UNITED STATES DISTRICT COURT SEp 84 2pgg FOR THE SOUTHERN DISTRICT OF FLORIDA

FEDERAL TRADE COMMISSION, I Plaintiff,

PLATINUM HEALTH PLUS, LLC;
MARKETING, LLC; TELEMEDIA,
MICHAEL P. GARCIA; and ALEXANDER
R. GARCIA,
Defendants. I

COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:
1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act
("FTC Act"), 15 U.S.C. $ 53(b), to obtain permanent injunctive relief, restitution, rescission or reformation of contracts, disgorgement, and other equitable relief for defendants' 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 subject matter jurisdiction pursuant to 15 U.S.C. $5 45(a), and 53(b), and
28 U.S.C. $9 1331, 1337(a), and 1345.
3. Venue in the Southern District of Florida is proper under 28 U.S.C $5 1391(b) and (c),
and 15 U.S.C. $ 53(b).

PLAINTIFF

4. Plaintiff is an independent agency of the United States Government created by statute.
15 U.S.C. 4$ 41-58, as amended. The FTC is charged, inter nlin, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. 4 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is authorized to initiate federal district court proceedings, hy its own attorneys, to enjoin violations of the FTC Act, and to secure such equitable relief as may be appropriate in each

FEDERAL TRADE COMMISSION
915 Second Ave., Su. 2896

Seattle, Washington 98174 COMPLAINT - Page 1 (206) 220-6350

COMMERCE

10. At all times relevant to this Complaint, defendants have maintained a substantial

sales representatives repeated theT claims made 16. COMPLAINT6When consumers called in response to Platinum8televisionTadvertisements, defendants Many consumers who were reluctant to enrollTwithout knowing more about Page 5B (206) 220-63506

guarantee. Platinum, however, did not provide an unconditional money back guarantee. The Platinum money back guarantee required the consumer to use the program once within the first thirty days to qualify for a refund.
17. Advertisements that ran through April 2004 did not reference the Platinum refund
policy. In May 2004, however, some Platinum television advertisements began touting the Platinum "exc1~sive guarantee." For example, one advertisement that ran nationwide beginning in May 2004, stated (in Spanish), "With the exclusive Platinum Health Plus guarantee, you can become a member today without any risk." Appearing at the same time as the audio statement of "no risk," is text disclosing the actual refund policy in small font sandwiched between two prominent statements, "EXCLUSIVE GUARANTEE," and "Sign up Today Without Any Risk!" "Exclusive Guarantee," and "Sign Up Today Without Any Risk" appear in much larger font than the rest of the refund policy disclosure, and the "no risk statement is in a bright highly visible color. The "no risk" text remains on
the screen after the rest of the disclosure is off screen. The "no risk" claims are reasonably understood
as express claims of an unconditional money back guarantee. Such express claims are not disclaimed
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II 20. In numerous instances, in connection with the marketing of the Platinum program,
/I defendants have represented, expressly or by implication, that:
a. Platinum is an insurance plan;
b. Platinum has an unconditional 30-day money back guarantee.

II 2 1. In truth and in fact:
II a. Platinum is not an insurance plan; I
b. Platinum did not have an unconditional 30-day money back guarantee. 'I/
22. Therefore, the representations set forth in Paragraph 20 are false and misleading and
constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. $45(a). COUNT TWO

23. In numerous instances, in connection with the marketing of the Platinum program,
defendants failed adequately to disclose that in order to obtain a refund consumers must pay a participating provider for services rendered under the Platinum program within the first 30 days of activating their memberships.
24. In light of the misrepresentation set forth in Paragraph 20.b, the failure to disclose the
condition set forth in Paragraph 23 is a material omission and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. 4 45(a).

COMMON ENTERPRISE

25. Defendants have operated as a common business enterprise while engaging in the
deceptive acts and practices alleged above.
CONSUMER INJURY

26. Consumers throughous2 Tm�(25.)Tr3u <</MCID 23 >>BD�(25.)Tr3u <<2.5597 318.0004'318

jurisdiction, to order such ancillary relief as rescission, restitution, and disgorgement of protits resulting from defendants' unlawhl acts or practices.
28. This Court, in the exercise of its equitable jurisdiction may award other ancillary relief
to remedy injury caused by defendants' law violations.
PRAYER FOR RELIEF

I WHEREFORE, plaintiff pursuant to Sections 13(b) of the FTC Act, 1.5 U.S.C. 5 53(b) and the Court's own equitable powers, requests that the Court:
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t a. Permanently enjoin the defendants from violating the FTC Act, as alleged
1 herein;
1 b. Award such relief as the Court finds necessary to redress injury to consumers
I resulting from defendants' violations of the FTC Act including, but not limited
? to refund of monies paid; and
3 c. Award plaintiff the costs of bringing this action, as well as such other and
4 additional relief as the Court may determine to be just and proper.

Respectfully Submitted,
WILLIAM BLUMENTHAL

KIAL S. YOUNG
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the as I 4 4 finds