

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

FEDERAL TRADE COMMISSION, Plaintiff,

v.

ANTOINE J. PEISSEL, an individual doing business as The Woodway Group, and

THOMAS A. BRANDT, an individual doing business as The Woodway Group, Defendants.

Civil Action No.

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "Commission") for its Complaint alleges:

1. The Commission brings this action under Sections 5(a), 13(b), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b), and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. §§ 6101-6108, to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement and other equitable relief for defendants' deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "Telemarketing Sales Rule," 16 C.F.R. Part 310.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c) and 6105(b), and 28 U.S.C. §§ 1331, 1337(a) and 1345.

3. Venue is proper in the Southern District of Texas 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. §§ 41-58, as amended. The Commission is charged, *inter alia*, 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 also enforces the Telemarketing Sales Rule ("TSR" or "the Rule"), 16 C.F.R. Part 310, which prohibits deceptive or abusive telemarketing practices. The Commission is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the Telemarketing Sales Rule in order to secure such equitable relief as is appropriate in each case, including restitution for injured consumers. 15 U.S.C. §§ 53(b), 57b, and 6105(b).

DEFENDANTS 5. Defendant Antoine J. Peissel, Jr., is an individual doing business as The Woodway Group, with his office and principal place of business at 2503 Marilee Lane, No. 3, Houston, Texas 77057. 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 set forth in this complaint. Antoine J. Peissel, Jr. resides in and transacts or has transacted business in the Southern District of Texas.

6. Defendant Thomas A. Brandt is an individual doing business as The Woodway Group, with his office and principal place of business at 2503 Marilee Lane, No. 3, Houston, Texas 77057. 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 set forth in this complaint. Thomas A. Brandt resides in and transacts or has transacted business in the Southern District of Texas.

COMMERCE

7. At all times relevant to this complaint, Defendants have maintained a substantial course of business in the offering for sale and sale, through telemarketing, of advance fee loans, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANT'S BUSINESS PRACTICES

8. Since at least January 1999, defendants have telemarketed advance fee loans to consumers throughout the United States.

9. In the course of their telemarketing program, defendants have placed advertisements in various community "want ad" publications across the country, inducing consumers to call a specified toll-free number to obtain cash loans. When consumers respond to such advertisements by calling the

deceptive acts or practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

19. Defendants are "sellers" or "telemarketers" engaged in "telemarketing," as those terms are defined in the FTC Telemarketing Sales Rule. 16 C.F.R. § § 310.2(r),(t) and (u).

COUNT II

VIOLATIONS OF 16 C.F.R. § 310.3(a)(2)(iii)

20. In numerous instances, in connection with telemarketing offers to obtain or arrange for loans or other extensions of credit for consumers, defendants or their employees or agents have misrepresented, directly or by implication, that, after paying defendants a fee, consumers will or are highly likely to receive a loan or other extension of credit.

21. Defendants have thereby violated Section 310.3(a)(2)(iii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(2)(iii).

COUNT III

VIOLATIONS OF 16 C.F.R. § 310.4(a)(4)

23. In numerous instances, in connection with telemarketing offers to obtain or arrange for loans or other extensions of credit for consumers, defendants have requested and received payment of a fee or consideration in advance of obtaining or arranging a loan or other extension of credit for consumers, when defendants have guaranteed or represented a high likelihood of success in obtaining or arranging a loan or other extension of credit to such consumers.

24. Defendants have thereby violated Section 310.4(a)(4) of the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(4).

CONSUMER INJURY

25. Consumers throughout the United States have suffered or are likely to suffer substantial monetary loss as a result of defendants' unlawful acts or practices. In addition, defendants have been unjustly enriched as a result of their unlawful 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

26. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to issue a permanent injunction against defendants' violations of the FTC Act and, in the exercise of its equitable jurisdiction, to order such ancillary relief as temporary and preliminary injunctions, consumer redress, rescission, restitution, disgorgement of profits resulting from defendants' unlawful acts or practices, and other remedial measures.

27. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant to the FTC such relief as the Court finds necessary to redress injury to consumers or other persons resulting from defendants' violations of the Telemarketing Sales Rule, including the rescission and reformation of contracts and the refund of money.

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 Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§

(a) 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, including, but not limited to, temporary and preliminary injunctions and an order freezing assets;