

IN THE CIRCUIT COURT OF PULASKI COUNTY, ARKANSAS
_____ **DIVISION**

STATE OF ARKANSAS *ex rel.*
DUSTIN MCDANIEL, ATTORNEY GENERAL

PLAINTIFF

v. **Case No.** _____

AMERACARD ENTERPRISES, INC.;
JOSEPH CASSARA

DEFENDANTS

COMPLAINT

COMES NOW the State of Arkansas *ex rel.* Dustin McDaniel, Attorney General, and for its Complaint against Defendants AmeraCard Enterprises, Inc. and Joseph Cassara states and alleges as follows:

I. INTRODUCTION

1. This is a consumer protection action brought to redress and restrain violations of the Arkansas Deceptive Trade Practices Act, Ark. Code Ann. § 4-88-101, *et seq.*

2. AmeraCard Enterprises, Inc. and Joseph Cassara (collectively referred to as “the Defendants”) produce, market, and sell fake identification cards to residents of Arkansas. The Defendants’ business practices and the nature of the ID cards themselves are deceptive. The ID cards are designed to resemble official state-issued identification cards, although they have no legal significance or official function, approval, or certification.

3. The State seeks an injunction, an order of restitution, the suspension and forfeiture of franchises, corporate charters, and other licenses and permits or authorizations to do business in this state, and the imposition of civil penalties against the Defendants for violations of the Arkansas Deceptive Trade Practices Act (“DTPA”).

II. PARTIES

3. Plaintiff in this action is the State of Arkansas *ex rel.* Dustin McDaniel, the Attorney General for the State of Arkansas. Attorney General McDaniel is the chief legal officer of the State of Arkansas. Pursuant to Ark. Code Ann. § 4-88-104, the State may seek civil enforcement of the DTPA.

4. Defendant Joseph Cassara resides in Stamford, Connecticut. He is the owner, operator, and director of AmeraCard Enterprises, Inc. At all times material to this Complaint, acting alone or in concert with others, Defendant Cassara has formulated, directed, controlled, and participated in the acts of AmeraCard Enterprises, Inc., as more specifically set out below, to such a degree that he is personally liable for the deceptive, unconscionable and otherwise unlawful acts and practices described below. Defendant Cassara is a “controlling person” within the meaning of Ark. Code Ann. § 4-88-113(d).

5. Defendant AmeraCard Enterprises, Inc. (“AmeraCard”) is a foreign corporation located at 134 Old Barn Road, North Stamford, Connecticut 06906. Its registered agent for service of process in Connecticut is Joseph Cassara, 134 Old Barn Road, North, Stamford, Connecticut 06906. AmeraCard is registered with the Connecticut Secretary of State. AmeraCard is not registered with the Arkansas Secretary of State.

III. JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to Ark. Code Ann. § 4-88-104, and the common law of the State of Arkansas.

7. Venue is proper pursuant to Ark. Code Ann. § 4-88-104, § 4-88-112, and the common law of the State of Arkansas.

8. The Defendants have advertised, sold, and provided fake Identification Cards to Arkansas consumers through Arkansas-based vendors. The Court has jurisdiction over the claims and Defendants in this action pursuant to Ark. Code Ann. § 16-4-101, which extends personal jurisdiction to all persons, causes of action, and claims for relief, to the maximum extent permitted by the due process of law clause of the Fourteenth Amendment of the United States Constitution. The Defendants have availed themselves of the benefits of conducting business in the State of Arkansas by advertising, selling, and providing bogus Identification Cards to Arkansas consumers.

IV. BUSINESS PRACTICES OF THE DEFENDANTS

9. Defendants produce fake ID cards for Arkansas residents. Examples of these cards are attached as Exhibit A to this pleading. The nature of the ID card is inherently deceptive and false. The cards are intentionally designed to resemble official state-issued identification cards.

10. The physical characteristics of the ID cards, taken as a whole, are misleading to consumers who purchase them. The card is the same size as state-issued ID cards or driver's licenses. The materials used to produce the card are similar to the material used in state-issued ID cards.

11. There are many elements of the card which suggest that it is similar to a driver's license or state ID card. The ID card includes an expiration date and a signature in places that are similar to the placement of the date and signature on the state-issued cards. Further, the card displays the consumer's address, date of birth, gender, height, color of eyes, issue date, and even an identification number.

12. The face of the ID card purports to be officially issued. As you will note in Exhibit A, it says “Arkansas Identification Card.” The ID card is not officially sanctioned or produced. No reason exists to use the name of our state on the face of the card except to deceive.

13. The Defendants seek out establishments, or vendors, to entice these establishments to sell the Defendants’ ID cards to consumers. The Defendants entice these vendors to offer their products by advertising on a website and offering “everything necessary to get you up and running” and representing that it “is a low-risk investment that returns a quick profit.” See Exhibit B - C. The marketing materials that Defendants provide to local vendors include signs, applications, instructions, and samples of ID cards. See Exhibit C. The Defendants’ goal “is to establish AmeraCard vendors throughout the U.S.A.” See Exhibit D.

14. Claims on Defendants’ website maintain that the ID cards are “*required by law*” and “*legally issued.*” See Exhibits B and E (emphasis added). These representations, though false, make the card sold by the Defendants more attractive to Arkansas consumers. At least one vendor, when selling the ID cards, used advertisements and terminology from the Defendants’ website. See Exhibit F.

15. Further, the Defendants represent to vendors and consumers that the ID cards can be used as a “secondary form of identification, and in many occasions, as a primary form of identification.” See Exhibit G.¹ This statement contradicts the disclaimer on the back of the ID card, which states that the card is “not an official identification card.” See Exhibit A, p. 2. However, the Defendants’ express representations deceive consumers into believing it is indeed an official identification card. A fine print disclosure neither cures nor excuses the affirmative and deceptive representations made by, and on behalf of, the Defendants.

¹ The AmeraCard Vendor Application is attached as Exhibit H.

16. Reliance upon these fake ID cards is detrimental to consumers. For one, the ID cards are far more expensive than any government issued ID. Second, they have no legal significance or value. Companies, for instance utility companies, are hesitant to rely upon these ID cards for proof of one's identity. The consumers are paying a steep price for an ID worth nothing. To the extent that the ID card has any arguable value, such value exists only in the ID card's potential use to deceive others.

17. Over twelve hundred (1200) Arkansas consumers have purchased Identification Cards from Arkansas vendors who obtained those cards through the Defendants. One vendor, Micaela Hernandez, charged at least thirty (30) consumers seventy dollars (\$70) each for an ID card. See Exhibit I.

18. In summary, the Defendants used deceptive practices to obtain money from Arkansas consumers through local vendors.

V. VIOLATIONS OF THE ARKANSAS DECEPTIVE TRADE PRACTICES ACT

19. The State incorporates by reference the allegations set forth in paragraphs 1 through 18 above.

20. The DTPA, Ark. Code Ann. § 4-88-107, prohibits, *inter alia*, the following:

(1) "Knowingly making a false representation as to the characteristics, ingredients, uses, benefit, alterations, source, sponsorship, approval or certification of goods or services, or as to whether goods are original or new, or of a particular standard, quality, grade, style, or model." Ark. Code Ann. § 4-88-107(a)(1).

(2) "Knowingly taking advantage of a consumer who is reasonably unable to protect his or her interest because of physical infirmity, ignorance, illiteracy,

inability to understand the language of the agreement, or a similar factor.” Ark. Code Ann. § 4-88-107(a)(8).

(3) “Engaging any other unconscionable, false, or deceptive acts or practices in business, commerce, or trade.” Ark. Code Ann. § 4-88-107(a)(10).

22. The Deceptive Trade Practices Act also provides that it shall be unlawful to conceal, suppress, or omit “any material fact with the intent that others rely upon the concealment, suppression, or omission” in connection with the sale or advertisement of any good, service, or charitable solicitation. Ark. Code Ann. § 4-88-108.

23. Since January 1, 2009, the Defendants have offered for sale to Arkansas consumers, through vendors, ID cards that the Defendants purport to be “legally issued,” “required by law,” and a “secondary form of identification, and in many occasions, as a primary form of identification.” Despite any claims the Defendants may make to the contrary, the Defendants have never had the ability or authority to confer upon Arkansas consumers any document that is legally issued or required by law. Nor does the document the Defendants sell to consumers confer upon the purchaser any form of legal identification.

24. The Defendants knew or should have known that the ID cards are not required by law nor are they a legitimate form of identification, secondary or otherwise. By representing to consumers that the ID cards are a form of secondary identification and required by law, the Defendants unconscionably misrepresented that the ID cards could be used as valid identification and were legally significant.

25. The physical appearance of the card is knowingly designed to conceal the true nature of the card. By including the state’s name prominently in the title of the card, Defendants imply that the card is officially issued by the State of Arkansas. By using materials and

formatting similar to legitimate government ID cards, the Defendants have tried to hoodwink consumers into believing that the cards are valuable and usable. Further, since it is not issued by a governmental agency, the expiration date on the Identification Card, as well as the identification number, is wholly meaningless. The inclusion of information on the card has been for the sole purpose of enhancing the deception that the ID card is a valid form of identification.

26. Defendants have marketed and sold ID cards, or caused ID cards to be sold, to consumers who were reasonably unable to protect their own interest. These consumers, mostly Hispanic, had an inability to understand the misleading disclosures concerning the legal worth of the product Defendants sold to them due to their lack of familiarity with the language and laws of the State of Arkansas, and the United States.

27. The Defendants have concealed, suppressed, omitted, or failed to disclose material facts in representations made to Arkansas consumers through vendors and their website concerning the quality or characteristics of its ID cards. Specifically, the Defendants failed to disclose to vendors or to consumers that the Defendants cannot “legally issue” valid ID cards, nor can the document serve as an official form of identification.

VI. RELIEF REQUESTED

34. The acts and practices of the Defendants constitute violations of the Arkansas Deceptive Trade Practices Act and support the following claims for relief:

(a) Injunction – Pursuant to Ark. Code Ann. § 4-88-113(a)(1), the Court should enter such orders or judgments as may be necessary to prevent the use or employment by the Defendants of the practices described herein which are violations of the Arkansas Deceptive Trade Practices Act;

(b) Restitution – Pursuant to Ark. Code Ann. § 4-88-113(a)(2), this Court should enter such orders or judgments as may be necessary to restore to any person who

has suffered any ascertainable loss by reason of the use of prohibited practices any monies which may have been acquired by the Defendants, together with any other damages which these consumers may have sustained. In addition to, or in the alternative, the Defendants should be ordered to disgorge all funds received by Defendants in transactions related to Identification Cards;

(c) Civil Penalties – Pursuant to Ark. Code Ann. § 4-88-113(a)(3), the Plaintiff seeks the imposition of civil penalties to be paid to the State by the Defendants. Plaintiff seeks civil penalties against the Defendants in the amount of \$10,000.00 for each violation of the Arkansas Deceptive Trade Practices Act.

(d) Forfeiture of corporate charters, licenses, permits and authorization to do business in Arkansas – Pursuant to Ark. Code Ann. § 4-88-113(b), the Plaintiff seeks the forfeiture of such charters, licenses, permits or authorizations to do business in Arkansas which may currently be enjoyed by the Defendants.

(e) Attorneys fees and costs – Pursuant to Ark. Code Ann. § 4-88-113(e), the Plaintiff seeks compensation for its services, the reimbursement of all expenses reasonably incurred in the investigation and prosecution of this matter, together with attorneys fees and costs.

WHEREFORE, Plaintiff requests that this Court preliminarily and permanently restrain and enjoin the Defendants from engaging in acts which constitute violations of the Arkansas Deceptive Trade Practices Act; that the Defendants be ordered to pay restitution to all affected consumers; alternatively, or in addition, that the Defendants be ordered to disgorge all payments received from consumers; that the Defendants be assessed civil penalties; that any corporate charter, license, permit, or authorization to do business in the State of Arkansas and currently enjoyed by the Defendants be revoked; that the Plaintiff be awarded from the Defendants reimbursement for all expenses reasonably incurred in the investigation and prosecution of this matter, together with reasonable attorneys fees and cost, and for all other relief to which the Plaintiff may be entitled.

Respectfully submitted,

DUSTIN MCDANIEL,
Attorney General

By: /s/ Bart Calhoun
Bart Calhoun
Arkansas Bar No. 2011221
Assistant Attorney General
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Little Rock, Arkansas 72201
Phone: (501)682-3561
Fax: (501) 682-8118
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The holder of this card declares that
the information provided on the face
of this card is true and correct.

NOT AN OFFICIAL IDENTIFICATION CARD



The holder of this card declares that
the information provided on the face
of this card is true and correct.

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The holder of this card declares that
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AmeraCard® Enterprises Opportunities

- As communities culturally diversify, the need to service new residents is crucial. Registered *AmeraCard* vendors are part of an ever-growing business opportunity that has proved to be successful. New vendors are being added daily.
- AmeraCard is a low-risk investment that turns a quick profit. Small or large business owners profit immediately.
- With a low cost initial investment, why not sign on & profit while offering a hot product that's in demand and required by law? Additional store locations can be added at a discount rate.
- Our staff is available to answer your questions at **1-866-864-CARD** or **assistance@ameracard.com** - *Se Habla Español*.

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AmeraCard® Enterprises Starter Kit

Your AmeraCard Starter Kit is mailed to your business, at no additional cost for shipping and handling, and includes everything necessary to get you up and running. ***Request your materials today!***

Starter Kit materials include as follows:

- 2 Wall Signs
- 2 Door Signs
- 2 Desk Signs
- 1 Master Copy Application
- 1 Wooden Clip Board
- Instruction Letter
- 3 AmeraCard ID Samples



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AmeraCard® Enterprises Goal

***Serves to provide you with high quality
Identification Cards at competitive prices***

Our Goal is to establish AmeraCard vendors throughout the U.S.A.
Why not be a part of an ever-growing enterprise that profits your business?

- AmeraCard sells itself! Why?
The initial materials that you invest in provides you, the vendor with attractive product merchandising including posters, signs, card samples, and application materials.
- Eye-catching marketing materials allows for an easy sales transaction.

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AmeraCard® Enterprises Contact



AmeraCard
ENTERPRISES, INC.

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DEAR CUSTOMERS

This agency is authorized by Ameracard to sell our ID's, which may be presented as a second form of identification and, in many occasions, as a primary form of identification.

Please keep in mind that this is **NOT** a government document, therefore we cannot ensure its acceptance. It is only up to the party requesting the ID to accept it or not. The ID can be used in many offices such as telephone, gas, electric, hospitals, school, employment office, your employer, sometimes to cash checks, to travel, access public buildings during office hours, etc.

The United States law requires people to be able to identify themselves at any given moment. It is our objective to identify the public with an ID that has been issued according to the personal information submitted by the customer when filling an application with our vendor.

ESTIMADO CLIENTE

Esta es una agencia autorizada por Ameracard para el trámite de nuestra tarjeta de identificación, la cual puede ser aceptada como segunda identificación y en muchos casos como primera identificación.

Teniendo en cuenta que **NO** es un documento gubernamental, que no se está garantizando su total aceptación y que es la autoridad o entidades a quienes se presenta la identificación quienes deciden sobre el ID; dentro de los usos comunes están: ser presentada a las oficinas de electricidad, gas, teléfonos, hospitales, escuelas, oficinas de empleo, a su patrón de trabajo, en algunas ocasiones para cambiar cheques, viajar, para ingresar a edificios públicos en hora de oficina.

La ley de los Estados Unidos requiere que todo individuo tenga una forma de identificación. Es nuestro propósito identificar al público con un documento tramitado de acuerdo a la información personal suministrada por el cliente en el momento de llenar la solicitud con nuestra agencia respaldando los datos de domicilio.

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Stamford, CT 06905
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Fax: 203-609-0761



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assistance@ameracard.com
Se Habla Español

Vendors Application

Date/Fecha— _____

Business Name/Nombre del negocio _____

Business Activity/Actividad principal _____

Other Activities/Otras actividades _____

Address/Dirección _____

City/Ciudad _____ State/Estado _____ Zip Code/Código postal _____

Tel. _____ Fax _____

E-Mail _____ Web _____

Manager or Owner/Gerente o Propietario _____

Contact person/Contacto o encargado _____

Years established at location/Tiempo de establecido? _____

Any branches/Otras sucursales? _____

Business hours & schedule/Días y horas de servicio _____

Do you share space with any other entity/Comparte el local con otros negocios? _____

Record/Diga cuales _____

Do you deal with any ID card companies at the present time/Diligencia otra tarjeta de identidad? _____

Diga cual _____

Actual customers/Potencial de clientes, American/Americana % _____

Hispanic/Hispana % _____ Other/Otra % _____

Any availability to place signs/Puede fijar nuestros avisos? _____

Do you advertise?/Hace publicidad? _____

What media?/Por que medio? _____

ID REPORT- VENDOR 1620-M. HERNANDEZ MULTISERV

6/28/2013

30 records; (CreateDate between #11-01-2012 00:00:00# and #06-30-2013 00:00:00#) AND ([Agent] = "1620");

LastName	FirstName	CreateDate	IDNumber
ALVAREZ HERNANDEZ	MARIA	12/3/2012	145455
SIERRA PRIETO	JOSE	12/3/2012	145454
JIMENEZ	MARLETH	1/31/2013	146712
ROBLEDO ALBA	HERNAN	2/18/2013	147126
REYES HIDALGO	ALFONSO	2/28/2013	147480
BARRIENTOS P	TEODORA	3/4/2013	147583
SANCHEZ SANTIAGO	JOSE LUIS	3/5/2013	147593
ZAVALA	ELISEO	3/6/2013	147629
VEGA	SALVADOR	3/8/2013	147630
BARTOLON GODINEZ	MARILU	3/12/2013	147825
TRUJILLO LOPEZ	JORGE LUIS	3/13/2013	147860
MOJICA CASTANEDA	FELIPE	3/13/2013	147861
SANTIAGO	SANDRA	3/20/2013	148041
GOMEZ	REYNALDO	4/8/2013	148567
ESTRADA	ALMA	4/8/2013	148568
GOMEZ MARTINEZ	JOSUE	4/8/2013	148568
FLORES BRAVO	NATIVIDAD	4/8/2013	148559
VELAZQUEZ FLORES	ANGEL	4/11/2013	148620
POOT MAY	JOEL	4/11/2013	148621
LOPEZ	JOSE FACUNDO	4/11/2013	148622
CENDEJAS RAMIREZ	ADOLFO	4/17/2013	148763
BARDALES S.	RIGOBERTO	4/17/2013	148794
XEP-TUN	ALFONSO	5/2/2013	149162
ORELLANA	HECTOR	5/2/2013	149163
RAMIREZ GOMEZ	JOSE MAXIMINO	5/8/2013	149295
JACOBO D.	FRANCISCO	5/10/2013	149356
ARAUJO DE GOMEZ	MARICELA	5/16/2013	149455
GODINEZ	MARTIN	5/20/2013	149529
VARELA REYES	VALERIO	6/6/2013	149933
DOMINGUEZ	EMILIANO	6/6/2013	149932