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7 UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

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9 FEDERAL TRADE COMMISSION,

10 Plaintiff,

11 v.

12 PROGRESSIVE MEDIA, INC., COLLEGIATE
13 COMMUNICATIONS GROUP, INC.,
MATTHEW G. LUCAS, KEVIN
14 LUSTGARTEN and MARK BUCHAN,

15 Defendants.

Civ. No.

16
17 COMPLAINT FOR
18 PERMANENT INJUNCTION
19 AND OTHER EQUITABLE
20 RELIEF

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

23 1. The Commission brings this action under Section 13(b) of the Federal Trade
24 Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive
25 relief, rescission, restitution and disgorgement and other equitable relief to redress purchasers of
26 defendants' employment and scholarship programs for the injury resulting from defendants'
27 deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

28 **JURISDICTION AND VENUE**

29 2. This Court has subject matter jurisdiction over plaintiffs claim pursuant to 28
30 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 45 (a) and 53(b).

31 3. Venue in the Western District of Washington is proper under 28 U.S.C. § 1391(b)
32 and (c) and 15 U.S.C. § 53(b).

FEDERAL TRADE COMMISSION
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(206) 220-6350

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THE PARTIES

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. § 41, *et seq.* The Commission enforces 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 may initiate federal district court proceedings to enjoin violations of the FTC Act, and to secure such equitable relief as may be appropriate in each case, including consumer restitution and disgorgement. 15 U.S.C. § 53(b).

5. Defendant Progressive Media, Inc. ("PMI"), d/b/a Alaska Employment Services, Student Employment Services, Aztec Group, Cruise Employment Services, International Employment Group, Vertical Employment Group, Resort Employment Services, Casino Employment Group and Student Financial Services, is a Washington corporation with its office and principal place of business at 3513 NE 45th Street, Seattle, Washington. PMI transacts business in the Western District of Washington through the marketing and sale of employment opportunity and scholarship programs to consumers throughout the United States.

6. Defendant Collegiate Communications Group, Inc. ("CCGI") is a Washington corporation with its registered agent's office located at 1501 Fourth Avenue, #2600, Seattle, Washington. CCGI transacts business in the Western District of Washington through the dissemination of advertisements for employment and scholarship programs to consumers throughout the United States.

7. Defendant Matthew Lucas ("Lucas") is a co-founder and director of PMI and PMI's president, treasurer and co-owner. Individually, or in concert with others, Lucas formulates, directs, controls or participates in the acts and practices of PMI alleged below. He resides and transacts business in the Western District of Washington.

8. Defendant Kevin Lustgarten ("Lustgarten") is a director of PMI and PMI's vice-president and secretary. Individually, or in concert with others, Lustgarten formulates, directs, controls or participates in the acts and practices of PMI alleged below. He resides and transacts business in the Western District of Washington.

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9. Defendant MarkBuchan ("Buchan") is the president and chairman of the board of directors of CCGI and aco-owner andco-founder of PMI. From 1987 to at least November 1993, Buchan was the president and a member of the board of directors of PMI. Individually, or in concert with others,Buchan formulates, directs, controls or participates in the acts and practices of CCGI alleged below. He resides and transacts business in the Western District of Washington.

COMMERCE

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

DEFENDANTS COURSE OF CONDUCT

11. Since at least 1987, and continuing thereafter, defendants LucasJustgarten and Buchan, through PMI, doing business under various names, and later through PMI and CCGI, have disseminated or caused the dissemination of advertisements offering consumers employment in the Alaskan fishing industry. Since at least 1992, defendants LucasJustgarten andBuchan, through PMI, and later through PMI and CCGI, also have disseminated or caused the dissemination of advertisements offering consumers employment in the cruise ship industry, as well as offering them thousands of dollars worth of free grants and scholarships for college in other advertisements. These advertisements appear in the"Help Wanted" sections of college newspapers; the"Help Wanted" sections of the classified advertisements of national publications such as *Rolling Stone* and *Entertainment Weekly*magazines; are printed on postcards that defendant CCGI packages and mails to college bookstores for insertion instudents' bookbags with their purchases; and are printed on flyers that are posted on college bulletin boards across the United States.

12. PMI's advertisements for cruise ship employment promise consumers that they can earn \$2000 or more each month working on cruise ships or for land tour companies that are

1 currently hiring. PMI's advertisements state that particular types of full-time or seasonal jobs are
2 available that require no experience or special qualifications.

3 13. Typical statements made in PMI's advertisements for employment on cruise ships
4 or with land tour companies include, but are not limited to, the following:

5 A. **GET A CRUISE JOB!** Earn up to \$2000+ a month.
6 . . . If you're looking for work that will allow you to
7 **TRAVEL THE WORLD** and earn a living at the
8 same time **GIVE US A CALL.** Companies are
9 recruiting now! Full-time or seasonal jobs available
10 like: Wait Staff, Host/Hostess, Land Escorts, Tour
11 Guides, Cruise Staff, Bartenders, Gift Shop Sales,
12 Fitness Counselors, Youth Counselors. [Complaint
13 Exh. A].

14 B. **CRUISE SHIPS NOW HIRING** Earn up to
15 \$2000 +/mo. working on cruise ships or land-tour
16 companies. World Travel. No exp necessary. For
17 more info call 1-206-971-3552 Ext C72166.
18 [Complaint Exh. B].

19 14. PMI's advertisements for employment in Alaska promise consumers that they can
20 earn as much as \$3000 to \$6000 each month working in the Alaskan fishing industry, regardless
21 of level of experience or qualifications. PMI's advertisements further represent that the jobs
22 offered through PMI typically will provide consumers with free room, board and transportation.

23 15. Typical statements made in PMI's advertisements for employment in Alaska
24 include, but are not limited to, the following:

25 A. **ALASKA EMPLOYMENT**
26 Fishing industry. Earn up to \$3000-\$6000+ per
27 month. Room & Board! Transportation! No
28 experience necessary! Male/Female. Age 18-70.
For more information call: 971-3512 Ext A72167.
[Complaint Exh. C].

29 B. **ALASKA SUMMER JOBS**
30 Fishing Industry. Earn to \$3000-\$6000+/mo.! Call
31 (206) 971-3512 Ext. A90386. [Complaint Exh. D].

32 16. PMI's advertisements for scholarships and grants represent that billions of dollars
33 worth of grants and scholarships from independent and private organizations remain unclaimed
34 every year. PMI's advertisements further state that students can receive thousands of dollars'
35 worth of this free grant and scholarship money for each year of college regardless of their grades,

1 income or family income. PMI provides consumers with a toll-free number to obtain further
2 information to get a share of this unclaimed scholarship money.

3 17. Typical statements made in PMI's advertisements for free scholarships and grants
4 include, but are not limited to, the following statements:

5 A. **FREE FINANCIAL AID**

6 **Millions of Dollars Go Unclaimed Each Year!**
7 **What is Student Financial Services?**

8 Last years thousands of college students nationwide
9 received millions of dollars in free financial aid, in
10 the form of Scholarships and Grants, from
11 Independent and Private Organizations. However,
12 even more students did not receive this aid for one
13 very simple, yet frustrating, reason ***They didn't
14 know where or who to ask!***

15 Student Financial Services is a nationwide financial
16 aid assistance and locating organization that
17 specializes in helping college students receive the
18 appropriate share of free financial aid that they are
19 eligible to receive. Our computer database
20 represents millions of dollars in free Private Sector
21 Scholarships and Grants. . . .

22 **How Student Financial Services can help you.**

23 Our financial aid assistance program will specifically
24 match you to all of the sources of free financial aid
25 that you are eligible to receive based on your:

26 *College Major/Majors *Ethnic Background

27 *Parental Affiliations *Student Activities.

28 **All Students are Eligible!** All students are eligible
to receive some sort of free financial aid regardless
of their grades, income, or parent's income. **Call
for more information 1-800-959-1605 ext. F
23000.** [ComplaintExh. E].

B. **LOOKING FOR FREE MONEY? . . . Let Student
Financial Services show you how! All students are
eligible, regardless of grades, income or family
income; GUARANTEED RESULTS!!! Most of the
funding is in the form of grants and scholarships and
does not need to be paid back.** [ComplaintExh. F].

C. "I received \$4,650.00 for college from using your
program." [ComplaintExh. F].

D. "In only one month, as a result of using your
program, I received \$2,400.00 for college."
[ComplaintExh. F, G and H].

E. ". . . I received enough federal grants to pay for all
of my academic endeavors." [ComplaintExh. F].

1 18. Consumers calling the numbers listed in PMI's advertisements speak with a PMI
2 sales representative regarding the particular "program" in which they are interested. The PMI
3 sales representative then describes the particular "program" advertised and invites callers to enroll.
4 Callers interested in the cruise or Alaska employment "programs" are told that the fee for
5 enrolling is \$49.95. Callers interested in the scholarship search "program" are told that the
6 enrollment fee is \$69.95.

7 19. During the telephone sales pitch for employment on a cruise ship, PMI's sales
8 representatives typically represent to callers that they are likely to earn \$2000 to \$3000 or more a
9 month working for a cruise ship or \$5000 to \$7000 for the summer working for a land tour
10 company. Callers are further told that the companies will provide free meals, housing and
11 transportation to the various ports of call and that particular types of full-time or seasonal jobs,
12 including but not limited to, casino dealer, bartender, activity director and other customer service
13 jobs are available, regardless of level of experience or qualification. PMI's representatives tell
14 callers that if they do not find the job of their choice on a cruise ship or with a land tour company
15 through PMI's "program" within twelve months, PMI will refund the fee. PMI's representatives
16 further represent to callers that only six percent of the consumers who purchase the "program"
17 seek refunds.

18 20. Contrary to defendants' representations, PMI is not offering actual jobs with cruise
19 ships and land tour companies, does not guarantee consumers jobs with such companies, and
20 consumers enrolling in PMI's "program" are not likely to receive the earnings, benefits or types of
21 jobs defendants represented were available. In fact, consumers receive only a paperback book
22 listing the names and addresses of major cruise ship lines and land tour companies, along with a
23 brief description of the companies listed in the book and tips on working in the cruise ship
24 industry. It is entirely up to consumers to contact each company they are interested in for more
25 information and to apply for employment, and in most instances the companies listed in PMI's
26 book are not currently hiring or, if they have available positions, those positions require training,
27 experience and at least a six to nine month long commitment and do not pay the represented
28 salaries or provide the represented benefits.

1 21. During the sales pitch for employment in the Alaskan fishing industry, PMI's sales
2 representatives typically represent to consumers that they are likely to earn \$3000 to \$6000 per
3 month, regardless of level of experience or qualifications, and that many of these jobs will provide
4 free or low-cost housing and meals, and will reimburse travel expenses if consumers complete
5 their employment contracts with the fishing company. PMI's sales representatives tell callers that
6 if they do not find the job of their choice in the Alaskan fishing industry through defendants'
7 "program" within twelve months, PMI will refund the fee. PMI's representatives further represent
8 to callers that only six percent of the consumers who purchase the "program" seek refunds.

9 22. Contrary to defendants' representations, PMI is not offering actual jobs in the
10 Alaskan fishing industry, does not guarantee consumers jobs with such companies, and consumers
11 enrolling in PMI's "program" are not likely to receive the earnings, benefits or types of jobs
12 defendants represented were available. In fact, consumers receive only a paperback book listing
13 the names and addresses of Alaskan fishing companies, fish processing companies and canneries,
14 along with a description of the working conditions in the Alaskan fishing industry. It is entirely up
15 to consumers to contact each company they are interested in for more information and to apply
16 for employment, and in most instances the companies listed in PMI's book are not currently hiring
17 or, if they have available positions, those positions pay only minimum wage salaries, involve
18 extremely harsh working conditions and do not offer the represented benefits.

19 23. During the sales pitch for free scholarships and grants, PMI's sales representatives
20 typically represent to callers that billions of dollars in scholarships and grants from private and
21 independent organizations are unclaimed each year. PMI's sales representatives further represent
22 to callers that students who enroll in PMI's "program" are likely to receive at least \$500 to \$2500
23 from this unclaimed scholarship or grant money each year, regardless of students' grades, income
24 or families' income. PMI's sales representatives tell callers that students enrolled in the "program"
25 will receive at least \$300 in this unclaimed grant or scholarship money within twelve months of
26 enrolling in the "program" or PMI will refund the fee. Callers are also told that in most instances,
27 any scholarships or grants received through the "program" will be automatically renewed each
28 year the student is enrolled in school. PMI's representatives further represent to callers that only
six percent of the consumers who purchase the "program" seek refunds.

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24. Contrary to defendants' representations, billions of dollars of scholarships and grants from private and independent organizations is not available to most students, consumers are not likely to receive unclaimed free scholarships or grants regardless of grades, income or family income, and PMI does not guarantee students free scholarships or grants under the represented terms. In fact, students who enroll in PMI's "program" receive only paperback books listing the names of various private and independent organizations, along with some tips for obtaining scholarships. It is entirely up to consumers to contact each organization they are interested in for more information and, in most instances, students are ineligible for scholarships or grants from the listed organizations or will encounter severe competition for any scholarship or grant they are eligible to receive.

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25. Consumers who seek refunds from defendants for any PMI's advertised "programs" generally do not get a full refund on request. In fact, PMI sends consumers its written refund policy only after consumers pay PMI's fee. PMI's written refund policy requires consumers to satisfy several undisclosed requirements, the effect of which is to discourage consumers from applying for a refund. These requirements include, but are not limited to, the following: (1) consumers must wait at least 90 days before requesting a refund; (2) consumers must return PMI's books in "resalable condition;" (3) consumers must send PMI a description of their job or scholarship hunting efforts and a statement of why they want a refund; and (4) consumers must send PMI copies of cover letters and completed applications to and responses from the companies and organizations listed in PMI's books.

1 **DEFENDANTS VIOLATIONS OF THE FTC ACT**

2 26. Section 5(a) of the FTC Act prohibits deceptive acts or practices in or affecting
3 commerce.

4 **COUNT I**

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

6 28. Through the use of the statements referred to in Paragraphs 13, 15, 19 and 21, and
7 others not specifically set forth herein, defendants have represented, directly or by implication,
8 that consumers who pay the fee to PMI are likely to earn \$2000 to \$3000 or more a month
9 working for a cruise ship, \$5000 to \$7000 or more a summer working for a land tour company or
10 \$3000 to \$6000 or more a month working in the Alaskan fishing industry, regardless of level of
11 experience or qualifications.

12 29. In truth and in fact consumers who pay the fee to PMI are not likely to earn
13 \$2000 to \$3000 or more a month working for a cruise ship, \$5000 to \$7000 or more a summer
14 working for a land tour company or \$3000 to \$6000 or more a month working in the Alaskan
15 fishing industry, regardless of level of experience or qualifications.

16 30. Through the use of statements referred to in Paragraphs 13, 15, 19 and 21, and
17 others not specifically set forth herein, defendants have represented, directly or by implication that
18 they have actual job openings at the salaries and with the benefits defendants represented in their
19 advertisements and telephone sales pitches.

20 31. In truth and in fact, defendants do not have actual job openings at the salaries and
21 with the benefits defendants represented in their advertisements and telephone sales pitches.

22 32. Through the use of the statements referred to in Paragraphs 13, 15, 19 and 21, and
23 others not specifically set forth herein, defendants have represented, directly or by implication,
24 that consumers who pay the fee to PMI will be enrolled in a program through which they will
25 obtain an actual job paying \$2000 to \$3000 or more a month working for a cruise ship, \$5000 to
26 \$7000 or more a summer working for a land tour company or \$3000 to \$6000 or more a month
27 working in the Alaskan fishing industry, regardless of level of experience or qualifications.
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1 33. In truth and in fact, consumers who pay the fee to PMI are not enrolled in a
2 program through which they will obtain an actual job paying \$2000 to \$3000 or more a month
3 working for a cruise ship, \$5000 to \$7000 or more a summer working for a land tour company or
4 \$3000 to \$6000 or more a month working in the Alaskan fishing industry, regardless of level of
5 experience or qualifications.

6 34. Through the use of the statements referred to in Paragraphs 13, 15, 19 and 21, and
7 others not specifically set forth herein, defendants have represented, directly or by implication,
8 that consumers who pay the fee to PMI are likely to obtain certain types of jobs on cruise ships or
9 in the Alaskan fishing industry that provide various benefits, including but not limited to, free or
10 low-cost housing, free meals and transportation.

11 35. In truth and in fact, consumers who pay the fee to PMI are not likely to obtain
12 those certain types of jobs on cruise ships or in the Alaskan fishing industry that provide various
13 benefits, including but not limited to, free or low-cost housing, free meals and transportation.

14 36. Therefore, defendants' representations as set forth above are false and misleading
15 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
16 45(a).

17 **COUNT II**

18 37. Paragraphs 1 through 36 are incorporated herein by reference.

19 38. Through the use of statements in Paragraphs 17 and 23, and others not specifically
20 set forth herein, defendants have represented, directly or by implication, that consumers who pay
21 the fee for PMI's scholarship "program" are likely to receive at least \$500 to \$2500 in
22 scholarships or grants regardless of their grades, income or family income.

23 39. In truth and in fact, consumers who pay the fee for PMI's scholarship "program"
24 are not likely to receive at least \$500 to \$2500 in scholarships or grants regardless of their grades,
25 income or family income.

26 40. Through the use of statements referred to in Paragraphs 17 and 23, and others not
27 specifically set forth herein, defendants have represented, directly or by implication, that
28

1 consumers who pay the fee to PMI will be enrolled in a program through which they will obtain
2 thousands of dollars in free scholarships or grants, regardless of grades, income or family income.

3 41. In truth and in fact, consumers who pay the fee to PMI are not enrolled in a
4 program through which they will obtain thousands of dollars in free scholarships or grants,
5 regardless of grades, income or family income.

6 42. Through the use of statements referred to in Paragraphs 17 and 23, and others not
7 specifically set forth herein, defendants have represented, directly or by implication, that billions of
8 dollars of unclaimed scholarship and grant money are available to consumers through private and
9 independent organizations, regardless of grades, income or family income.

10 43. In truth and in fact, billions of dollars of unclaimed scholarship and grant money
11 are not available to consumers through private and independent organizations, regardless of
12 grades, income or family income.

13 44. Therefore, defendants' representations as set forth above are false and misleading
14 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
15 45(a).

16 **COUNT III**

17 45. Paragraphs 1 through 44 are incorporated herein by reference.

18 46. Through the use of statements in Paragraphs 17, 19, 21 and 23, and others not
19 specifically set forth herein, defendants have represented, directly or by implication that PMI will
20 promptly refund its fee to consumers who enroll in one of PMI's "programs" and do not obtain
21 their job of choice or at least \$300 in scholarships or grants within twelve months.

22 47. In truth and in fact, in numerous instances, PMI does not promptly refund its fee to
23 consumers who enroll in one of PMI's "programs" and do not obtain their job of choice or at least
24 \$300 in scholarships or grants within twelve months.

25 48. Therefore, defendants' representations as set forth above are false and misleading
26 and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.
27 45(a).

INJURY

1 49. Defendants' violations of Section 5 of the FTC Act, as set forth above, have
2 caused and continue to cause substantial injury to consumers. Absent injunctive relief by this
3 Court, defendants are likely to continue to injure consumers.
4

THIS COURTS POWER TO GRANT RELIEF

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6 50. Section 13(b) of the FTC Act, 15 U.S.C§ 53(b), empowers this Court to issue a
7 permanent injunction against defendants' violations of the FTC Act, and, in the exercise of its
8 equitable jurisdiction, to order such ancillary relief as preliminary injunction, rescission,
9 restitution, disgorgement of profits resulting from defendants' unlawful acts or practices, and
10 other remedial measures.
11

PRAYER FOR RELIEF

12
13 WHEREFORE the Commission respectfully requests that this Court, as authorized by
14 15 U.S.C. § 53(b) and pursuant to its own equitable powers:

- 15 (1) Award the Commission such temporary and preliminary injunctive and
16 ancillary relief, including but not limited to temporary and preliminary
17 injunctions and an order freezing assets, as may be necessary to avert the
18 likelihood of injury to consumers who enroll in defendants' employment
19 and scholarship programs during the pendency of this action, and to
20 preserve the possibility of effective final relief;
- 21 (2) Permanently enjoin defendants from violating Section 5(a) of the FTC Act
22 as alleged in this Complaint;
- 23 (3) Award all such relief as the Court finds necessary to remedy the
24 defendants' violations of Section 5(a) of the FTC Act including, but not
25 limited to, rescission of contracts, the refund of monies paid and the
26 disgorgement of ill-gotten gains; and
- 27 (4) Award the Commission the costs of bringing this action, as well as any
28 other equitable relief that the Court may determine to be proper and just.

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DATED: _____, 1996.

Respectfully submitted,

STEPHEN CALKINS
General Counsel

CHARLES A. HARWOOD
Regional Director

Joe Lipinsky

Nadine S. Samter

ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION