

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

**STATE OF IOWA *ex rel.*
THOMAS J. MILLER,
ATTORNEY GENERAL OF IOWA**

Plaintiff,

v.

**CENTURION FILING SERVICES, LLC,
D/B/A “IA CERTIFICATE SERVICE”,**

and

DEAN G. MARSHLACK,

Defendants.

EQUITY NO. EQCE_____

PETITION IN EQUITY

COMES NOW the State of Iowa *ex rel.* Attorney General Thomas J. Miller, by and through Assistant Attorneys General William R. Pearson and J. Andrew Cederdahl, and states as follows in this enforcement proceeding against the above-named Defendants under the Iowa Consumer Fraud Act, Iowa Code section 714.16:

PARTIES

1. Iowa Attorney General Thomas J. Miller is authorized to bring this action on behalf of the State of Iowa by § 714.16(7) of the Iowa Consumer Fraud Act.

2. Defendant Centurion Filing Services, LLC (“Centurion” or “Defendant”) is a Florida Limited Liability Company with its principal place of business at 2312 4th Street North, Suite 104, St. Petersburg, Florida 33704. IA Certificate Service the d/b/a for Defendant Centurion in Iowa, created by fictitious name resolution. On mailers sent to newly-formed Iowa businesses, Centurion, LLC, d/b/a IA Certificate Service identifies its address as 2643 Beaver Avenue, Suite 124, Des Moines, Iowa 50310, which address is a UPS store.

3. Defendant Dean Garrett Marshlack is, on information and belief, a citizen of the state of Florida, and resides at 424 45th Avenue NE, St. Petersburg, Florida 33703. Defendant Marshlack is the creator, sole owner, President, manager and registered agent for Defendant Centurion Filing Services, LLC. In these roles, Defendant Marshlack oversees and engages in the day-to-day operations of the Defendant Centurion. In addition, Defendant Marshlack signed the application for certificate of authority for Defendant Centurion and the fictitious name resolution for IA Certificate Service, both of which were filed with the Iowa Secretary of State. As president, manager and sole owner of Defendant Centurion and its d/b/a IA Certificate Service, Defendant Marshlack exercised complete control over the activities of Defendant Centurion and its d/b/a IA Certificate Service and was a primary participant in and directed the unfair practices and false, deceptive, misleading and omissive conduct alleged herein, which conduct was intentionally directed toward Iowans.

JURISDICTION AND VENUE

4. The Court has subject matter jurisdiction over this matter under Iowa Code section 714.16(7).

5. The Court has personal jurisdiction over Defendant Centurion d/b/a IA Certificate Service because it regularly transacts business in the State of Iowa, and the claims asserted herein arise from Defendant Centurion d/b/a IA Certificate Service in and intentionally directed toward the State of Iowa.

6. The Court has personal jurisdiction over Defendant Marshlack because of his personal acts in perpetuating the consumer fraud alleged herein. Furthermore, Defendant Marshlack exercised complete control over the conduct of Defendant Centurion d/b/a IA Certificate Service and was a primary participant in the activities alleged herein, which were intentionally directed at Iowa residents.

7. Venue in Polk County is proper pursuant to Iowa Code section 714.16(10) because Defendants have done and are doing business in this county, and it is a county where some of the transactions giving rise to this action occurred.

APPLICABLE LEGAL PROVISIONS

8. The Iowa Consumer Fraud Act, Iowa Code section 714.16 (2)(a) (2017) defines **UNLAWFUL PRACTICES** as follows:

The act, use or employment by a person of an unfair practice, deception, fraud, false pretense, false promise, or misrepresentation, or the concealment, suppression, or omission of a material fact with intent that others rely upon the concealment, suppression, or omission, in connection with the lease, sale, or advertisement of any merchandise or the solicitation of contributions for charitable purposes, whether or not a person has in fact been misled, deceived, or damaged, **is an unlawful practice.**

It is **deceptive advertising** within the meaning of this section for a person to represent in connection with the lease, sale, or advertisement of any merchandise that the advertised merchandise has certain performance characteristics, accessories, uses, or benefits or that certain services are performed on behalf of clients or customers of that person if, at the time of the representation, no reasonable basis for the claim existed. The burden is on the person making the representation to demonstrate that a reasonable basis for the claim existed.

9. Iowa Code section 714.16(1) provides the following definitions:

(f) **“Deception”** means an act or practice which has the tendency or capacity to mislead a substantial number of Consumers as to a material fact or facts.

(n) **“Unfair practice”** means an act or practice which causes substantial, unavoidable injury to Consumers that is not outweighed by any Consumer or competitive benefits which the practice produces.

10. Iowa Code section 714.16(7) provides, in pertinent part:

Except in an action for concealment, suppression, or omission of a material fact with intent that others rely upon it, **it is not necessary in an action for reimbursement or an injunction, to**

allege or prove reliance, damages, intent to deceive, or that the person who engaged in an unlawful act had knowledge of the falsity of the claim or ignorance of the truth.

(emphasis added).

11. In describing remedies, the Iowa Consumer Fraud Act provides, in pertinent part:

In addition to the remedies otherwise provided for in this subsection, the attorney general may request and the court may impose a civil penalty not to exceed forty thousand dollars per violation against a person found by the court to have engaged in a method, act, or practice declared unlawful under this section; provided, however, a course of conduct shall not be considered to be separate and different violations merely because the conduct is repeated to more than one person. In addition, on the motion of the attorney general or its own motion, the court may impose a civil penalty of not more than five thousand dollars for each day of intentional violation of a . . . permanent injunction issued under authority of this section.

12. Regarding an award of attorney fees and costs, Iowa Code § 714.16(11) provides:

In an action brought under this section, the attorney general is entitled to recover costs of the court action and any investigation which may have been conducted, including reasonable attorneys' fees, for the use of this state.

**FACTUAL ALLEGATIONS: DEFENDANTS' UNLAWFUL ACTS,
UNFAIR PRACTICES AND DECEPTIVE ADVERTISING**

13. A Certificate of Existence is an optional certificate that consumers or businesses can order from the Iowa Secretary of State for \$5.00. Businesses are not required to obtain a Certificate of Existence to organize or operate in the State of Iowa, however an entity may be required to include a Certificate of Existence in an application for authorization to do business in another state. A Certificate of Existence may also be requested by other entities such as banks as part of a loan application, or potential business partners, as part their due diligence.

14. On June 24, 2020, Defendant Centurion filed an application for a Certificate of Authority, signed by Defendant Marshlack, to operate as a foreign limited liability company in

Iowa. Defendant Centurion then filed a fictitious name resolution with the Secretary of State, also signed by Defendant Marshlack, adopting the name IA Certificate Service, on June 25, 2020.

15. In July 2020, the Consumer Protection Division of the Iowa Attorney General's Office received a complaint from an Iowa consumer indicating he received a mailer from "IA Certificate Service," which was "trying to spoof the IA Sec'y [sic] Office and make \$62.50 each time, since I can get a cert [sic] of existence for \$5 direct from [the Secretary of State's Office]." The Division received a second complaint about the same operation, which stated the complainant "called the number [on the mailer the Defendants were sending] and they told me they were contracted by the State of Iowa to provide legal documents that my non-profit needed for bank loans. This is false and they should be required to stop." Further communication between the Attorney General's Office and the Iowa Secretary of State's Office reflected that several other Iowa businessowners were inquiring about the Defendants' mailers, which caused confusion about whether they were sanctioned by the government.

16. Based on these complaints and the State's subsequent investigation, the State determined that shortly after forming in Iowa, businesses would receive an official-looking letter from IA Certificate Service. The letter includes, among other things, the business name and address, business identification number, business type, and date of business registration. A copy of one of the letters sent by IA Certificate Service to a newly formed Iowa business is attached to this Petition as Exhibit A.

17. Defendant Centurion d/b/a IA Certificate Service, at the direction of Defendant Marshlack, sent at least 7,171 of the mailers attached as Petition Exhibit A to Iowa businesses.

18. Defendant Marshlack formulated, directed, participated in, and authorized Defendant Centurion d/b/a IA Certificate Service's mailer campaign targeting thousands of newly-formed Iowa businesses.

19. In furtherance of his fraudulent scheme, Defendant Marshlack directed his secretary to apply to the UPS Store in Des Moines for the mailbox from which the scam at issue in this litigation was conducted inside Iowa. On July 13, 2020, Defendant Marshlack also personally applied for and obtained a new business checking account for "IA Certificate Service," through which hundreds of checks sent by Iowa business owners in response to the Defendants' mailers were deposited.

20. The letter directs the recipient to pay a \$67.50 "Business Entity Standing Certificate Fee" in order for IA Certificate Service to obtain a Certificate of Existence on behalf of the businesses.

21. As a result of Defendants' deception, some business owners believed that the letter was from the Secretary of State, rather than Defendants, and believed that obtaining the Certificate of Existence was a necessary step to completing the creation and organization of their business. This belief was based on the appearance and language used in the letter.

22. The appearance of the letter tends to mislead recipients. Upon information and belief, Defendants intentionally crafted the mailing to resemble an official document from the Secretary of State or another State agency.¹

23. Upon information and belief, Defendants used the name "IA Certificate Service" with the intention of misleading Iowa businesses into believing the letter was from the Iowa Secretary of State or another State agency.

¹ Intent to deceive is not required in order to violate the Iowa Consumer Fraud Act. Iowa Code § 714.16(7).

24. Defendants' intent to mislead recipients into believing the letter is from a State agency is demonstrated by numerous elements of the letter, including but not limited to:

- a. The format and appearance of the letter, including the official-looking seal in the upper left corner of the document, series of rectangular boxes, bar codes, and key codes and numbers on the bottom of the letter, suggest that it is a government document;
- b. The return address on the letter, "IA Certificate Service, 2643 Beaver Avenue Suite 124, Des Moines, IA 50310," is the address of a UPS store in the Beavertdale neighborhood of Des Moines and thus disguises the fact that the sender's place of business is actually Florida;
- c. Further adding to the deception, 124 is actually the mailbox number at the UPS store, there is no "Suite 124." On information and belief, Defendants deceptively used "Suite 124" in the letter to give the impression they had an office in Des Moines, not merely a rented mailbox at a UPS store that forwarded to their Florida address;
- d. A "Notice Date" and deadline to respond are included in the letter, even though there is no deadline or requirement for newly-formed businesses to order a Certificate of Existence from the Secretary of State;
- e. The importance of responding is further emphasized, despite the lack of any legal requirement to do so, by the statement "IMPORTANT! FOLLOW INSTRUCTIONS EXACTLY WHEN COMPLETING THIS FORM. PLEASE PRINT CLEARLY" in a box at near the top of the page in large, bold, capitalized font;

- f. The statement “Congratulations on registering your business with the State of Iowa. Your Articles have been filed with the secretary of state and are complete,” suggests specialized knowledge of the recipient’s filing status and the Secretary of State’s filing process;
- g. The letter also contains the statement “You have one step left...” implying that completion of this form and payment of \$67.50 to IA Certificate Service is required to complete registration of the business.

25. Defendant Centurion d/b/a IA Certificate Service orders no benefit or advantage compared with a business entity directly requesting a Certificate of Existence from the Iowa Secretary of State. The fee for a Certificate of Existence from the Secretary of State is \$5.00, yet Defendant Centurion charges businesses \$67.50 – a 1350% markup. Furthermore, unless specifically required for some business purposes, obtaining a Certificate of Existence is unnecessary.

26. Upon information and belief, Iowa business have been damaged by Defendant Centurion d/b/a IA Certificate Service’s conduct because they responded and paid the \$67.50 fee requested by the mailer under the belief that doing so was required by a State agency. Upon information and belief, Defendant Centurion d/b/a IA Certificate service has scammed hundreds of new Iowa businesses and their owners out of tens of thousands of dollars.

MISCELLANEOUS ALLEGATIONS

27. Neither all nor any part of the application for injunctive relief herein has been previously presented to and refused by any court or justice. Iowa R. Civ. P. 1.1504.

28. In an action by the State, no security shall be required of the State. Iowa R. Civ. P. 1.207.

CAUSE OF ACTION
CONSUMER FRAUD ACT, IOWA CODE § 714.16,
UNFAIR AND DECEPTIVE ACTS AND PRACTICES

29. Paragraphs 1 through 28 are incorporated herein.

30. Defendants' acts and practices violate the prohibitions of Iowa Code section 714.16(2)(a) against misleading, deceptive, and unfair acts and practices, and otherwise violate that subsection of the CFA.

31. Although it is not necessary to establish reliance, damages or intent to deceive to obtain injunctive relief or reimbursements under the CFA, establishing these factors (particularly intent) is nevertheless relevant inter alia to the Court's determination of the appropriate scope of injunctive relief and the appropriate amount of civil penalties. Those acts and practices of Defendants in violation of subsection (2)(a) of the CFA alleged in this Court would in fact induce reliance on the part of consumer victims, would in fact cause damage to consumers, and/or were in fact intentional.

PRAYER FOR RELIEF

Plaintiff prays the Court grant the following relief:

A. Pursuant to Iowa Code section 714.16(7), and upon further request by Plaintiff separately addressed to the Court, enter a preliminary injunction restraining Defendants, and each of them, and (as applicable), each such Defendant's directors, officers, principals, partners, employees, agents, servants, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parents or controlling entities, and all other persons, corporations, and other entities acting in concert or participating with Defendants who have actual or constructive notice of the Court's injunction, from engaging in any of the deceptive, misleading, and unfair practices alleged in this Petition or otherwise violating the Consumer Fraud Act.

- B. Pursuant to Iowa Code section 714.16(7), after trial on the merits, make permanent the above-described injunctions, expanding their provisions as necessary by including, *inter alia*, such “fencing in” provisions as are reasonably necessary to ensure that Defendants and other enjoined persons and entities do not return to the unlawful practices alleged herein, or commit comparable violations of the law.
- C. Pursuant to Iowa Code section 714.16(7), enter judgment against Defendants, jointly and severally, for amounts necessary to restore to Iowans all money acquired by means of acts or practices that violate the Consumer Fraud Act.
- D. Pursuant to Iowa Code section 714.16(7) enter judgment against Defendants, jointly and severally, for such additional funds as are necessary to ensure complete disgorgement of all ill-gotten gain traceable to the unlawful practices alleged herein.
- E. Pursuant to Iowa Code section 714.16(7), enter judgment against each Defendant for up to \$40,000.00 for each separate violation of the Consumer Fraud Act.
- F. Award Plaintiff interest as permitted by law.
- G. Pursuant to Iowa Code section 714.16(11), enter judgment, jointly and severally, against Defendants for attorney fees and state’s costs.
- H. Retain jurisdiction as necessary to ensure full compliance with the pertinent provisions of the Consumer Fraud Act and with the Court’s orders.
- I. Assess court costs against Defendants.
- J. Grant such additional relief as the Court deems just and equitable.

Respectfully submitted,

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Attorney General of Iowa

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