

EthicScan Canada

Partnership Screening Research Report

Prepared Exclusively for the Use of <name withheld>

Company Name: Premier Fitness, aka Cardillo Capital Corporation

EthicScan DataBase Number:

Contract Number: 010-217 (CDA)

FINAL

| Screen Topic | Concern | | |
|------------------------------|---------|-------------|---------------|
| | Major | Minor | None Apparent |
| Ethical Management | X | | |
| Employment Equity | | Little info | |
| Environmental Responsibility | | X | |
| Progressive Management | X | | |
| Community Responsibilities | | X | |
| Public Health | | Little info | |
| Ethical Sourcing and Trading | | X | |
| Other | X | | |

Background: *Mississauga-based Premier Fitness Clubs, founded by John Cardillo in 1984, is a privately-held business that offers fitness facilities and related exercise, nutrition and related workout programs through 27 locations in Ontario and one in Alberta. Brand names include Mademoiselle Fitness and Day Spa, Curzons Fitness, The Women's Club, and Regency Fitness and Racquets Club. It is not clear how many of the 28 sites are company owned and how many are franchised. The company, one of the largest fitness and health club chains in Ontario, was registered as a privately-held corporation in Ontario in 1984, and reorganized in October 2000. The company's relationship to fitness clubs of the same name in two states within the United States. The principal shareholder of Premier Fitness is John Cardillo, who through Cardillo Capital holds a majority of the company's shares. Mr Cardillo is also the CEO and owner of Sporting Ventures International Ltd, a private business with no web-site, registered in Ontario in 1988. Premier Fitness, which had 142,000 members in 2004, has estimated revenues in 2009 of \$50-100 million.*

Ethical Management: This is an area of **Major Concern**. There is no evidence that the company has any of the usual ethical management and oversight processes for such enterprises such as ethics codes, consumer complaints, whistle blower protection, or commission-based conflict of interest rules for staff. Moreover, Premier Fitness does not offer any comments, or consent to be interviewed, about either its approach to treatment of members or the number of complaints registered against it by internet postings of the Better Business Bureau.

The company's business model is based upon the selling of physical fitness and life-enhancing services to the public through branded recreational gym, fitness and nutrition counseling, and related exercise establishments. Premier Fitness would neither confirm nor deny whether it has a written code of conduct to guide the behaviour of employees. There isn't one posted on its web-site. Premier Fitness would neither confirm nor deny whether it is a member of the International Health Racquet & Sportsclubs Association (IHRSA), which has 9,100 for-profit facilities in 78 countries on its membership list. Mr Al Guarino, the company's Executive VP, declined to discuss business practices with respect to ethical standards.

There is no customer complaint function for members operating on the corporate website. The company has been the subject of hundreds of consumer complaints (estimated at 700 between 1999 and 2003 and over 600 between 2007 and 2010). A common complaint is unauthorized bank and credit card withdrawals and threats to collect on outstanding or disputed invoices. There are at least 60 postings on consumer web-sites accusing the company of scams involving improper bank withdrawals, high pressure and misleading membership sales tactics, failure to process membership cancellation requests, and unauthorized billings, including billing people months after their deaths.

Toronto Star and Business Network consumer columnist Ellen Roseman has written at least four columns and articles in the last five years on problems with companies in this sector, with three of them focusing in Premier Fitness. As a result of an investigation it conducted about the company in 2004, the *Hamilton Spectator* received over 200 comments largely by ex-members detailing their alleged relationships with the company many of which ended in "frustration, anger and tears". One judgement in small claims court in favour of Anna Hocevar ordered Premier to pay back more than \$1,000 still had not been honoured, she says, three years later.

When asked about whistle blower protection or retaliation protection for Premier Fitness staff, the spokesperson declined to comment. In 2004, Hamilton police's major fraud squad conducted a fraud investigation probing allegations the chain improperly withdrew money through members preauthorized payment plans. According to the *Hamilton Spectator*, the police department reportedly said that there was no evidence to indicate the corporation was guilty of criminal activity.

When asked if there are incentives or perks in executive or club manager remuneration that are tied to customer or supplier satisfaction, the spokesperson declined to comment. Lawsuits involving the company are said to number at least fifty across the Golden Horseshoe over the last ten years. The company spokesperson would not confirm the total amounts of fines and judgements against it in the five years 2004-2008. This total would include \$200,000 for false advertising (2007), \$24,000 for breaches of labour laws (2007), and other cases.

Employment Equity: There is very little data about the composition and stability of the company's workforce. Premier Fitness employs an estimated 750-1,250 staff. Of the total, we aren't told the percent who are physical fitness/operational support staff or the per cent who are administrative staff. A significant number of employees in this sector are reported to be part-timers. The company would not discuss the wages, benefits, working conditions, or ratio of part-time to full time among its workforce.

This privately-held company would not disclose the proportion of the workforce that is female. There is no answer to the question about the proportion of executives or gym managers who are female, or the number of persons employed at head office. There were no answers to questions about whether and how the company's fitness, diet counseling and other professionals are required to be accredited by professional certification bodies. Turnover in staff in this sector is estimated at 10-15 per cent per year.

Environmental Responsibilities: Premier Fitness would neither confirm nor deny whether it has an environmental policy or a full time chief environmental affairs officer. There is no written, formal environmental practices commitment or code posted on the corporate website. Premier Fitness spends hundreds of thousands of dollars a year on printing and distributing promotional membership flyers that are delivered door to door.

Investment in installing and maintaining state of the art equipment and facilities is a requirement in this business sector. The company spokesperson declined to comment about recycling practices at its gyms, whose operations are major consumers of electric power, water, cleaning products, and light. Likewise there were no comments about the use of eco-friendly products in upkeep and maintenance of gyms, showers and exercise equipment. There are no public procurement policies to be found in the company's website.

One alleged former manager posted an e-mail that, "Managers get zero support from head office, and only two technicians service over 40 clubs. Machines will sit weeks, sometimes months at a time, before help arrives. Quite often that technician isn't qualified to fix the issue, and the broken machine will just collect dust, never being used. Other issues include HVAC, water leaks, disgusting change rooms, and music/televisions. Utilities are never paid on time and as a result cable TV, music systems, phone lines and alarm systems are routinely disconnected by the companies that are owed money."

Progressive Management: This is a **Major Concern**. The company declined to reveal any of its management practices, or its management-staff labour relations programs, or to comment on criticisms raised in workplace lawsuits, government labour practice violations, citations and fines, or service complaints lodged with third parties like the BBB.

Founder and CEO John Cardillo is described in certain media accounts by associates and alleged ex-managers as a hands-on, micro-manager style, CEO. Critics describe him as capable of violent behaviour including allegedly physically beating a subordinate (a senior citizen, fitness instructor) and throwing a computer at his ex-wife, who was a head office employee. Other associates more positively describe him as hard driving, and respectful of those who he sees as his equal.

When asked about recruitment, training, and promotions, the corporate spokesperson declined to answer. When asked about commission-based incentives for staff to recommend or sell health status tests and customized fitness programs to members, the spokesperson refused to comment.

The company apparently received recognition as one of the 50 Best Managed Companies in Canada but we could not confirm the date or rating organization. In April 2007 the firm was fined for the second time that month in violation of Ontario's labour laws.

Community Responsibilities: The company declined to reveal the amount of its charitable donations in 2009. Premier Fitness hosts a \$10,000 90 Day Weight Loss Challenge in 2010 which awards \$10,000, \$5,000 and \$2,500 in cash awards and monthly free memberships to individual members with the highest weight losses. In November 2009 the company announced that all its Ontario locations would work with the Daily Bread Food Bank by accepting non-perishable food donations until Christmas. As an incentive for donations, members' would receive a complimentary seven day guest pass for a friend or non-member.

No mention is made of free or discounted memberships to community-based NGOs such as health-related charities or disadvantaged groups, such as youths or seniors. According to the City of Toronto, Cardillo Capital was one (\$2,500) of 794 contributors (\$508,930) of political campaign donations in that city in 2006.

Fitness club memberships in 2007 were estimated at more than 140,000. Of total memberships in 2010, we weren't told how many are individual and how many are through corporate employee wellness programs.

| Better Business Bureau | Complaints Last Three Years | Complaints Last Year | Complaints Resolved | Complaints Unresolved, Company No Response, or No Resolution |
|---|-----------------------------|----------------------|---------------------|--|
| Hamilton (SouthCentral Ontario) | | | | |
| London (Western Ontario) | 84 | 32 | 71 | 13 |
| Kitchener (MidWestern and Central Ontario (includes Toronto)) | 253 | 90 | | |
| Total | | | | |

The London Better Business Bureau says that Premier Fitness is not an accredited business and, as such, has an F rating. BBB data on complaints and dispute resolution is seen in the above table. The corporate spokesperson refused to reveal statistics about the per cent of all members who complain about some aspect of their contracts. In 2007, the company's Executive VP, Al Guarino, was quoted as saying that it takes complaints seriously but does not consider the number to be excessive. He commented, "I do not believe we have a high number of complaints" although he acknowledged "there's always going to be somebody who disagrees."

Public Health: Premier Fitness brands certain fitness, nutrition and related programs such as Dr Weight Loss, IPN Workout System, and IPF Nutrition System. The company's president regularly speaks in public about the positive effects of exercise and

proper nutrition on health and longevity. The company brands certain services with the language of medicine or health care, such as its Dr Bailey's Premier Med Spa.

In July 2006, Premier Fitness was involved in a cross promotion with an unlikely lifestyle partner, the fast food chain, Pizza Pizza. The company declined to respond when asked whether or not it prohibited the sale of certain products such as alcohol, tobacco and carbonated soft drinks in vending machines on its premises.

According to fitness industry observers, because clubs routinely go out of business or change hands, and because customers move homes or change jobs, it is hard for members to keep working out at the same location. Those who opt for three year or lifetime memberships are often seen to be at more risk of becoming unhappy clients. Some clubs insist on preauthorized payment plans, with automatic monthly debits from a bank account or credit card, which skirts regulations like those in Ontario that such clubs can't sign up members for more than a year at a time. This can be dangerous as payments are (or can be made to be) hard to stop, giving the customer little bargaining power in a dispute. In November 2007 Premier Fitness agreed to pay a \$200,000 penalty when the Consumer Bureau. Ministry of Consumer and Business Services, found that consumers had to take a mandatory fitness assessment test and sign a one year contract to get a "free" 30-90 day trial offer.

For ten years, Dr Scott Wilson, the chiropractor who owns Physiomed Health, has had an agreement with Cardillo Capital whereby his firm operates a number of clinics/offices located in Premier Fitness outlets. His firm's chiropractors and kinesiologists provide physio-fitness and clinical conditioning services to Premier Fitness members to accompany health fitness routines (*Chiropractor Economics*, Oct 2004). Most of PysioMed's clinics/offices start out with Premier Fitness members which they use as a springboard for Physiomed's business development and diversification. No consumer complaints were uncovered in web searches where improper chiropractic services in the company's facilities specifically and allegedly contributed to adverse health reactions.

Ethical Sourcing and Trading: Companies in this sector purchase workout and diagnostic equipment from a range of product providers. Further contracts address maintenance, service and repairs. There were no questions answered about where such equipment was made or whether ethical sourcing criteria were used. In an unspecified number of cases, vendors have taken the company to court for alleged late payment of bills. One person self described as a former Premier manager alleges in a web posting that, "vendors, contractors and suppliers were seldom paid... Payroll checks will be delayed a few days, up to two weeks at a time, as the CEO signs every check of the company, [depending on his whim]"

When asked about a trademark infringement case brought about by Dunkin Donuts LLC against Cardillo Capital Inc in a Florida court in March 2007, the spokesperson declined comment. Mr Cardillo's ex-wife testified against him as having conducted business in Swiss banks in ways that had the effect of avoiding Canadian tax laws.

Other: This is an area of **Major Concern**. The company's founder has relied upon certain businesspersons of questionable reputation to bankroll expansion of fitness clubs into certain communities and locations. He has had a reputation for business practices, some of which could plausibly be seen to be a cause for concern by prospective partners who have the public trust in their mission statements.

Company CEO and founder John Cardillo, who was born in Italy, was said to be a child small for his age in his early years. He won five number of bodybuilding champion titles in Ontario and nearby jurisdictions in the late 1970s and early 1980s. By his own public admission, Mr Cardillo has been investigated by the police and has had court authorized wiretaps in Ontario for alleged links to organized crime. He has been summoned to appear in court on cases involving unpaid wages, outstanding supplier invoices, obstruction of justice in 1984 (plead guilty; sentenced for six months in jail, serving three months), failure to file income tax returns (found guilty), a palimony suit (settlement of \$258,000), and was fined \$1,500 for assault. Notwithstanding this, Mr Cardillo has requested and received a pardon for his past criminal behaviour, and so has no criminal record.

According to land registry records, Mr Cardillo has property in the Hamilton area, including one residence in Caledon Hills worth over \$2 million, and a vacation home in Williams Island, Florida, both of which are currently registered in his mother's name. When asked about whether Mr Cardillo is related to John J. Cardillo, the CEO of U.S.-based Sentinel Corporation (a sex offender registry), the Premier Fitness spokesperson declined to respond.

Reference Details

PSR Report Commissioned By: <name withheld>
Date Prepared: September 2010
Corporate Spokesperson: Al Guarino, Executive VP
Company President: John Cardillo
Ethicscan Researcher: David Nitkin, Tamara Minix
Companion Document Sent: Profile Fact Sheet
Company Contacted Prior to Sending: Yes No
Transmission Mode: Mail Courier Facsimile E-Mail

Caution

The research contained above is correct to the best of Ethicscan Canada's knowledge. It typically includes interviews with corporate executives, labour officials, and a thorough review of our DataBase. Where there is sufficient time allotted by the client to contact the company to verify the data, the preferred methodology, this information is noted above.