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9 ATTORNEYS FOR PLAINTIFF

10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF ARIZONA

12  
13 FEDERAL TRADE COMMISSION, )

CV

14 Plaintiff, )

15 v. )

COMPLAINT FOR  
INJUNCTION AND  
OTHER EQUITABLE  
RELIEF

16 CROOKED OAK INVESTMENTS, INC.; D.H.I. )  
CORPORATION; HANDICAPPED INDUSTRIES )  
17 MIDWEST, INC.; HANDICAPPED INDUSTRIES )  
NORTHWEST, INC.; HANDICAPPED )  
18 INDUSTRIES SOUTHEAST, INC.; LIGHTNING )  
TREE, INC.; THE RIGHT PATH, INC.; )  
19 STONE FULFILLMENT & SHIPPING COMPANY )  
a Delaware corporation; corporations )  
20 dba HANDICAPPED INDUSTRIES; )  
DISADVANTAGED AND HANDICAPPED )  
21 INDUSTRIES, CORP.; JOBS FOR THE )  
DISADVANTAGED; WORKSHOP FOR THE )  
22 DISADVANTAGED; RELIABLE HANDICAPPED )  
WORKERS; BRUCE HOLLEY, INC.; B.H. )  
23 INDUSTRIES; T.J. BEARD, INC.; and )  
TERRY JEFF BEARD; CHRISTOPHER JAY )  
24 COTTET; BENJAMIN WADE HOLLEY; BRUCE )  
EDWARD HOLLEY; ROBERT JOSEPH HOLLEY; )  
25 and JOANN PORTER; individuals; )

26 Defendants. )  
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1 Plaintiff, the Federal Trade Commission ("Commission"),  
2 by its undersigned attorneys, alleges as follows:

3 1. This is an action under Section 13(b) of the  
4 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b),  
5 to secure a permanent injunction and other equitable relief,  
6 including rescission, restitution and disgorgement, and  
7 other equitable relief for defendants' acts or practices in  
8 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

9 **JURISDICTION AND VENUE**

10 2. This Court has subject matter jurisdiction over  
11 plaintiff's claim pursuant to 28 U.S.C. §§ 1331, 1337(a),  
12 and 1345, and under 15 U.S.C. §§ 45(a) and 53(b).

13 3. Venue in this district is proper pursuant to 28  
14 U.S.C. § 1391(b) & (c), as well as 15 U.S.C. § 53(b).

15 **THE PARTIES**

16 4. Plaintiff, the Federal Trade Commission, is an  
17 independent agency of the United States Government created  
18 by statute. 15 U.S.C. §§ 41, et seq. The Commission is  
19 charged, inter alia, with the enforcement of Section 5(a) of  
20 the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or  
21 deceptive acts or practices in or affecting commerce. The  
22 Commission is authorized, by its own attorneys, to initiate  
23 federal district court proceedings to enjoin violations of  
24 the FTC Act and to secure such equitable relief, including  
25 consumer redress, as may be appropriate in each case. 15  
26 U.S.C. § 53(b).

27 5. The defendants and other participants in the  
28 activities described hereafter are sometimes be referred to

1 collectively as "Handicapped Industries," "the Handicapped  
2 Industries enterprise," or "the enterprise."

3 6. Defendant CROOKED OAK INVESTMENTS, INC. ("Crooked  
4 Oak"), is a corporation organized, existing and doing  
5 business under and by virtue of the laws of the State of  
6 Arizona. Its principal offices and places of business are  
7 2200 West San Angelo, Unit 3026, Gilbert, Arizona, and 640  
8 South River Drive, Tempe, Arizona. At all times relevant to  
9 this complaint Crooked Oak has transacted business in this  
10 district.

11 7. Defendants HANDICAPPED INDUSTRIES MIDWEST, INC.  
12 ("HI Midwest"), HANDICAPPED INDUSTRIES NORTHWEST, INC. ("HI  
13 Northwest"), and HANDICAPPED INDUSTRIES SOUTHEAST, INC. ("HI  
14 Southeast"), are corporations organized, existing and doing  
15 business under and by virtue of the laws of the State of  
16 Arizona. Their principal offices and places of business are  
17 640 South River Drive, Tempe, Arizona. At all times  
18 relevant to this complaint, HI Midwest, HI Northwest, and HI  
19 Southeast have transacted business in this district.

20 8. Defendant LIGHTNING TREE, INC. ("Lightning Tree"),  
21 is a corporation organized, existing and doing business  
22 under and by virtue of the laws of the State of Arizona.  
23 Its principal office and place of business is 640 South  
24 River Drive, Tempe, Arizona. At all times relevant to this  
25 complaint, Lightning Tree has transacted and continues to  
26 transact business in this district.

27 9. Defendant D.H.I. Corporation ("DHI"), is a  
28 corporation organized, existing, and doing business under

1 and by virtue of the laws of the State of Arizona. Its  
2 principal offices and places of business are 1321 E. Orange,  
3 Tempe, Arizona, and 640 South River Drive, Tempe, Arizona.  
4 At all times relevant to this complaint, DHI has transacted  
5 business in this district.

6 10. Defendant THE RIGHT PATH, INC. ("The Right Path"),  
7 is a corporation organized, existing, and doing business  
8 under and by virtue of the laws of the State of Arizona.  
9 Its principal office and place of business is 640 S. River  
10 Drive, Tempe, Arizona. At all times relevant to this  
11 complaint, The Right Path has transacted business in this  
12 district.

13 11. Defendant STONE FULFILLMENT & SHIPPING COMPANY  
14 ("Stone Fulfillment") is a corporation organized, existing,  
15 and doing business under and by virtue of the laws of the  
16 State of Delaware. Its principal office and place of  
17 business is 640 River Drive, Tempe, Arizona. At all times  
18 relevant to this complaint, Stone Fulfillment has transacted  
19 and continues to transact business in this district.

20 12. Defendant Terry Jeff Beard individually or in  
21 concert with others formulates, directs, and controls the  
22 acts and practices of the Handicapped Industries enterprise  
23 as set forth herein. He is an officer of defendant HI  
24 Midwest and has held officer and director positions with  
25 defendants HI Northwest and HI Southeast. At all times  
26 relevant to this complaint, he has resided and transacted  
27 business in this district.

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13. Defendant Christopher Jay Cottet individually or in

1 relevant to this complaint, he has resided and transacted  
2 business in this district.

3 17. Defendant JoAnn Porter individually or in concert  
4 with others formulates, directs, and controls the acts and  
5 practices of the Handicapped Industries enterprise as set  
6 forth herein. She holds officer and director positions with  
7 defendant Crooked Oak. At all times relevant to this  
8 complaint, she has transacted business in this district.  
9 From time to time, she has also resided in this district.

10 18. At all times relevant to the complaint, the  
11 individual defendants and corporate defendants Crooked Oak,  
12 HI Midwest, HI Northwest, HI Southeast, Lightning Tree, DHI,  
13 The Right Path, and Stone Fulfillment, and other persons,  
14 partnerships, corporations or business entities have used  
15 one or more of the following names or dbas in connection  
16 with the Handicapped Industries enterprise: Handicapped  
17 Industries; Disadvantaged and Handicapped Industries, Corp.;  
18 Jobs for the Disadvantaged; Workshop for the Disadvantaged;  
19 Reliable Handicapped Workers; T. J. Beard, Inc.; Bruce  
20 Holly, Inc.; and BH Industries.

21 COMMERCE

22 19. At all times relevant to this complaint,  
23 defendants' course of business, including the acts and  
24 practices alleged herein, has been and is in or affecting  
25 commerce, as "commerce" is defined in Section 4 of the FTC  
26 Act, 15 U.S.C. § 44.

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DEFENDANTS' BUSINESS PRACTICES

1  
2           20. Since at least January 1, 1994, and continuing  
3 thereafter, defendants have maintained a substantial course  
4 of trade in telemarketing household goods, such as light  
5 bulbs, garbage bags, and room fresheners to consumers across  
6 the country. Operating out of telemarketing offices in  
7 Arizona, Colorado, Louisiana, Oklahoma, and Texas,  
8 defendants' telemarketers place calls to consumers  
9 throughout the United States.

10           21. Handicapped Industries' telemarketers identify  
11 themselves as working for Handicapped Industries or a  
12 similarly named company that often conjures up images of  
13 handicapped and disabled workers. The telemarketers  
14 represent that they have a handicap or disability, and that  
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1           23. Once the order has been taken, consumers receive a  
2 "verification" call from a Handicapped Industries  
3 representative. If the purchase is verified, the product is  
4 shipped to consumers from a company warehouse. The delivery  
5 package contains an invoice, which consumers pay by sending  
6 a check to a Handicapped Industries maintained post office  
7 box.

8                           VIOLATION OF SECTION 5 OF THE FTC ACT

9   COUNT ONE

10           24. In numerous instances, in the course of their  
11 business as described above, defendants represent to  
12 consumers, expressly or by implication, that:

- 13                   1. all or most persons employed by Handicapped  
14                           Industries are handicapped or disabled, and  
15                   2. the purchase of goods from Handicapped  
16                           Industries will benefit such employees.

17           25. In truth and in fact:

- 18                   1. there are few if any handicapped or disabled  
19                           persons employed by Handicapped Industries;  
20                           and  
21                   2. the purchase of goods from Handicapped  
22                           Industries does not benefit such employees.

23           26. Therefore, defendants' representation as alleged in  
24 Paragraph 24, was, and is, false and misleading and  
25 constitutes a deceptive act or practice in violation of  
26 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).



INJURY

27. Consumers have in fact been injured by defendants' violations of Section 5(a) of the FTC Act. Defendants' misrepresentations have misled consumers and induced them to pay supra-competitive prices for defendants' household products in the belief that by purchasing these products consumers are helping the enterprises' numerous handicapped and disabled employees. For the reasons set forth above,

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1 (b) Award such permanent relief as the Court finds  
2 necessary to redress injury to defendants' customers

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