

DEFENDANTS

5. Defendant Electronic Medical Billing, Inc. ("EMB"), a Nevada corporation with its principal place of business at 28752 Marguerite Parkway, Suite 19, Mission Viejo, California 92692, promotes and sells work-at-home medical billing employment opportunities. EMB also does business as EMB Marketing and EMB Inc. EMB transacts or has transacted business in the Central District of California.

6. Defendant Esoft Caducei, Inc. ("Esoft"), a Nevada corporation with its principal place of business at 28752 Marguerite Parkway, Suite 19, Mission Viejo, California 92692, promotes and sells work-at-home medical billing employment opportunities. Esoft transacts or has transacted business in the Central District of California.

7. Defendant John C. Moore is an officer or director of, and does business as, EMB and Esoft. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. Defendant Moore resides and transacts business in the Central District of California.

8. Defendant David L. Miller is an officer or director of, and does business as, EMB. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of the EMB, including the acts and practices set forth in this complaint. Defendant Miller resides and transacts business in the Central District of California.

COMMERCE

9. At all times relevant to this complaint, defendants have maintained a substantial course of business in the offering for sale and sale of medical billing employment opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS PRACTICES

10. Since at least 1999, defendants have offered and sold work-at-home medical billing employment opportunities to consumers throughout the United States. Defendants have promoted their medical billing employment opportunities to prospective purchasers in a variety of media, including classified advertisements in newspapers and on the Internet.

11. In their advertisements, which are often placed in the employment section of newspapers, defendants offer medical billing jobs that will pay between \$25,000-\$50,000 per year, thereby making representations about the earnings potential of the work-at-home medical billing employment opportunity. Defendants' classified advertisements typically state:

DATA ENTRY. Expanding company needs medical billing assistance immediately. If you have a PC earn \$25,000-\$50,000. Call 1-800-291-4683 X200.

12. Defendants also advertise their medical billing employment opportunity on their Internet web site, www.esoftbilling.com. On the web site, defendants claim that the medical industry is in need of medical billers, and that the trend is for doctors to outsource their medical billing work. Defendants state that "Entrepreneur Magazine's Small Business Development Catalog" rates medical claims processing third on its list of the 25 hottest businesses. Defendants advise consumers that federal and state agencies have issued official statements mandating that physicians currently processing paper claims will need to switch to electronic claims processing in 2002 to avoid incurring penalties. EMB claims it has invested enormous time and effort in creating a database of 400,000 doctors still filing paper medical insurance claims. Defendants' web site urges consumers to contact defendants to learn more about the opportunity.

13. Consumers who call defendants' toll-free telephone number are ultimately connected to defendants, or their employees or agents, who represent to consumers that in exchange for a payment of \$325, consumers will receive everything they need to get started in medical billing,

including: (1) contact information for physicians who are in need of outside medical billing work; (2) the computer software necessary to do electronic claims processing for physicians; and (3) training, technical support, and other assistance.

14. Defendants also make representations about the earnings potential of the medical billing employment opportunity. For example, defendants claim that consumers can expect to start processing 100 to 200 claims per week for one medical provider and that they they will be paid at a rate of \$4 to \$6 per claim, thus earning at least \$400 to \$600 per week. Accordingly, the minimum income defendants promise consumers is between \$20,000 to \$31,000 per year.

15. When consumers receive defendants' medical billing package, it includes solicitation brochures consumers are to send to prospective doctors and a CD, which contains a tutorial, certification test, medical billing software, and a list containing contact information for physicians allegedly in need of medical billing assistance.

16. When consumers attempt to contact the physicians on the list provided by defendants, consumers find that the contact information is inaccurate and/or that the physicians neither want nor need medical billing services.

17. When consumers call defendants to complain or to obtain the assistance defendants promised, they often cannot reach a live representative or are asked to leave their names and numbers. When defendants do return the consumers' calls, they do not provide the promised assistance.

18. Few, if any, consumers who purchase defendants' medical billing employment opportunity earn, or will earn, any income.

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 and practices in or affecting commerce.

COUNT I

20. In numerous instances, in the course of offering for sale and selling their medical billing employment opportunities, defendants or their employees or agents have represented, expressly or by implication, that defendants will furnish the names and addresses of physicians who are

§ 45(a).

CONSUMER INJURY

26. 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

27. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement and restitution, to prevent and remedy any violations of any provision of law enforced by the Commission.

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

WHEREFORE, plaintiff the Federal Trade Commission, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, requests that the Court:

1. Award plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief;
2. Permanently enjoin defendants from violating the FTC Act as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act including, but not limited to, rescission or reformation of contracts, restitution, 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 the Court may determine to be just and proper.

DATED: _____, 2002

Respectfully Submitted,

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