

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

COMMISSIONERS: Jon Leibowitz, Chairman
J. Thomas Rosch
Edith Ramirez
Julie Brill
Maureen K. Ohlhausen

In the Matter of)

) DOCKET NO. C-4379

CAREPATROL, INC.,)
a corporation.)
_____)

DECISION AND ORDER

The Federal Trade Commission, having initiated an investigation of certain acts and practices of the respondent named in the caption hereof, and the respondent having been furnished the aforesaid draft of a Complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued, would charge the respondent with violation of the Federal Trade Commission Act; and

The respondent and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondent of all the jurisdictional facts set forth in the aforesaid draft complaint, a statement that the signing of the agreement is for settlement purposes only and does not constitute an admission by the respondent.

1. Respondent CapPatrol is an Arizona corporation with its principal office or place of business at 625 N. Gilbert Rd., Ste. 200, Gilbert, Arizona 85234.

2. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondent, and the proceeding is in the public interest.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. Unless otherwise specified, "respondent" shall mean CapPatrol, Inc., its successors and assigns, and its officers, agents, representatives, and employees.

2. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.

3. "Covered service" shall mean any service involving placements in an assisted living facility.

4. "Assisted living facility," or "ALF" shall mean any congregate residential setting which provides housing for persons sixty (60) years or older, as well as assistance in activities of daily living (e.g., bathing and dressing) and medication administration. The definition includes residential facilities for the elderly ("RCFEs"), as well as any other facilities which perform the functions of ALFs or RCFEs, but excludes facilities which are state licensed skilled nursing facilities.

5. "State survey" shall mean a state inspection report for an assisted living facility which describes or evaluates the facility's performance, including any violations of applicable state statutes and regulations.

I. Prohibited Misrepresentations; Substantiation

A. IT IS ORDERED that respondent, directly or through any corporation, subsidiary, division, franchisee or other device, in connection with the advertising, promotion, offering for sale, or sale of any covered service in or affecting commerce, shall not represent in any manner directly or indirectly, expressly or by implication, that:

1. It or its franchisees monitor or evaluate the are history or state violations of any number, portion, or percentage of assisted living facilities in a consumer's desired location;

2. It or its franchisees provide their services through officers, agents, employees, and/or contractors who are located in any geographic area of the United States; or
3. It or its franchisees evaluate assisted living facilities based on a review of information, including state surveys, or any other records detailing the performances of these facilities,

unless the representation is non-misleading and, at the time it is made, respondent possesses and relies upon competent and reliable evidence that, when considered in light of the entire body of relevant evidence, substantiates that the representation is true.

Provided, however that any permitted claim in connection with Part A.3, above shall be based on the most recent inspection record of an assisted living facility.

B. IT IS FURTHER ORDERED that respondent, directly or through any corporation, subsidiary division, franchisee or other device, in connection with the advertising, promotion, offering for sale, or sale of any covered service in or affecting commerce, shall not make any representation about its placement services in any manner, directly or indirectly, expressly or by implication, unless the representation is non-misleading and, at the time it is made, respondent possesses and relies upon competent and reliable evidence that, when considered in light of the entire body of relevant evidence, substantiates that the representation is true.

II. Records

IT IS FURTHER ORDERED that respondent CarePatrol, Inc., and its successors and assigns, shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All reports, studies, surveys, demonstrations, or other evidence in its possession or control that contradict, qualify, or call into question the representation, or the basis relied upon of the representation, including complaints and other communications with consumers with governmental or consumer protection organizations.

III. Acknowledgments

IT IS FURTHER ORDERED that respondent CarePatrol, Inc., and its successors and assigns, shall deliver a copy of this order to all current and future principals, members, officers, directors, and managers, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order and shall save from each

such person a signed and dated statement acknowledging receipt of the order. Respondent CarePatrol, Inc., and its successors and assigns shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondent shall maintain and upon request make available to the Federal Trade Commission for inspection and copying all acknowledgments of receipt of this order obtained pursuant to this Part.

IV. Notices

IT IS FURTHER ORDERED that respondent CarePatrol, Inc., and its successors and assigns, shall notify the Commission at least thirty (30) days prior to any change in the corporation or any business entity that it directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this order including the formation of a new business entity; a dissolution, assignment, sale, merger or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this order; the proposing of a bankruptcy petition; or a change in the corporate name or address. Provided, however, that, with respect to any proposed change in the corporation about which respondent learns less than thirty (30) days prior to the date such action is to take place, respondent shall notify the Commission as soon as is practicable after obtaining such knowledge.

Unless otherwise directed by a representative of the Commission in writing, all notices required by this Part shall be emailed to Debrief@ftc.gov or sent by overnight courier (not the U.S. Postal Service) to: Associate Director for Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580. The subject line must begin "CarePatrol, Inc., File No. 1123155."

V. Reports

IT IS FURTHER ORDERED that respondent CarePatrol, Inc., and its successors and assigns, within sixty (60) days after the date of service of this order, shall file with the Commission a true and accurate report, in writing, setting forth in detail the manner and form of its own compliance with this order. Within ten (10) days of receipt of written notice from a representative of the Commission, respondent shall submit additional true and accurate written reports.

VI. Sunset

This order will terminate on December 3, 2032, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order whichever comes later; provided, however, that the filing of such a complaint will not affect the duration of:

- A. Any Part of this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided, further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling or the date such dismissal or ruling is upheld on appeal.

By the Commission.

Donald S. Clark
Secretary

SEAL:
ISSUED: December 3, 2012