

IN THE IOWA DISTRICT COURT FOR POLK COUNTY

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

Plaintiff,

v.

LA' JAMES COLLEGE OF HAIRSTYLING
INC. OF FORT DODGE, d/b/a LA JAMES
INTERNATIONAL COLLEGE,

TRAVIS, LTD, d/b/a LA JAMES
INTERNATIONAL COLLEGE,

M & C BEAUTY SCHOOL INC., d/b/a LA
JAMES INTERNATIONAL COLLEGE

TIFFANY, LTD, d/b/a LA JAMES
INTERNATIONAL COLLEGE,

R & R CONSTRUCTION COMPANY, d/b/a
LA JAMES INTERNATIONAL COLLEGE,

LYNDI, LTD,

and

CYNTHIA BECHER

Defendants.

EQUITY _____

PETITION

The State of Iowa ex rel. Attorney General Thomas J. Miller, acting pursuant to the authority of the Iowa Consumer Fraud Act, Iowa Code § 714.16, states as follows:

INTRODUCTION

La' James International College operates cosmetology and massage schools and salons in Cedar Falls, Cedar Rapids, Davenport, Johnston, Fort Dodge, and Iowa City, Iowa, and has one

location each in Illinois and Nebraska.¹ Cynthia Becher owns La' James and controls its business practices. La' James' website touts its education as being "Distinctively Different," and, indeed, what consumers who enroll as students encounter is different from the experience one would reasonably expect. What many students experience is a school with extraordinary turnover of instructors resulting in instructorless classrooms and inconsistent instruction, lack of access to practice their skills and, ultimately, an institution that treats them more like free labor than students. Indeed, through their tuition students seemingly pay La' James for the privilege of working for the company. All of this stems from practices that are deceptive, omissive and unfair and, therefore, are unlawful pursuant to the Consumer Fraud Act.

La' James fails to provide students qualified instructors, subjects students to long periods of time without instruction, impedes student completion of required skills training, forces students to perform janitorial services, keeps shoddy records that leaves students not knowing how many hours of training they have completed or how many hours remain prior to program completion, and causes students to doubt whether upon graduation they will be prepared and capable of entering their chosen profession.

La' James' alleged unlawful practices understandably result in students giving up and skipping classes. And when students try to make up missed hours, La' James' policies and procedures make it difficult for them to do so. Defendants benefit financially from these practices by imposing extra charges on the students for not finishing their education by a date set by La' James – a date not mandated by state law.

Students pay a substantial sum for a La' James education. They have a right to expect and should receive an educational experience commensurate with that expectation.

¹ "La' James," as used herein, refers to all corporate defendants in this Petition.

The Attorney General brings this action under the Consumer Fraud Act to seek a court order barring defendants from misleading students and from concealing material information from them, penalizing defendants for engaging in the violations of law alleged, and ordering defendants to reimburse students and pay the State's costs and fees in bringing this action.

PARTIES AND VENUE

1. Plaintiff, the State of Iowa, through Attorney General Thomas J. Miller, is specifically authorized to enforce the Iowa Consumer Fraud Act, Iowa Code § 714.16 (2013).

2. Defendant La' James College of Hairstyling Inc. of Fort Dodge, does business as La' James International College in Fort Dodge, Iowa, and is an Iowa corporation owned and operated by Lyndi, LTD.

3. Defendant Travis, LTD, does business as La' James International College in Iowa City, Iowa, and is an Iowa corporation owned and operated by Lyndi, LTD.

4. Defendant M & C Beauty School, Inc., does business as La' James International College in Cedar Falls, Iowa, and is an Iowa corporation owned and operated by Lyndi, LTD.

5. Defendant Tiffany, LTD, does business as La' James International College in Davenport, Iowa, and is an Iowa corporation owned and operated by Lyndi, LTD.

6. Defendant R & R Construction Company, does business as La' James International College in Johnston, Iowa, and is an Iowa corporation owned and operated by Lyndi, LTD.

7. Defendant Lyndi, LTD, is an Iowa corporation owned and operated by defendant Cynthia Becher, who has a 75% interest in the corporation, and her son, Travis Becher, who has a 25% interest in the corporation.

8. Defendant Cynthia Becher is the President of La' James, is an officer of each of the corporate defendants herein, and owns and controls La' James' educational and business practices.

9. Venue is proper in Polk County, pursuant to Iowa Code § 714.16(10), because defendants have conducted business in Polk County, and one or more of the victims reside in Polk County.

JURISDICTION

10. The Attorney General of Iowa has the authority to initiate an action for consumer fraud in violation of Iowa Code § 714.16.

11. This Court has jurisdiction over the defendants pursuant to Iowa Code § 714.16, because the defendants transacted business within the State of Iowa at all times relevant to this Petition.

12. Iowa Code § 714.16(7), in pertinent part, authorizes the Attorney General to bring this action:

A civil action pursuant to this section shall be by equitable proceedings. If it appears to the attorney general that a person has engaged in, is engaging in, or is about to engage in a practice declared to be unlawful by this section, the attorney general may seek and obtain in an action in a district court a temporary restraining order, preliminary injunction, or permanent injunction prohibiting the person from continuing the practice or engaging in the practice or doing an act in furtherance of the practice. The court may make orders or judgments as necessary to prevent the use or employment by a person of any prohibited practices, or which are necessary to restore to any person in interest any moneys or property, real or personal, which have been acquired by means of a practice declared to be unlawful by this section, including the appointment of a receiver in cases of substantial and willful violation of this section.

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 temporary restraining order, preliminary injunction, or permanent injunction issued under authority of this section.

FACTUAL ALLEGATIONS

13. La' James is a for-profit entity with multiple Iowa locations offering instruction in cosmetology and other personal care professions.

14. La' James charges its Iowa location students from about \$4,750.00 to about \$18,660.00 in tuition to complete their programs, depending on the program they select.

15. Defendant Lyndi, LTD., and its subsidiaries, the other corporate defendants in this Petition, had combined net incomes as follows:

- a. \$ 1,279,215.00 in the fiscal year ending July 30, 2009;
- b. \$ 3,414,581.00 in the fiscal year ending July 30, 2010;
- c. \$ 2,828,841.00 in the fiscal year ending July 30, 2011; and,
- d. \$ 1,967,037.00 in the fiscal year ending July 30, 2012.

La' James provides an understaffed, chaotic educational environment.

16. While La' James touts a "standard of excellence" on its website, a substantial number of La' James' students spend hours without an instructor in the classroom during assigned class times, and when instructors are present in the classroom they may lack sufficient knowledge to teach the specific course content.

17. Because it understaffs and overworks instructors, and because instructors are dissatisfied by the way La' James shortchanges students, La' James has difficulty retaining instructors, resulting in further instructor shortages.

18. Due to the instructor shortages defendants sometimes assign instructors to be in more than one place at the same time, for example, by assigning them to instruct a class while, at the same time, requiring them to oversee students performing services on clients in the salon.

19. La' James' difficulty in retaining instructors creates a chaotic, unpredictable learning environment in which students have no assurance that an instructor with adequate knowledge and skills to teach the course will be present to instruct a class on any given day.

20. Defendants' failure to consistently staff classrooms with instructors with adequate knowledge and skills to teach the course results in delayed program completion, and inadequate knowledge and skill acquisition for students.

La' James treats its students more akin to employees than learners.

21. La' James is more akin to a workplace than an educational institution as students are pressured to sell products and only receive credit for completing required services on paying customers.

22. Instead of permitting practice skills to be performed on mannequins as allowed at most other cosmetology schools, La' James requires students to recruit their own families, friends, or others as paying customers when walk-in client numbers are insufficient.

23. La' James sometimes requires students to clean floors, do laundry, and perform other janitorial duties.

24. Defendants require students to sell products from defendants' salon as a condition of receiving credit for required skills training.

25. Defendants set goals requiring students to make certain quantities of product sales and impose penalties upon students who fail to achieve those sales goals.

La' James fails to disclose important information to prospective students.

26. Defendants fail to disclose to prospective students prior to enrollment that students will be required to recruit paying clients for defendants' salons if sufficient numbers of walk-in clients are not available.

27. Defendants fail to disclose to prospective students prior to enrollment that, unlike its educational competitors, La' James does not permit students to receive credit for skills training done on mannequins, or on other students, but requires it be done on paying customers in order to receive credit.

28. Defendants fail to disclose to prospective students prior to enrollment that defendants will impose charges upon clients the students recruit for practicing their skills in cutting hair and performing other La' James salon and spa services. Defendants also fail to disclose that in the event that students are unable to recruit clients willing and able to pay for services, students are responsible for paying charges defendants impose for the services.

29. Defendants fail to disclose to prospective students prior to enrollment that students will be required to clean floors, do laundry, and perform other janitorial duties for defendants.

30. Defendants fail to disclose to prospective students they will be required to sell products for defendants and be penalized for their failure to do so.

31. Defendants fail to disclose to prospective students prior to enrollment that they will be required to complete a specific number of services at defendants' salons in order to complete their educational programs.

La' James unfair and deceptive late program completion charges.

32. By failing to staff the schools with qualified educators and by treating students more like unpaid staff than students, defendants cause many students to become frustrated and stop attending classes on a regular basis.

33. The above and other practices of defendants make it difficult for La' James students to complete their training by an arbitrary completion deadline set by the company – a time frame, from program start to finish, not required by any state law or regulation.

34. Defendants require students who are unable to complete the required hours of instruction by the completion deadline to pay additional sums for every hour attended past the deadline.

35. Defendants fail to accurately record the numbers of hours students have reported being in attendance and, therefore, fail to give students credit for hours attended.

36. Defendants impose fees on students for hours of instruction completed after the program completion deadline when, in fact, the students should not be charged because defendants failed to give the students full credit for every hour actually attended.

37. From January 1, 2010, through June 3, 2013, over 25 per cent of defendants' graduates did not graduate by the program completion deadline, resulting in those 254 graduates paying defendants a total of \$631,201.04 in extra tuition, an average of \$2,485.04 per student.

38. Defendants charged some students two or three times the amount of hourly charge defendants represented they imposed for each hour of instruction past the student's program completion deadline. There has never been any disclosure to the students that higher fees were being imposed upon them.

39. Defendants do not extend required program completion dates for students who cannot complete the required hours of instruction by the completion deadline due to circumstances reasonably beyond the student's control, such as illness, death or illness in the student's family, a student's pregnancy, a student's husband being deployed to Iraq, and others.

40. Defendants fail to provide adequate numbers of walk-in salon clients, thus delaying students' graduation from La' James until the students complete the required number of practice services and, thereby, preventing students from obtaining work, licensure, and income in their intended field.

41. Defendants mislead students about the costs of the education defendants offer, the amount of time required to complete defendants' programs, and the necessity to recruit customers for defendants.

La' James' practices harm students.

42. If students were aware of the above practices prior to enrollment a substantial number of them would not enroll at La' James.

43. Defendants' practices, alleged herein, caused substantial, unavoidable injuries to consumers which are not outweighed by any benefit to competition resulting from such practices.

44. Defendants' practices, alleged herein, have the tendency or capacity to mislead a substantial number of consumers about a material fact or facts.

45. Defendants' conduct, described herein, constitutes omissions of material fact with the intent that others rely on the omissions.

46. Defendants' conduct, described herein, constitutes untruthful statements likely to affect students' conduct with regard to La James' educational products and services.

47. This Petition for injunctive relief has not been presented to, or denied by, any other judge of the district court.

48. Pursuant to Iowa R. Civ. P. 1.207, no security is required of the State.

CAUSES OF ACTION

49. Paragraphs 1 through 48 are incorporated herein by reference.

50. Subsection “2,” paragraph “a” of the Iowa Consumer Fraud Act provides in pertinent part:

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 ... whether or not a person has in fact been misled, deceived, or damaged is an unlawful practice.

51. Iowa Code § 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.

52. Iowa Code § 714.16(7) provides that except in the case of a material omission, it is not necessary for the Attorney General to prove reliance, damages, intent, or knowledge, stating in pertinent part:

Except in an action for the 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 to 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.

CONSUMER FRAUD ACT VIOLATIONS

53. Defendants’ business transactions in Iowa are in connection with the lease, sale, or advertisement of merchandise as defined at Iowa Code § 714.16(1)(i).

54. Defendants violated Iowa Code § 714.16(2)(a) by engaging in unfair practices, 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 sale or advertisement of any merchandise.

REQUEST FOR RELIEF

WHEREFORE, PLAINTIFF respectfully requests:

A. That the Court, pursuant to Iowa Code § 714.16(7), issue a preliminary and then a permanent injunction, enjoining defendants and each of the defendant La' James' directors, officers, principals, partners, employees, agents, representatives, subsidiaries, affiliates, successors, assigns, merged or acquired predecessors, parent or controlling entities, and all other persons, corporations, or other entities, acting in concert or participating with defendants who have actual or constructive notice of the Court's injunction from engaging in the deceptive, misleading, unfair, and omissive acts and practices or otherwise violating the Iowa Consumer Fraud Act as alleged herein.

B. That the Court expand the provisions of the injunctions as necessary by including such "fencing in" provisions as are reasonably necessary to ensure that the defendants and other enjoined persons and entities do not return to the unlawful practices alleged herein, or commit comparable violations of law.

C. That the Court, pursuant to Iowa Code § 714.16(7), enter judgment against defendants, jointly and severally, for amounts necessary to restore to all affected persons all money acquired by means of acts or practices that violate the Consumer Fraud Act.

D. That the Court, pursuant to Iowa Code § 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. That the Court, pursuant to Iowa Code § 714.16(7), enter judgment against each defendant for civil penalties up to \$40,000.00 for each separate violation of the Consumer Fraud Act by such defendant.

F. That the Court award the State interest as permitted by law.

G. That the Court, pursuant to Iowa Code § 714.16(11), enter judgment against defendants, jointly and severally, for mandatory attorney fees, state's costs and court costs.

H. That the Court grant such additional relief pursuant to Iowa Code § 714.16 as the Court deems just and equitable.

Respectfully submitted,

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