers interested in the scholarship search "program" are told that the
6 enrollment fee is \$69.95.

7 19. During the telephone sales pitch for employment on a cruise ship, PMI's sales
8 representatives typically represent to callers that they are likely to earn \$2000 to \$3000 or more a
9 month working for a cruise ship or \$5000 to \$7000 for the summer working for a land tour
10 company. Callers are further told that the companies will provide free meals, housing and
11 transportation to the various ports of call and that particular types of full-time or seasonal jobs,
12 including but not limited to, casino dealer, bartender, activity director and other customer service
13 jobs are available, regardless of level of experience or qualification. PMI's representatives tell
14 callers that if they do not find the job of their choice on a cruise ship or with a land tour company
15 through PMI's "
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24. Contrary to defendants' representations, billions of dollars of scholarships and grants from private and independent organizations is not available to most students, consumers are not likely to receive unclaimed free scholarships or grants regardless of grades, income or family income, and PMI does not guarantee students free scholarships or grants under the represented terms. In fact, students who enroll in PMI's "program" receive only paperback books listing the names of various private and independent organizations, along with some tips for

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DEFENDANTS

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1 33. In truth and in fact, consumers who pay the fee to PMI are not enrolled in a
2 program through which they will obtain an actual job paying \$2000 to \$3000 or more a month
3 working for a cruise ship, \$5000 to \$7000 or more a summer working for a land tour company or
4 \$3000 to \$6000 or more a month working in the Alaskan fishing industry, regardless of level of
5 experience or qualifications.

6 34. Through the use of the statements referred to in Paragraphs 13, 15, 19 and 21, and
7 others not specifically set forth herein, defendants have represented, directly or by implication,
8 that consumers who pay the fee to PMI are likely to obtain certain types of jobs on cruise ships or
9 in the Alaskan fishing industry that provide various benefits, including but not limited to, free or
10 low-cost housing, free meals and transportation.

11 35. In truth and in fact, consumers who pay the fee to PMI are not likely to obtain
12 those certain types of jobs on cruise ships or in the Alaskan fishing industry that provide various
13 benefits, including but not limited to, free or low-cost housing, free meals and transportation.

14 36. Therefore, defendants' representations as set forth above are false and misleading
15 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
16 45(a).

17 **COUNT II**

18 37. Paragraphs 1 through 36 are incorporated herein by reference.

19 38. Through the use of statements in Paragraphs 17 and 23, and others not specifically
20 set forth herein, defendants have represented, directly or by implication, that consumers who pay
21 the fee for PMI's scholarship "program" are likely to receive at least \$500 to \$2500 in
22 scholarships or grants regardless of their grades, income or family income.

23 39. In truth and in fact, consumers who pay the fee for PMI's scholarship "program"
24 are not likely to receive at least \$500 to \$2500 in scholarships or grants regardless of their grades,
25 income or family income.

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1 consumers who pay the fee to PMI will be enrolled in a program through which they will obtain
2 thousands of dollars in free scholarships or grants, regardless of grades, income or family income.

3 41. In truth and in fact, consumers who pay the fee to PMI are not enrolled in a
4 program through which they will obtain thousands of dollars in free scholarships or grants,
5 regardless of grades, income or family income.

6 42. Through the use of statements referred to in Paragraphs 17 and 23, and others not
7 specifically set forth herein, defendants have represented, directly or by implication, that billions of
8 dollars of unclaimed scholarship and grant money are available to consumers through private and
9 independent organizations, regardless of grades, income or family income.

10 43. In truth and in fact, billions of dollars of unclaimed scholarship and grant money
11 are not available to consumers through private and independent organizations, regardless of
12 grades, income or family income.

13 44. Therefore, defendants' representations as set forth above are false and misleading
14 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
15 45(a).

16 **COUNT III**

17 45. Paragraphs 1 through 44 are incorporated herein by reference.

18 46. Through the use of statements in Paragraphs 17, 19, 21 and 23, and others not
19 specifically set forth herein, defendants have represented, directly or by implication that PMI will
20 promptly refund its fee to consumers who enroll in one of PMI's "programs" and do not obtain
21 their job of choice or at least \$300 in scholarships or grants within twelve months.

22 47. In truth and in fact, in numerous instances, PMI does not promptly refund its fee to
23 consumers who enroll in one of PMI's "programs" and do not obtain their job of choice or at least
24 \$300 in scholarships or grants within twelve months.

25 48. Therefore, defendants' representations as set forth above are false and misleading
26 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
27 45(a).

INJURY

1 49. Defendants' violations of Section 5 of the FTC Act, as set forth above, have
2 caused and continue to cause substantial injury to consumers. Absent injunctive relief by this
3 Court, defendants are likely to continue to injure consumers.
4

THIS COURTS POWER TO GRANT RELIEF

5
6 50. Section 13(b) of the FTC Act, 15 U.S.C§ 53(b), empowers this Court to issue a
7 permanent injunction against defendants' violations of the FTC Act, and, in the exercise of its
8 equitable jurisdiction, to order such ancillary relief as preliminary injunction, rescission,
9 restitution, disgorgement of profits resulting from defendants' unlawful acts or practices, and
10 other remedial measures.
11

PRAYER FOR RELIEF

12
13 WHEREFORE the Commission respectfully requests that this Court, as authorized by
14 15 U.S.C. § 53(b) and pursuant to its own equitable powers:

- 15 (1) Award the Commission such temporary and preliminary injunctive and
16 ancillary relief, including but not limited to temporary and preliminary
17 injunctions and an order freezing assets, as may be necessary to avert the
18 likelihood of injury to consumers who enroll in defendants' employment
19 and scholarship programs during the pendency of this action, and to
20 preserve the possibility of effective final relief;
- 21 (2) Permanently enjoin defendants from violating Section 5(a) of the FTC Act
22 as alleged in this Complaint;
- 23 (3) Award all such relief as the Court finds necessary to remedy the
24 defendants' violations of Section 5(a) of the FTC Act including, but not
25 limited to, rescission of contracts, the refund of monies paid and the
26 disgorgement of ill-gotten gains; and
- 27 (4) Award the Commission the costs of bringing this action, as well as any
28 other equitable relief that the Court may determine to be proper and just.

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DATED: _____, 1996.

Respectfully submitted,

STEPHEN CALKINS
General Counsel

CHARLES A. HARWOOD
Regional Director

Joe Lipinsky

Nadine S. Samter

ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION

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