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UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

FEDERAL TRADE COMMISSION,
Plaintiff,

v.

TELEBRANDS CORP., a corporation,
TV SAVINGS, LLC, a limited liability
company, and AJIT KHUBANI, individually
and as president of Telebrands Corp. and sole
member of TV Savings, LLC.,
Defendants, and
Poonam Khubani,
Relief Defendant.

CIVIL ACTION NUMBER

**COMPLAINT FOR CONSUMER
REDRESS AND OTHER RELIEF**

Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its complaint alleges:

1. The FTC brings this action under Sections 5(a) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 45(a) and 57b, and the Court’s equitable jurisdiction, to secure consumer redress and other relief for unfair or deceptive acts or practices. The FTC also brings this action pursuant to the Federal Debt Collection Procedures Act (“FDCPA ”), 28 U.S.C. § § 3001 *et seq.*, the Court’s ancillary enforcement jurisdiction, and the New Jersey Uniform Fraudulent Transfer Act, N.J. Stat. § 25:2-20 *et seq.*, to avoid certain fraudulent transfers, in order to satisfy the debt that would result from a judgment in favor of the Federal Trade Commission against Defendants Telebrands Corporation, TV Savings, LLC, and Ajit Khubani to the Federal Trade Commission.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 15 U.S.C. §§ 57b(a)(2) and (b), 28 U.S.C. §§ 1331, 1337(a), 1345, and 1367 and the Court’s ancillary enforcement jurisdiction. Venue in the District of New Jersey is proper under 28 U.S.C. §§ 1391(b) and (c).

PLAINTIFF

3. Plaintiff FTC is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 *et seq.* 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 is authorized to commence civil actions to redress injury to consumers or other persons, partnerships, and corporations resulting from unfair or deceptive acts or practices pursuant to Sections 16(a)(2) and 19(a)(2) and (b) of the FTC Act, 15 U.S.C. §§ 56(a)(2) and 57b(a)(2) and (b).

DEFENDANTS

4. Defendant Telebrands Corporation (“Telebrands”) is a New Jersey corporation with its principal office or place of business located within the District of New Jersey at 79 Two Bridges Road, Fairfield, NJ 07004. Defendant Telebrands transacts or has transacted business in this District.

5. Defendant TV Savings, LLC (“TV Savings”) is a Connecticut limited liability company with its principal office or place of business located within the District of New Jersey at 79 Two Bridges Road, Fairfield, NJ 07004. Defendant TV Savings transacts or has transacted business in this District.

6. Defendant Ajit Khubani is president of Telebrands and sole member of TV

Savings. Individually or in concert with others, he formulates, directs, or controls the policies, acts, or practices of these two business entities, including the acts and practices alleged in this complaint. His principal office or place of business is the same as those of Telebrands and TV Savings. He resides within the District of New Jersey and transacts or has transacted business in this District.

RELIEF DEFENDANT

7. Relief Defendant Poonam Khubani is the spouse of Defendant Ajit Khubani. She resides within the District of New Jersey. Individually or with Defendant Ajit Khubani, she has received funds derived unlawfully from payments by consumers as a result of acts and practices of the Defendants in violation of the FTC Act complained of herein.

8. From January 2002 to the present, Relief Defendant Poonam Khubani received transfers from Defendant Ajit Khubani of approximately \$4,000,000.

REDRESS UNDER SECTION 19 OF THE FTC ACT

9. In actions brought under Section 5(b) of the FTC Act, 15 U.S.C. § 45(b), that result in the issuance by the Commission of a cease and desist order, the Commission may proceed under Section 19(a)(2), 15 U.S.C. § 57b(a)(2), for redress and other relief, provided that the act or practice to which the cease and desist order relates is one which a reasonable person would have known under the

circumstances was dishonest or fraudulent.

10. Under Section 19(b) of the FTC Act, 15 U.S.C. § 57b(b), the relief available to the Commission includes, without limitation, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification respecting the unfair or deceptive act or practice.

SECTION 5 PROCEEDING AND DEFENDANTS' VIOLATIONS

11. In a proceeding bearing Docket No. D-9313, the Commission issued a complaint alleging that Telebrands, TV Savings, and Ajit Khubani (“the Defendants”) had violated Section 5(a) of the FTC Act, 45 U.S.C. § 45(a). The Commission issued an opinion and a cease and desist order against the Defendants on September 19, 2005 (copy attached as Appendix A) in which it found that Defendants had engaged in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 45 U.S.C. § 45(a).

12. Defendants appealed the Commission decision and order to the United States Court of Appeals for the Fourth Circuit, which affirmed the order on August 7, 2006. Defendants have not filed an application for certiorari. The Commission’s cease and desist order became final pursuant to Section 5(g)(3)(A) of the FTC Act, 15 U.S.C. § 45(g)(3)(A), which states that an order is final “upon the expiration of the time allowed for filing a petition for certiorari, if the order of

the Commission has been affirmed or the petition for review has been dismissed by the court of appeals and no petition for certiorari has been duly filed.”

13. Pursuant to Section 19 (c)(1)(B) of the FTC Act, 15 U.S.C. § 57b(c)(1)(B), in an action under Section 19 involving a cease and desist order that became final pursuant to Section 5(g)(3)(A) of the FTC Act, “the findings of the Commission as to the material facts in the proceeding under Section 45(b) of this title with respect to such person’s, partnership’s, or corporation’s rule violation or act or practice, shall be conclusive”

14. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants had made the following claims in promoting the Ab Force, a belt-like device that uses electric muscle stimulation (“EMS”) to cause contraction in the abdominal wall:

- a. the Ab Force causes loss of weight, inches, or fat;
- b. the Ab Force causes well-defined abdominal muscles; and
- c. use of the Ab Force is an effective alternative to regular exercise.

15. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants’ claims set forth in Paragraph 14 above were material to consumers and were false and unsubstantiated, in violation of Section 5(a) of the FTC Act, 45 U.S.C. § 45(a).

16. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants intended to make the claims set forth in Paragraph 14.

17. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants knew, at the time they were making the claims set forth in Paragraph 14, that they had no substantiation for those claims.

18. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants knew, at the time they were making the claims set forth in Paragraph 14, that they were required by law to have substantiation for those claims.

19. In the proceeding under Section 45(b) against Defendants, the Commission found that Defendants sold more than 700,000 Ab Force units and accessories, grossing more than \$19 million. Defendants made refunds to consumers of approximately \$3 million.

COUNT I

REDRESS UNDER SECTION 19 OF THE FTC ACT

20. A reasonable man would have known, under the circumstances, that the acts or practices set forth in Paragraphs 14 through 18 of this complaint were dishonest or fraudulent.

21. Therefore, Section 19 of the FTC Act, 15 U.S.C. § 57(b), authorizes this

Court to grant such relief as the court finds necessary to redress injury to consumers or other persons resulting from Defendants' violations of Section 5 of the FTC Act, including without limitation, rescission or reformation of contracts, the refund of money or return of property, the payment of damages, and public notification respecting the unfair or deceptive act or practice.

22. As a direct and proximate consequence of the acts or practices set forth in Paragraphs 14 through 18 of this complaint, which have been found to constitute violations of Section 5 of the FTC Act, consumers who purchased the Ab Force incurred losses of approximately \$16 million.

23. Therefore, pursuant to Section 19 of the FTC Act, the Commission is entitled to a judgment of consumer redress in an amount equal to the gross receipts from the fraudulent sales minus any refunds to consumers (approximately \$16 million).

COUNT II

DISGORGEMENT OF RELIEF DEFENDANT'S ILL-GOTTEN GAIN

24. Relief Defendant Poonam Khubani has received from Defendants funds and property which either are the proceeds or are traceable to the proceeds of the activities found unlawful by the Commission in the proceeding under Section 45(b) against Defendants and described in Paragraphs 14 through 18 above.

25. Relief Defendant Poonam Khubani obtained the assets under circumstances in which it is unjust, inequitable, or unconscionable for her to retain the assets, and she has been unjustly enriched. Individually or jointly with defendant Ajit Khubani she has received funds and other property that were derived unlawfully from payments by consumers as a consequence of the Defendants' acts and practices complained of herein. She has no legitimate claim to these assets.

26. The Commission is entitled to an order requiring that Poonam Khubani disgorge those assets.

AVOIDANCE OF FRAUDULENT TRANSFERS

27. Defendant Ajit Khubani has made transfers to Poonam Khubani that are fraudulent and can be voided pursuant to either the Federal Debt Collection Procedures Act or, in the alternative, the New Jersey Uniform Fraudulent Transfer Act.

FEDERAL DEBT COLLECTION PROCEDURES ACT

28. Pursuant to Section 3002(15)(B) of the FDCPA, 28 U.S.C. § 3002(15)(B), the "United States" includes "an agency, department, commission, board, or other entity of the United States."

29. Defendants Ajit Khubani, Telebrands, and TV Savings do not have

sufficient financial resources to redress the injury to consumers described in Paragraph 19 above.

30. The FTC's claim for consumer restitution arose when Defendants began selling the Ab Force in January 2002.

31. Beginning in January 2002 and continuing to the present, Defendant Ajit Khubani has made transfers to Poonam Khubani of approximately \$4 million in assets.

COUNT III

AVOIDANCE OF FRAUDULENT TRANSFERS TO RELIEF DEFENDANT POONAM KHUBANI UNDER SECTION 3304(b)(1)(A) OF THE FDCPA

32. Section 3304(b)(1)(A) of the FDCPA provides in pertinent part that “a transfer or obligation incurred by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made or the obligation is incurred, if the debtor makes the transfer or incurs the obligation - (A) with actual intent to hinder, delay, or defraud a creditor”

33. Defendant Ajit Khubani made the transfers described in Paragraph 31 “with actual intent to hinder, delay, or defraud a creditor,” and those transfers are fraudulent transfers pursuant to Section 3304(b)(1)(A) of the FDCPA as to a claim of the United States.

34. The Commission is therefore entitled to an order avoiding the fraudulent transfers described in Paragraph 31.

COUNT IV

AVOIDANCE OF FRAUDULENT TRANSFERS TO RELIEF DEFENDANT POONAM KHUBANI UNDER SECTION 3304(b)(1)(B) OF THE FDCPA

35. Section 3304(b)(1)(B) of the FDCPA provides in pertinent part that a transfer made by a debtor is fraudulent as to a debt to the United States, whether such debt arises before or after the transfer is made, if the debtor makes the transfer “(B) without receiving a reasonably equivalent value in exchange for the transfer or obligation if the debtor - (i) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or (ii) intended to incur, or believed or reasonably should have believed that he would incur, debts beyond his ability to pay as they became due.”

36. Defendant Ajit Khubani did not receive “a reasonably equivalent value in exchange for” the transfers described in Paragraph 31.

37. At the time of the transfers described in Paragraph 31, Defendant Ajit Khubani either was engaged or was about to engage in the marketing and sale of the Ab Force, a transaction for which his remaining assets were unreasonably

small in relation to the transaction.

38. At the time of the transfers described in Paragraph 31, Defendant Ajit Khubani reasonably should have believed that he would incur debts beyond his ability to pay as they became due.

39. The transfers described in Paragraph 31 are fraudulent transfers pursuant to Section 3304(b)(1)(B) of the FDCPA as to a claim to the FTC, and therefore, to the United States.

40. The Commission is therefore entitled to an order avoiding the fraudulent transfers described in Paragraph 31.

THE NEW JERSEY UNIFORM FRAUDULENT TRANSFER ACT

COUNT V

AVOIDANCE OF FRAUDULENT TRANSFERS TO RELIEF DEFENDANT UNDER NEW JERSEY UNIFORM FRAUDULENT TRANSFER ACT: ACTUAL INTENT TO HINDER, DELAY OR DEFRAUD ANY CREDITOR

41. N.J. Stat. § 25:2-25a. provides that a transfer by a debtor “is fraudulent as to a creditor, whether the creditor’s claim arose before or after the transfer was made” if the debtor made the transfer “with actual intent to hinder, delay, or defraud any creditor of the debtor.”

42. Defendant Ajit Khubani made the transfers described in Paragraph 31 “with actual intent to hinder, delay, or defraud” a creditor.

43. The transfers described in Paragraph 31 were fraudulent within the meaning of the Uniform Fraudulent Transfer Act, N.J. Stat. § 25:2-25a. The Commission is therefore entitled to an order avoiding the fraudulent transfers described in Paragraph 31.

COUNT VI

AVOIDANCE OF FRAUDULENT TRANSFERS TO RELIEF DEFENDANT UNDER NEW JERSEY UNIFORM FRAUDULENT TRANSFER ACT: TRANSFER WITHOUT RECEIVING A REASONABLY EQUIVALENT VALUE

44. N.J. Stat. § 25:2-25b. provides that a transfer by a debtor “is fraudulent as to a creditor, whether the creditor’s claim arose before or after the transfer was made” if the debtor made the transfer “without receiving a reasonably equivalent value in exchange for the transfer or obligation, and the debtor: (1) was engaged or was about to engage in a business or a transaction for which the remaining assets of the debtor were unreasonably small in relation to the business or transaction; or (2) intended to incur, or believed or reasonably should have believed that the debtor would incur, debts beyond the debtor’s ability to pay as they became due.”

45. Defendant Ajit Khubani made the transfers described in Paragraph 31 without receiving a reasonably equivalent value in exchange and he (1) was engaged or was about to engage in a transaction for which his assets were

unreasonably small or (2) believed or reasonably should have believed that he would incur debts beyond his ability to pay as they became due.

46. The transfers described in Paragraph 31 were therefore fraudulent within the meaning of the Uniform Fraudulent Transfer Act, N.J. Stat. Section § 25:2-25b. The Commission is therefore entitled to an order avoiding the fraudulent transfers described in Paragraph 31.

COUNT VII

AVOIDANCE OF FRAUDULENT TRANSFERS TO RELIEF DEFENDANT UNDER NEW JERSEY UNIFORM FRAUDULENT TRANSFER ACT: TRANSFERS WHILE INSOLVENT

47. N.J. Stat. § 25:2-27a. provides that a transfer by a debtor “is fraudulent as to a creditor whose claim arose before the transfer was made” if the debtor made the transfer “without receiving a reasonably equivalent value in exchange for the transfer or obligation and the debtor was insolvent at the time or the debtor became insolvent as a result of the transfer or obligation.”

48. Since at least September 2002, when the FTC informed Defendant Ajit Khubani that it was investigating the advertising and sale of the Ab Force for possible violations of the FTC Act, he has been aware that he could face a judgment for consumer restitution in an amount equal to the gross receipts from the fraudulent sales minus any refunds to consumers (approximately \$16 million).

49. Between September 2002 and the present, Defendant Ajit Khubani has transferred at least \$3.6 million in assets to Relief Defendant Poonam Khubani.

50. The FTC's claim against Ajit Khubani arose before he made the transfers alleged in Paragraph 49. He did not receive reasonably equivalent value in exchange for these transfers, and he was insolvent at the time of the transfers or he became insolvent as a result of these transfers.

51. The transfers described in Paragraph 49 were therefore fraudulent within the meaning of the Uniform Fraudulent Transfer Act, N.J. Stat. Section 25:2-27a. The Commission is therefore entitled to an order avoiding the fraudulent transfers described in Paragraph 49.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff Federal Trade Commission prays for judgment under Section 19(b) of the FTC Act, 15 U.S.C. 57b(b), under Section 3306 of the FDCPA, 28 U.S.C. § 3306, and under N.J. Stat. Section 25:2-25a. and b. and Section 25:2-27a., and this Court's equitable jurisdiction, as follows:

1. For such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' deceptive acts or practices;
2. For the costs of bringing this action, as well as such other additional relief, including the disgorgement of redress funds not claimed by consumers, as the

Court may determine to be just and proper;

3. For such relief against Relief Defendant Poonam Khubani as the Court finds necessary to protect and return funds and other property that were derived from the acts and practices complained of herein, including an order to disgorge all ill-gotten gains or proceeds that she has received as a result of the acts and practices complained of herein, and an order imposing a constructive trust upon such gains or proceeds;

4. For any and all appropriate remedies pursuant to 28 U.S.C. § 3306, including, but not limited to:

- a. A Declaration that the transfers described in Paragraph 31 of the Complaint are fraudulent, and that the same be set aside and declared void as against Plaintiff;
- b. An Order compelling Relief Defendant Poonam Khubani to account for and to convey and transfer to Plaintiff the assets described in Paragraph 31 of this Complaint or the value of such assets;

5. For an Order providing any and all appropriate remedies pursuant to N.J. Stat. Section 25:2-25 and Section 25:2-27(a), including, but not limited to, the following:

- a. A Declaration that the transfers described in Paragraphs 31 and 49 of

this Complaint are fraudulent, and that the same be set aside and declared void as against Plaintiff;

b. An Order compelling Relief Defendant Poonam Khubani to account for and to convey and transfer to Plaintiff the assets described in Paragraphs 31 and 49 of this Complaint or the value of such assets;

6. For such other relief as may be just and proper.

Dated: _____, 2007

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/s/

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