

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

WELLCO, INC., a corporation, and

GEORGE M. MOSCONE, individually and as an
officer of WELLCO, INC.,

Defendants.

Case No. _____

**COMPLAINT FOR PERMANENT
INJUNCTION, MONETARY
RELIEF, AND OTHER RELIEF**

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

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), which authorizes the FTC to seek, and the Court to order, permanent injunctive relief, rescission or reformation of contracts, the refund of monies paid, restitution, disgorgement of ill-gotten monies, and other relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a). Defendants’ violations are in connection with the advertising, marketing, distribution, and sale of television antennas and related amplifiers.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue is proper in this District under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by the FTC Act, which authorizes the FTC to commence this district court civil action by its own attorneys. 15 U.S.C. §§ 41-58. The FTC 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.

DEFENDANTS

5. Defendant Wellco, Inc. (“Wellco”), formerly Wellco Media, Inc., is a New York Corporation with its principal place of business at 580 5th Ave., Suite 34, New York, NY 10036. Wellco transacts or has transacted business in this District and throughout the United States.

6. At all times relevant to this Complaint, acting alone or in concert with others, Wellco has advertised, marketed, distributed, or sold television antenna products to consumers throughout the United States.

7. Defendant George M. Moscone (“Moscone”) is the President, Chief Executive Officer, and owner of Wellco. At all times relevant to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Wellco, including the acts and practices set forth in this Complaint. He is responsible for the day-to-day management of Wellco, researches and identifies the specific products sold by Wellco, assists in determining the price at which the products will be sold, and assists in the development of the packaging for the products. Defendant Moscone reviewed and approved Wellco’s web pages, including those challenged in this Complaint. Moscone was aware, and sometimes directed, that substantial portions of the text and images for those web pages, including text and images at issue in this Complaint, were copied from web

pages advertising competing sellers' TV antenna products. He communicates with Wellco's payment processors and its performance marketing agency, the entity that recruits and manages marketing affiliates. He has been involved in the development of policies for handling consumer inquiries and complaints and supervising customer service representatives. He co-created templates for Defendants' customer service representatives to use to respond to customer service inquiries and complaints about performance of Defendants' antenna products. Defendant Moscone resides in this District and, in connection with the matters alleged herein, transacts or has transacted business in this District and throughout the United States.

COMMERCE

8. 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

9. Since 2017, Defendants have advertised, offered for sale, sold, and distributed indoor, television antennas and associated television antenna amplifiers. They have sold the antennas and amplifiers under the TV Scout, SkyWire, SkyLink, and Tilt TV brand names. The television antennas sold under each brand name have all, with one exception in early 2017, been one identical model (the "Wellco TV Antenna"). The television antenna amplifiers sold under each brand name have all been one identical model (the "Wellco TV Amplifier").

10. Defendants began using the TV Scout brand to sell their antennas and amplifiers ("TV Scout Antennas and Amplifiers") in March 2017. The focus of Defendants' marketing shifted to using the SkyWire brand for their antennas and amplifiers ("SkyWire TV Antennas

and Amplifiers”) in July 2017, although some sales of the TV Scout Antennas and Amplifiers continued. In June 2018, Defendants adopted the SkyLink brand for their antennas and amplifiers (“SkyLink Antennas and Amplifiers”), and ceased marketing SkyWire Antennas and Amplifiers by July 2018 due to trademark issues. In January 2019, Defendants introduced Tilt TV brand antennas and amplifiers (“Tilt TV Antennas and Amplifiers”), but continued marketing SkyLink Antennas and Amplifiers.

11. Defendants have operated websites to advertise, market, and sell their Wellco TV Antennas and Amplifiers at gettvscout.com, skywiretvantenna.com, getskylinktvantenna.com, skylinktvantenna.com, gettilttv.com, and tilttvantenna.com domains. Defendants’ performance marketing agency recruited affiliates who published or disseminated advertising, including email marketing, social media ads, native ads, and search ads, that directed consumers to one of the versions of Defendants’ web pages. Defendants concurrently hosted multiple versions of their web pages for each antenna brand, and the page on Defendants’ websites to which any consumer was directed varied by affiliate and affiliate advertisement.

12. The Wellco TV Antenna is a thin, black, rectangular antenna that is approximately 8¼ inches wide by 4¾ inches tall. It has an approximately ten foot long coaxial cable to connect to a television. Antennas such as the Wellco TV Antenna are sometimes referred to as “mud flap” style antennas.

13. The Wellco TV Amplifier is a boxlike device, measuring approximately 2 x 1¼ x ½ inches. One end of the Wellco TV Amplifier attaches to the Wellco TV Antenna’s coaxial cable; and the other end of the amplifier has a coaxial cable that connects to a television. The amplifier also has a cable that attaches to a USB port for power.

14. The price of one Wellco TV Antenna ranged from \$22.53 to \$39.95. The price of one Wellco TV Amplifier was \$32.00. When customers purchased multiple antennas or amplifiers, the price per device was reduced. Defendants sold more than 800,000 SkyWire, SkyLink, and Tilt TV Antennas and more than 272,000 TV Scout, SkyWire, SkyLink, and Tilt TV Amplifiers, resulting in approximately \$35 million in sales after product returns.

15. Defendants have disseminated or caused to be disseminated advertisements for Wellco TV Antennas and Amplifiers. Advertisements for Wellco TV Antennas and Amplifiers include, but are not necessarily limited to, the attached Exhibits A through F. These materials contain the following statements and depictions, among others:

A. SkyWire TV Antenna Web Page

SKYWireTV
ANTENNA

The #1 rated indoor HDTV
antenna in America.

...

SKYWIRE ANTENNA TECHNOLOGY ALLOWS YOU TO
WATCH FREE TV IN 1080 HD

The average home pays over \$750 for cable in just one year! Consumers are getting ripped off by the big cable companies and there is nothing they can do about it... until now. A NASA scientist created this antenna so that the little guy could “fight back” and enjoy their favorite TV shows in HD without handing over their hard-earned cash to the cable companies.

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