

BEFORE THE
STATE OF WISCONSIN
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF SECURITIES

In the Matter of

SPAMAN WHOLESALE, INC., dba
MASTER SPAS OF WISCONSIN

Respondent.

SECOND AMENDED
PETITION FOR ORDER

File No. S-03123(EX)

The staff of the Bureau of Registration & Enforcement of the Division of Securities, Department of Financial Institutions, State of Wisconsin has conducted an investigation in this matter pursuant to § 551.56, Wis. Stats., and as a result thereof alleges as follows:

1. Spaman Wholesale, Inc., dba Master Spas of Wisconsin ("Master Spas") is a domestic business entity with a last known business address of 1332 East Main Street, Waukesha, Wisconsin.
2. Upon information and belief, sometime during 2001, Master Spas entered into a merchant agreement (the "Agreement") with The Consumers Trust and Consumer Promotions, Inc. ("Consumer Promotions") to participate in the Cashable Voucher Program (the "Program") run by Consumer Promotions and The Consumers Trust (collectively "the issuers").
3. According to the Agreement, if Master Spas followed certain rules, including giving a voucher to each and every purchaser of a spa and giving the voucher to the customer without any extra charge, and if the voucher was returned by the purchaser at the appropriate time in the future and with the appropriate paper work, the purchaser would receive a check for the amount of the voucher.
4. Failure by Master Spas to follow the rules in the Agreement could result in the issuers' refusal to honor any of the program vouchers issued to Master Spas' customers.
5. Master Spas and/or its agents did not provide vouchers to all its customers who purchased spas.
6. In certain cases Master Spas and its agents told customers that they could purchase the spa at a small discount off list price if they did not accept the voucher; but if they were willing to pay list price up front, they could receive substantially all of their purchase price through the Program in only three years, as long as they remembered to send in their claim.
7. In at least one instance, the purchasers actually purchased a spa from Master Spas at a discounted price, but upon later that day seeing a banner advertising the Program, asked Master Spas to void that sale so that they could purchase the same spa at the higher list price in order to get the voucher.
8. Starting in mid 2004, three years after the first vouchers were issued by Master Spas through the Program, customers who attempted to redeem their vouchers were unable to get their money and so informed Master Spas;
9. Since the purchasers paid additional consideration for the spa with the Cashable Vouchers compared to just buying the spa at a slight discount, and expected the Program to pay them a sum of money in the future (significantly greater than the amount of the proposed

discount), the Cashable Vouchers sold by Respondent constitute evidences of indebtedness and are therefore securities as defined by § 551.02(13), Wis. Stats.

10. The Cashable Vouchers have never been registered for offer and sale in Wisconsin pursuant to Ch. 551, Wis. Stats.

11. By offering and selling unregistered securities, Master Spas violated § 551.21, Wis. Stats.

12. In connection with the offer and sale of the securities described above, Master Spas transacted business in Wisconsin as a "broker-dealer," as that term is defined by § 551.02(3), Wis. Stats.

13. At no time has Master Spas been licensed as a securities broker-dealer pursuant to Ch. 551, Wis. Stats.

14. Master Spas has violated § 551.31(1), Wis. Stats., by transacting business in Wisconsin as a broker-dealer without a license.

15. Master Spas hired independent contractors as agents to sell spas, and some of these contractors sold the spas as securities as described above in ¶¶ 6-7; however, none of these contractors was licensed as a securities agent pursuant to Ch. 551, Wis. Stats.

16. Master Spas has violated § 551.31(2), Wis. Stats., by employing an unlicensed agent to represent it in Wisconsin.

17. Master Spas' actions, in not giving the vouchers to all customers and charging extra to those that did receive them, violated the explicit rules of the Program and allowed the issuers to contractually refuse to pay the vouchers.

18. Master Spas' conduct in providing vouchers without informing purchasers that the vouchers could be deemed worthless if it did not comply with the Agreement constitutes a violation of § 551.41(3), Wis. Stats.

19. Master Spas' failure to disclose to customers that previous customer's vouchers were not being honored constitutes the omission of a material fact necessary make the statements made, in the light of the circumstances under which they were made, not misleading in violation of §551.41(2), Wis. Stats.

20. On August 28, 2006 and March 28, 2007, the Division of Securities issued Summary Orders of Prohibition against Respondent.

21. Based on information obtained after the issuance of those Orders, the staff believes that this Second Amended Petition for Order and accompanying Order more completely reflect Respondent's actions.

Therefore, the staff of the Bureau of Registration & Enforcement petitions the Administrator of the Division of Securities for the issuance of the attached Order pursuant to Chapter 551, Wis. Stats.

Leslie M. Van Buskirk *4-01*

Leslie M. Van Buskirk Date
Staff Attorney
Bureau of Registration and Enforcement