

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	CIVIL NO. 1:97 CV 0131
v.)	
)	
IMAGE SALES & CONSULTANTS, INC.,)	
a corporation, and)	
MICHAEL DEWAYNE DAGUE,)	
individually and as an)	
officer of said corporation,)	
)	
Defendants.)	
)	

**COMPLAINT FOR
INJUNCTIVE AND OTHER
EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("Commission"), for its complaint alleges as follows:

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive relief against the defendants to prevent them from engaging in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including rescission, restitution and disgorgement, as is necessary to redress injury to consumers and the public interest resulting from defendants' violations of the FTC Act.

JURISDICTION AND VENUE

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

3. Venue in the United States District Court for the Northern District of Indiana is proper under 15 U.S.C. § 53(b), as amended by the FTC Act Amendments of 1994, Pub.

Book, Fire Safety Advisor, Fire Prevention Informer, Fire Prevention Advisor, Drug Abuse Prevention, Child Safety Digest, Child Safety Activity Guide, Childrens Safety Network, Childrens Safety Protection, Crime Watch Advisor, Crime Watch Awareness, Crime Prevention Informer, Police Safety Digest, Labor Digest, and possibly under other d/b/a's. Image Sales & Consultants, Inc., transacts business in this District.

6. Defendant Michael Dewayne Dague is the President and sole shareholder of Image Sales & Consultants, Inc. At all times material to this complaint, individually or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He transacts business in this District.

COMMERCE

7. At all times relevant to this complaint, defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

8. Since at least 1994, defendants have engaged in a program of misrepresentation targeted at public-spirited businesses in many states. Defendants solicit

businesses, including many small merchants, to participate in defendants' programs by advertising in publications defendants claim to publish and distribute. Defendants represent that advertising sponsorship for their publications, which have titles such as TEENS AGAINST DRUGS & ALCOHOL and FIRE PREVENTION & SAFETY AWARENESS COLORING BOOK, provides a meaningful opportunity for businesses to support important causes in their communities, such as child safety and preventing drug abuse. As further inducement for businesses to purchase advertising, defendants tell businesses that publications containing their advertising will be widely distributed in their local communities or that publications containing their advertising will be distributed to local organizations and specially targeted audiences within their communities.

9. Contrary to defendants' representations, publications containing the businesses' advertisements are not widely distributed in the businesses' community nor provided to local organizations or specially targeted audiences.
10. In addition to misrepresenting the distribution of the publications, defendants often obtain payment by misrepresenting to the business that it has already ordered the advertisement. This misrepresentation is conveyed in several ways; in numerous instances: (1)

defendants telephone a business and misrepresent to the
business that an advertisement it agreed to place in
defendants' publication is printed and must be paid for,
even

COUNT ONE

13. In numerous instances, in connection with the offering for sale and sale of advertisements, defendants have represented, expressly or by implication, that:

(a) the proceeds from the advertisements will be used for a local, civic purpose, or to defray the cost of printing and distributing the publications locally; and

(b) the publication in which the advertising is to appear will receive widespread local distribution, or will be distributed to community organizations or specially targeted audiences within the business's local community.

14. In truth and in fact, in numerous instances:

(a) the proceeds for the advertisements are not used for a local, civic purpose, or to defray the cost of printing and disseminating the publications locally; and

(b) the publication in which the advertising is to appear does not receive widespread local distribution and is not distributed to community organizations or specially targeted

audiences within the business's local
community.

15. Therefore, defendants' representations set forth in
paragraph

19. In numerous instances in connection with the offering for sale and sale of advertisements, defendants have represented, expressly or by implication, that defendant

24. Therefore,

1. Award the Commission all temporary and preliminary injunctive and ancillary relief that 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, appointment of a receiver, and an order freezing each defendant's assets.
2. Permanently enjoin the defendants from violating the FTC Act as alleged in this complaint;
3. Award all relief that the Court finds necessary to remedy the defendants' violations of Section 5(a) of the FTC Act, including, but not limited to, the refund of monies paid and the disgorgement of ill-gotten monies; and
4. Award the Commission the costs of bringing this action, as well as any other equitable relief that the Court may determine to be just and proper.

DATE: _____

Respectfully submitted,

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Federal Trade Commission

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