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FILED

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

MAR 23 2001

Case No. _____ Civ. _____

CLARENCE MADDOX
CLERK, USDC / SDFL / MIA

01-6885

FEDERAL TRADE COMMISSION,

Plaintiff,

CIV-FERGUSON

MAGISTRATE JUDGE
JOHNSON

v.

STREAMLINE INTERNATIONAL, INC.,
a Utah Corporation;

J. R. JACKSON,
individually, as an officer of the corporation,
and doing business as Action Enterprises; and

ROBERT "BOB" WAITKUS,
individually, as an officer of the corporation, and
doing business as WorldWide Opportunities Network,

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF

Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its Complaint alleges as follows:

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive relief against the defendants to prevent them from engaging in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including rescission, restitution, and disgorgement, as is necessary in order to

redress injury to consumers and the public interest resulting from defendants' violations of the FTC Act.

JURISDICTION AND VENUE

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. § 53(b) and 28 U.S.C. §§1331, 1337(a), and 1345.

3. Venue in the United States District Court for the Southern District of Florida, Ft. Lauderdale Division, is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

PLAINTIFF

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 *et seq.* The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits deceptive acts or practices in or affecting commerce. The Commission is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case, including redress and disgorgement. 15 U.S.C. § 53(b).

DEFENDANTS

5. Defendant Streamline International, Inc. ("Streamline") is a Utah corporation with its principal office or place of business at 119 S. 700 East, American Fork, Utah, 84003. Defendant Streamline transacts or has transacted business in this district.

6. Defendant J.R. Jackson is an officer of defendant Streamline and also does business as Action Enterprises. Individually or in concert with others, he formulates, directs, controls, or participates in the acts or practices set forth in this complaint. Defendant Jackson transacts or has transacted business in this district.

7. Defendant Robert "Bob" Waitkus is an officer of defendant Streamline and also does business as WorldWide Opportunities Network. Individually or in concert with others, he formulates, directs, controls, or participates in the acts or practices set forth in this complaint. Defendant Waitkus transacts or has transacted business in this district.

COMMERCE

8. At all times relevant to this complaint, the 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 PRACTICES

9. Since at least November 1996, defendants have operated what purports to be a multi-level or network marketing business involving health-care products and dietary supplements (hereinafter referred to as "the Streamline program"). Defendants promote the Streamline program on several websites including, but not limited to, www.streamline.net and www.mainstreamteam.com. Defendants attract visitors to the Streamline website through other websites located at www.cyber-action.com, www.dailyhotsite.com, www.rags2riches.com, www.preventionnews.com and www.liveadream.com. In addition to Internet solicitations, defendants also promote the Streamline program through radio, direct mail and print advertisements. Defendants have solicited consumers nationwide, including consumers who reside in this district.

10. Consumers are invited to join the Streamline program by buying health-care products and dietary supplements through a multi-level marketing plan. Defendants require participants to make minimum monthly purchases in order to be eligible to earn commissions

from the minimum monthly purchases of their “downline,” individuals beneath them in the organization. Defendants promise to create a downline for participants through a device called the “Online Recruiter.” Defendants also promise monetary rewards for participants to personally recruit other individuals into their downline.

11. In their marketing materials and on their websites, defendants have represented, expressly or by implication, that participants will receive substantial income by participating in the Streamline program, including, but not limited to, the following representations:

- A. YES, YOU CAN MAKE \$500-\$2,000 PER MONTH FOREVER!!! HOW WOULD YOUR LIFESTYLE CHANGE IF YOU EARNED \$500-\$2,000 PER MONTH?;
- B. NO MORE WORKING FOR THE NEXT 10, 20, 30 OR 40 YEARS. WORK PART-TIME THIS YEAR AND RETIRE NEXT YEAR; and
- C. The average pay-out [for Executive 2 participants] if no one sponsors anyone personally is \$13,965 per month. Imagine if you have (as you will) distributors who do not want to personally sponsor someone, your income can only go up.

12. In their marketing materials, defendants have also featured “testimonials” from participants in the Streamline program. In these testimonials, the individuals describe how successful they have become through participation in the Streamline program. Individuals giving testimonials are quoted with statements such as:

- A. We’ve been involved for only 21-months and our business was over \$40,000 last month;
- B. [M]y commission check for November [1997] was for \$930 with over 300 IME’s [Independent Marketing Executives] in my downline! Two weeks later I received a commission check for \$1,385.00 with now over 400 IME’s in my downline . . .;

- C. I'm a single working mom and my last month's check was \$522.43. I've been involved for 1-year and only get to spend maybe 3 or 4 hours per MONTH on my business, thanks Streamline!; and
- D. I averaged over **\$20,000 per month** last year because of this work-from-home opportunity. (Statement of J.R. Jackson. Emphasis in original.)

13. In reality, the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings.

14. Defendants operate what is commonly known as a "pyramid scheme" that enriches the defendants at the expense of the majority of the participants in their scheme. In pyramid schemes, each participant pays money to the scheme's promoter in exchange for the right to recruit new participants. Participants then receive benefits for each individual they recruit or who appears below them in their downline. Earnings in a pyramid scheme are derived primarily from recruiting other participants into the program, not from the retail sale of products or services.

15. The structure of a pyramid scheme places severe limitations upon the success of its participants. Participants can only make money if there are a greater number of participants in levels below them. Eventually, pyramid schemes break down due to exhaustion of the pool of possible recruits. Those at the bottom of the pyramid, the majority of participants, lose money because there is no one left to recruit into positions below them in the pyramid.

16. The result of the structure and operation of the Streamline program is that financial gains to participants are primarily dependant upon the continued, successive recruitment of other participants. Retail sales are not required as a condition precedent to the realization of such financial gains.

17. In making the earnings representations set forth in paragraphs 11 and 12, and other similar representations, defendants do not disclose to prospective or actual participants that the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings.

18. Defendants have provided participants in the Streamline program with websites and other marketing materials that include the foregoing representations for use in recruiting new participants and inducing them to participate in the Streamline program.

19. Defendants have induced thousands of consumers throughout the United States, including numerous consumers from this district, to participate in the Streamline program.

20. In promoting the health-care products consumers must purchase in order to take part in the Streamline program, defendants have disseminated or have caused to be disseminated advertisements and websites, including but not limited to the website at www.herbalmall.com, for dietary supplements that contain the following statement:

Are your products FDA approved?

The FDA does not approve or disapprove of any dietary supplement. The FDA is only concerned with products that contain ingredients that are not recognized as safe. Our products contain only those ingredients that appear on the Government's list of generally recognized as safe.

21. In reality, a number of dietary supplements sold by the defendants contain the herbal ingredient comfrey, which is not included on the Food and Drug Administration's list of products generally recognized as safe. In fact, comfrey is known to pose a significant risk to humans, including liver damage, when used internally or externally on open wounds.

VIOLATIONS OF THE FTC ACT

22. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce.

COUNT ONE

23. In numerous instances, defendants represent, expressly or by implication, that consumers who become participants in the Streamline program are likely to receive substantial income.

24. In truth and in fact, in numerous instances, consumers who become participants in the Streamline program are not likely to receive substantial income.

25. Therefore, the representation set forth in paragraph 23 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT TWO

26. As alleged in paragraphs 9 through 19, the defendants' Streamline program is characterized by the payment of money by a participant to defendants in return for which the participant obtains the right to receive income for recruiting others into the Streamline program which are unrelated to the sale of a product or service to an ultimate consumer.

27. This type of scheme, often referred to as a pyramid, is a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT THREE

28. In numerous instances, defendants represent, expressly or by implication, that participants in the Streamline program are likely to receive substantial income.

29. Defendants fail to disclose that Streamline's structure ensures that most participants in the Streamline program are not likely to receive substantial income.

30. This additional information, described in paragraph 29, would be material to consumers in deciding whether to participate in the Streamline program.

31. The defendants' failure to disclose the material information in paragraph 29, in light of the representations made in paragraph 28, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT FOUR

32. Defendants provide participants in the Streamline program with websites and other promotional materials to be used in recruiting new participants that contain false and misleading representations, including, but not limited to, the false and misleading representations described in paragraphs 23 and 28 above.

33. By providing participants with the promotional materials described in paragraph 32 above, defendants have provided the means and instrumentalities for the commission of deceptive acts and practices.

34. Therefore, defendants' practices, as described in paragraphs 32, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT FIVE

35. In connection with the offering for sale or sale of dietary supplements to participants in the Streamline program, defendants represent, expressly or by implication, that their products only contain ingredients that the Food and Drug Administration recognizes as safe.

36. In truth and in fact, the dietary supplements offered for sale or sold by the defendants contain ingredients that the Food and Drug Administration does not recognize as safe.

37. Therefore, the representation set forth in Paragraph 35 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

38. Defendants' violations of Section 5 of the FTC Act, 15 U.S.C. § 45(a), as set forth above, have caused and continue to cause substantial injury to consumers. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

39. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement and restitution, to prevent and remedy any violations of any provision of law enforced by the Federal Trade Commission.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, the Federal Trade Commission, requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

1. Permanently enjoin the defendants from violating Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as alleged in this complaint;

2. Award such preliminary injunctive and ancillary relief as the Court finds necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief resulting from the defendants' violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), including, but not limited to, rescission of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

3. Award the Commission the costs of bringing this action, as well as any other equitable relief that the Court may determine to be just and proper.

Date:

Respectfully submitted,

John Graubert
Acting General Counsel



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