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UNITED STATES DISTRICT COURT FOR THE

MIDDLE DISTRICT OF PENNSYLVANIA

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TOWER CLEANING SYSTEMS, INC.,

a corporation, and
DAVID A. GANSKY, individually and as an

officer and director ofthe corporation,

Defendants.

COMPLAINT FOR PERMANENT INJUNCTION

AND OTHER EQUITABLE RELIEF
Plaintiff, the Federal Trade Commission (“FTC” or “the Commission’), for its complaint

alleges:

1. Plaintiff brings this action under Sections 13(b) and 19 of the Federal Trade

Commission Act (“FTC Act”), 15 U.S.C. § 53(b) and 5Th, to secure a permanent injunction and

to obtain consumer redress, rescission or reformation of contracts, disgorgement, and other

) FEDERAL TRADE COMMISSION,)

) Plaintiff,)

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V.) Civil Action No. yG1O (22)

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CV-96-1521

equitable relief for defendants unfair or deceptive acts or practices in violation of Section 5(a) of

the FTC Act, and the Commissions Trade RegulatioriRule entitled “Disclosure Requirements

and Prohibitions Concerning Franchising and Business Opportunity Ventures (“the Franchise

Rule’), 16 C.F.R, Part 436.
JURISDICTION AND VENUE
2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1331,

1337(a), and 1345, and 15 U.S.C. §sS 53(b) and 57b. This action arises under 15 U.S.C.

§ 45(a)(1).

3. Venue in the United States District Court for the Middle District of Pennsylvania

is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

PLAINTIFF

4. Plaintiff, the FTC, is an independent agency of the United States Government

created by statute. 15 U.S.C. § 41 The Commission is charged, with

enforcement of 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 is authorized to initiate

federal district court proceedings to enjoin violations ofthe FTC Act in order to secure such

equitable relief as may be appropriate in each case. 15 U.S.C. § 53(b) and 57b.

DEFENDANTS

5. Defendant Tower Cleaning Systems, Inc. (“Tower”) is a Pennsylvania corporation

with its office and principal place of business located within the Middle District of Pennsylvania

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at Bay Colony Executive Park. 565 East Swedesford Road. Suite 103, Wayne. Pennsylvania

19087.

6. Defendant David A. Gansky is an officer and director of defendant Tower. His

principal place of business is within the Middle District of Pennsylvania at Bay Colony

Executive Park, 565 East Swedesford Road. Suite 103, Wayne, Pennsylvania 19087. 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 ofthe corporate defendant, including the acts

and practices set forth in this complaint.
7. Each of the defendants resides andlor transacts business in this District.

COMMERCE

8. At all times relevant to this complaint, the defendants have maintained a

substantial course oftrade in the offering for sale and sale of commercial cleaning franchises in

or affecting commerce, as “commerce” is defined in Section 4 ofthe FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS ACTIVITIES

9. Since at least January 1990, the defendants have promoted, offered to sell and

sold commercial cleaning franchises in the United States. In promoting and marketing the

franchises, defendants typically place advertisements in general circulation newspapers. or

distribute promotional material at franchise and business opportunity trade shows. The

defendants charge consumers between $4,000 and $33,600 for the purchase of one of their

franchises, and promise purchasers significant assistance in operating the franchise, including,

but not limited to, providing franchisees with cleaning contracts having a specified level of gross

monthly billings.

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VIOLATIONS OF SECTION 5 OF THE FTC ACT

10. Section 5(a) of the FTC Act. 15 U.S.C 45(a). prohibits unfair or deceptive acts

or practices in or affecting commerce.

1 1. Misrepresentations of material fact constitute unfair or deceptive acts or practices

prohibited by Section 5(a) ofthe FTC Act.

COUNT ONE

12, Paragraphs 1 through 11 are incorporated herein by reference.

13. In numerous instances, in connection with promoting, offering for sale and selling

commercial cleaning franchises, defendants have represented, directly or by implication, that

purchasers can reasonably expect to achieve a specific level of earnings, ranging from monthly

revenues of $500 to $10,000, or a specific hourly income, such as $15 per hour.

14. In truth and in fact, in numerous instances purchasers have not achieved the

specific level of earnings or specific hourly income represented by defendants.

15. Therefore. defendants’ representations as set forth in Paragraph 13 are false and

misleading and constitute unfair or deceptive acts or practices in violation of Section 5(a) ofthe

FTC Act. 15 U.S.C. § 45(a).
THE FRANCHISE

franchisor, the terms and conditions under which the franchise operates, as well as specific

information about other franchisees, including informtion about franchisee terminations,

reacquisitions and cancellations. 16 C.F.R. § 436.1(a)(1) - (20).

18. The Franchise Rule also requires that the franchisor have a reasonable basis for

any oral, written, or visual earnings or profit representations

they were made, thereby violating Sections 436.l(b)-(e) of the Franchise Rule. 16 C.F.R.

§ 436.1(b’-(e). and Section 5(a) of the FTC Act. 15 US.C. § 45(a).

COUNT V

27. Paragraphs 1 through 26 are incorporated herein by reference.

28. In numerous instances, in connection with promoting, offering for sale and selling

franchises, as “franchise 11is defined in the Franchise Rule, 16 C.F.R. § 436.2(a), the defendants

have failed to return funds or deposits in accordance with contract provisions disclosed in the

basic disclosure document, thereby violating Section 436.1(h) of the Franchise Rule, 16 C.F.R.

§ 436.1(h), and Section 5(a) ofthe FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

29. Consumers throughout 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

30. Section 13(b) ofthe 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 FTC.

31. Section 19 ofthe FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief

as the Court finds necessary to redress injury to consumers or others resulting from defendantsr

violations ofthe Franchise Rule, including the rescission and reformation of contracts, and the

refund ofmoney.

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32. This Court, in the exercise of its equitable jurisdiction, may award other ancillary

relief to remedy injury caused by the defendants 1awiolations.

PRAYER FOR RELIEF

WHEREFORE. plaintiff requests this Court, as authorized by Sections 13(b) and 19 of

the FTC Act. 15 U.S.C. § 53(b) and 57b, and pursuant to the Courts own equitable powers, to:

1. Enter judgment against the defendants and in favor ofthe plaintifffor each and

every violation alleged in this complaint;
2. Award plaintiff such relief as the Court finds necessary to redress injury to

consumers or others resulting from defendants’ violations of the Franchise Rule and Section 5 of

the FTC Act, including but not limited to, the rescission of contracts, the refund of monies paid,

and the disgorgement of ill-gotten gains;

3. Permanently enjoin the defendants from violating the Franchise Rule and the FTC

Act, as alleged herein, in connection with the offering and promotion of franchises; and

4. Award plaintiffsuch additional relief as the Court may deem just and proper.

Respectfully submitted,

STEPHEN CALKINS

General Counsel

ALLEN HILE

Assistant Director of Marketing Practices %J//v

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