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FILED

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Division of Consumer Affairs

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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
DOCKET NO.: 11-038

PAULA T. DOW, Attorney General of the
State of New Jersey,

Complainant,

v.

RMS Services, Inc. and Ana Burgos,

Respondents.

Administrative Action

COMPLAINT

PAULA T. DOW, Attorney General of the State of New Jersey (“Attorney General”), with offices located at 124 Halsey Street, Fifth Floor, Newark, New Jersey by way of Complaint states:

PRELIMINARY STATEMENT

1. Opinion 41 of the New Jersey Committee on the Unauthorized Practice of Law (“Committee on the Unauthorized Practice of Law”) describes a pitfall to which immigrants are particularly vulnerable:

Considerable confusion has resulted when notaries in New Jersey have advertised themselves in the language of the potential consumer, with such words as "notario." In Mexico and other civil law

countries, "notario" has a very different meaning from a "notary public" in the United States. While "notario" or "notario public" in civil law countries may be synonymous with "attorney," in the United States notaries public hold strictly a "witness" position. There have been many victims of "notario fraud" because persons come to notaries thinking that they will receive legal advice as they may have received in their native land.

(Opinion 41 of the Committee on the Unauthorized Practice of Law, 178 N.J.L.J. 444, October 25, 2004 and 13 N.J.L. 2273, November 1, 2004).

2. At all relevant times, RMS Services, Inc. ("RMS Services") and/or Ana Burgos (Burgos") (collectively, "Respondents") have advertised, offered for sale and/or sold, among other things, financial services, currency exchange, overseas shipping services and preparation of immigration documents to consumers in the State of New Jersey ("State" or "New Jersey"). In so doing, Respondents have misrepresented the services that they could provide to consumers pertaining to immigration and citizenship. This conduct is in violation of the New Jersey Consumer Fraud Act, N.J.S.A. 56:8-1 et seq. ("CFA"), and the Regulations Governing General Advertising Practices, N.J.A.C. 13:45A-9.1 et seq. ("Advertising Regulations").

PARTIES AND JURISDICTION

3. Pursuant to N.J.S.A. 52:17A-4, the Attorney General is charged with the responsibility of enforcing the laws of New Jersey, including the CFA, N.J.S.A. 56:8-1 et seq., as well as the regulations promulgated thereunder, N.J.A.C. 13:45A-1 et seq., including the Advertising Regulations.

4. By this action, the Attorney General ("Complainant") seeks injunctive and other relief for violations of the CFA and Advertising Regulations. Complainant brings this action pursuant to

her authority under the CFA, specifically N.J.S.A. 56:8-3.1, N.J.S.A. 56:8-11, N.J.S.A. 56:8-13, N.J.S.A. 56:8-15, N.J.S.A. 56:8-18 and N.J.S.A. 56:8-19.

5. On September 15, 2004, RMS Services was established as a corporation in New Jersey. RMS Services' registered agent in the State is Thomas Wu, who maintains a mailing address of 60 Hadley Avenue, Suite B, Clifton, New Jersey 07011.

6. RMS Services registered the alternate name "Zai Enterprises" with the New Jersey Secretary of State on September 17, 2004. Upon information and belief, such registration expired on September 17, 2009.

7. At all relevant times, RMS Services has maintained a main business address of 316 Morris Avenue, Elizabeth, New Jersey ("RMS Services Location").

8. At all relevant times, Burgos has been the President of RMS Services and has managed or controlled its operations and participated in or facilitated the conduct giving rise to the allegations in this Complaint..

GENERAL ALLEGATIONS COMMON TO ALL COUNTS

9. At all relevant times, the RMS Services Location was identified as ZAI Express.

10. At all relevant times, RMS Services and Burgos advertised, offered for sale and/or sold services to consumers in New Jersey, including notary public, income tax, accounting, currency exchange, overseas shipping and translation as well as the preparation of immigration forms and resumes.

11. At all relevant times, Burgos held a commission as a notary public by the State of New Jersey.

CONSUMER LUZ HURTADO

12. On March 14, 2011, Luz Hurtado (“Hurtado”) filed a complaint against RMS Services with the New Jersey Division of Consumer Affairs (“Division”) (“Hurtado Complaint”).

13. Upon information and belief, in mid-May 2009, Hurtado went to RMS Services and met with Burgos. Upon information and belief, Hurtado sought to file Application I-751 (Petition to Remove Conditions of Residence) (“Form I-751”) with the United States Department of Homeland Security, U.S. Citizenship and Immigration Services (“USCIS”) on behalf of her daughters, Laurita Bernal Moreno (“Moreno”) and Katherine Pena Bernal (“Bernal”).

14. Upon information and belief, Burgos offered to assist Hurtado with the preparation of the Form I-751 and supporting documents for Moreno and Bernal.

A. Moreno:

15. Upon information and belief, Burgos filed the Form I-751 on behalf of Moreno on May 21, 2009.

16. Upon information and belief, Hurtado paid Burgos \$450.00 for the preparation of the Form I-751 for Moreno as well as the preparation of the Form I-751 for Bernal.

17. On or about October 5, 2009, Hurtado received a “Notice of Action” from USCIS indicating that the information provided on the Form I-751 filed on behalf of Moreno was insufficient. The USCIS required a response by November 19, 2009.

18. Upon information and belief, a revised Form I-751 was prepared on behalf of Moreno, dated October 21, 2009.

19. Upon information and belief, on or about March 24, 2010, Moreno received a letter from USCIS denying the Petition to Remove Conditions of Residence for Moreno, apparently due

to Moreno's failure to sign the Form I-751. This denial terminated Moreno's right to live and work in the United States.

20. On or about April 9, 2010, Burgos completed yet another Form I-751 on Moreno's behalf and identified herself as the person who prepared the form.

21. On or about November 1, 2010, Hurtado received a "Notice of Action" from USCIS that indicated that the information provided on the Form I-751 filed on behalf of Moreno was insufficient in several respects. The USCIS required a response by December 16, 2010.

22. Upon information and belief, Moreno's situation was ultimately resolved through the intervention of Congressman Donald M. Payne.

B. Bernal:

23. Upon information and belief, Burgos filed the Form I-751 on behalf of Moreno on May 21, 2009.

24. Upon information and belief, a Form I-751 was prepared on behalf of Bernal, dated October 21, 2009.

25. On or about May 10, 2010, Hurtado received a "Notice of Action" from USCIS that indicated that the information provided on the Form I-751 filed on behalf of Bernal was insufficient in several respects. The USCIS required a response by June 24, 2010.

26. Upon information and belief, Hurtado then went to RMS Services and spoke with Burgos, who represented that she would respond to the USCIS Notice of Action.

27. Upon information and belief, Burgos did not submit anything further on behalf of Bernal.

28. Upon information and belief, on July 19, 2010, Hurtado received a letter from USCIS denying the Petition to Remove Conditions of Residence for Bernal, apparently due to Bernal's failure to include a written explanation and request to excuse the late filing of the Form I-751.

29. Upon information and belief, in September 2010, Hurtado retained counsel, the Law Offices of Sodette K-M Plunkett, PC., to resubmit the form I-751 on behalf of Bernal.

30. Upon information and belief, on October 25, 2010, the attorney filed the Form I-751 on behalf of Bernal.

31. Upon information and belief, on October 29, 2010, the USCIS advised that Bernal's conditional resident status was extended for one (1) year.

32. Upon information and belief, Hurtado paid \$500.00 in attorneys' fees and another filing fee of \$545.00 for the Form I-751.

COMMITTEE ON THE UNAUTHORIZED PRACTICE OF LAW

33. The Committee on the Unauthorized Practice of Law specifically addressed the question of whether a notary public may complete immigration forms:

When a person in New Jersey is commissioned as a notary public, he or she is given a copy of the New Jersey Notary Public Manual [...] The notary public manual states specifically that a notary public may not prepare a legal document, give advice on legal matters, or appear as a representative of another person in a legal proceeding. Notary fees are set by the regulations and are relatively modest. We emphasize that the practice of law includes the preparation or drafting of any kind of legal document and the giving of legal advice with regard to any document or matter.

(Opinion 41 of the Committee on the Unauthorized Practice of Law, 178 N.J.L.J. 444, October 25, 2004 and 13 N.J.L. 2273, November 1, 2004).

34. The Committee on the Unauthorized Practice of Law described in particular the situation in which Hurtado found herself:

In many cases investigated by this committee, notaries public have charged fees for improper services. Many of the fees are in addition to the normal charge for witnessing a signature and are highly excessive considering the permitted "witnessing fee" of two dollars and fifty cents (\$ 2.50) allowed by law. This Committee has seen incidents of hundreds of dollars charged by notaries to consumer-litigants who were told merely to sign what was put in front of them. They received only a cursory explanation by the non-lawyer notary who had prepared the papers.

(Opinion 41 of the Committee on the Unauthorized Practice of Law, 178 N.J.L.J. 444, October 25, 2004 and 13 N.J.L. 2273, November 1, 2004).

COUNT I

VIOLATION OF THE CFA BY RESPONDENTS (MISREPRESENTATIONS AND UNCONSCIONABLE COMMERCIAL PRACTICES)

35. Complainant repeats and realleges the allegations contained in paragraphs 1 through 34 above as set forth more fully herein.

36. The C.F.A., N.J.S.A. 56:8-2 prohibits:

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing[] concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby...

[N.J.S.A. 56:8-2.]

37. The CFA defines “merchandise” as including “any objects, wares, goods commodities, services or anything offered, directly to the public for sale.” N.J.S.A. 56:8-1(c).

38. Respondents’ preparation of immigration forms, including the Form I-751, comprises merchandise within the meaning of the CFA.

39. In advertising, offering for sale and selling immigration services to consumers, Respondents have engaged in the use of misrepresentations and unconscionable commercial practices.

40. In the operation of their business, Respondents have engaged in the following misrepresentations:

- a. Advertising and offering for sale “notary public” and “immigration” services, thus, misleading consumers into believing that Respondents are qualified to provide advice as to immigration and citizenship in the United States, when such is not the case; and
- b. Advertising and offering for sale “notary public” and “immigration” services, thus, misleading consumers into believing that they are qualified to prepare and file legal documents with the USCIS, when such is not the case.

41. In the operation of their business, Respondents have engaged in the following unconscionable commercial practices:

- a. Preparing and filing with the USCIS legal documents, when not legally authorized to do so;
- b. Providing advice to consumers concerning the preparation of USCIS legal documents, when not legally authorized to do so;
- c. Charging consumers fees for services they are not legally authorized to perform; and
- d. Charging consumers fees that are far in excess of the notary public witnessing fee.

42. Each misrepresentation and unconscionable commercial practice by Respondents constitutes a separate violation of the CFA, N.J.S.A. 56:8-2.

COUNT II

VIOLATION OF THE ADVERTISING REGULATIONS BY RESPONDENTS

43. Complainant repeats and realleges the allegations contained in paragraph 1 through 42 above as set forth more fully herein.

44. The Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq., promulgated pursuant to the C.F.A., among other things, govern general advertising practices.

45. Specifically, the Advertising Regulations provide, in pertinent part:

(a) Without limiting the application of N.J.S.A. 56:8-1.1 et seq., the following practices shall be unlawful with respect to all advertisements:

. . . .

9. The making of false or misleading representations concerning the reasons for, existence or amounts or price reductions, the nature of an offering or the quantity of advertised merchandise for sale.

46. In the operation of their business, Respondents violated the Advertising Regulations including, but not limited to, the following:

- a. Advertising “notary public” and “immigration” services, thus, misleading consumers into believing that they are qualified to provide advice as to immigration and citizenship in the United States, when such is not the case; and
- b. Advertising “notary public” and “immigration” services, thus, misleading consumers into believing that they are qualified to prepare and file legal documents with the USCIS, when such is not the case.

47. Each violation of the Advertising Regulations by Respondents constitutes a per se violation of the CFA, N.J.S.A. 56:8-2.

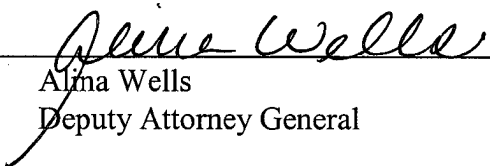
PRAYER FOR RELIEF

WHEREFORE, based upon the foregoing allegations, Complainant respectfully requests the entry of an Order after a hearing as authorized by the CFA, N.J.S.A. 56:8-3.1:

- (a) Finding that the acts and omissions of Respondents constitute unlawful practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;
- (b) Directing Respondents and their owners, officers, directors, shareholders, founders, managers, agents, servants, employees, representatives, corporations, independent contractors and all other entities directly under their control, to cease and desist from engaging in, continuing to engage in, or doing any acts or practices in violation of the CFA, N.J.S.A. 56:8-1 et seq., and/or the Advertising Regulations, N.J.A.C. 13:45A-9.1 et seq.;
- (c) Directing the assessment of restitution amounts against Respondents, jointly and severally, to restore to any affected person, whether or not named in this Complaint, any money or real or personal property acquired by means of any practice alleged herein to be unlawful and found to be unlawful, as authorized by the CFA, N.J.S.A. 56:8-15;
- (d) Assessing the maximum statutory civil penalties against Respondents, jointly and severally, for each and every violation of the CFA, in accordance with the CFA, N.J.S.A. 56:8-13;
- (e) Directing the assessment of costs and fees, including attorneys' fees, against Respondents, jointly and severally, for the use of the State of New Jersey, as authorized by the CFA, N.J.S.A. 56:8-11 and N.J.S.A. 56:8-19; and

(f) Granting such other relief as the interests of justice may require.

PAULA T. DOW
ATTORNEY GENERAL OF NEW JERSEY
Attorney for Complainant

By: 
Alma Wells
Deputy Attorney General

Dated: June 9, 2011
Newark, New Jersey