

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

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FEDERAL TRADE COMMISSION, )  
6th Street & Pennsylvania Avenue, N.W. )  
Washington, D.C. 20580, ) Case No. \_\_\_\_\_  
)  
Plaintiff )  
)  
v. )  
)  
)  
COMTEL COMMUNICATIONS GLOBAL NETWORK, INC. ) COMPLAINT FOR  
a Florida corporation; ) PERMANENT  
) INJUNCTION AND  
MARC ZIMMERMAN, individually and as an officer ) OTHER  
of the corporate defendant; ) EQUITABLE  
) RELIEF  
VICTORIA ZIMMERMAN, individually and as an officer )  
of the corporate defendant; )  
)  
ERIC ZIMMERMAN, individually; and )  
)  
)  
PHILIP BERGER, individually and as an officer of the )  
of the corporate defendant, )  
)  
Defendants. )  
)  
)  

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Plaintiff, the Federal Trade Commission ("FTC" or "the Commission"), for its complaint  
alleges:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.

## DEFENDANTS

5. Defendant ComTel Communications Global Network, Inc. ("ComTel"), a Florida corporation with its principal place of business at 3467 N.E. 163rd Street, North Miami Beach, Florida, promotes and sells pay phone business ventures. ComTel has transacted business in the Southern District of Florida.

6. Defendant Marc Zimmerman is an officer and director of ComTel. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He has transacted business in the Southern District of Florida.

7. Defendant Victoria Zimmerman is an officer and director of ComTel. At all times material to this complaint, acting alone or in concert with others, she has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. She has transacted business in the Southern District of Florida.

8. Eric Zimmerman is the technical advisor and consultant to ComTel. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He has transacted business in the Southern District of Florida.

9. Defendant Philip Berger is an officer and director of ComTel. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or

participated in the acts and practices of the corporate defendant, including the acts and practices set forth in this complaint. He has transacted business in the Southern District of Florida.

**COMMERCE**

10. At all times relevant to this complaint, the defendants have maintained a substantial course of trade in the offering for sale and sale of pay phone business ventures, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C.

**VIOLATIONS OF SECTION 5 OF THE FTC ACT**

13. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts or practices in or affecting commerce. Misrepresentations of material fact made to induce a reasonable consumer to purchase a franchise are deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

**COUNT ONE**

14. Paragraphs 1 through 13 are incorporated herein by reference.

15. In the course of offering for sale and selling pay phone business ventures, defendants have represented, directly or by implication, that purchasers can reasonably expect to achieve a specific level of earnings, such as guaranteed income of \$175.00 to \$250.00 per month per phone, or an annual income of \$18,000 to \$28,560, and that such figures are accurate estimates of the sales or income purchasers can reasonably expect.

16. In truth and in fact, few, if any, purchasers attain the specific level of earnings represented by the defendants, and such figures are not accurate estimates of the sales or income purchasers can reasonably expect.

17. Therefore, defendants' representations as set forth in Paragraph 15 are false and misleading and constitute unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**THE FRANCHISE RULE**

18. The business ventures sold by the defendants are franchises, as "franchise" is defined in Section 436.2(a) of the Franchise Rule, 16 C.F.R. § 436.2(a).

19. The Franchise Rule requires a franchisor to provide prospective franchisees with a complete and accurate basic disclosure statement containing twenty categories of information, including information about the history of the franchisor, the terms and conditions under which the franchise operates, and information about other franchisees. 16 C.F.R. § 436.1(a)(1) - (a)(20). Disclosure of this information enables a prospective franchisee to assess potential risks involved in the purchase of the franchise.

20. The Franchise Rule additionally requires that: (1) that the franchisor provide to prospective franchisees a document containing information substantiating the earnings claim, 16 C.F.R. § 436.1(b)-(e); and (2) the franchisor, in immediate conjunction with any generally disseminated earnings claim, disclose the material basis (or the lack of such basis) for the earnings claim and include a warning that the earnings claim is only an estimate. 16 C.F.R. § 436.1(e)(3)-(4).

21. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. 57a(d)(3), and 16 C.F.R.

the Franchise Rule, thereby violating Section 436.1(a) of the Rule, 16 C.F.R.

defendants' violations of the Franchise Rule, including the rescission and reformation of contracts, and the refund of money.

29. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by the defendants' law violations.

**PRAYER FOR RELIEF**

WHEREFORE, plaintiff requests that this Court, as authorized by Sections 13(b) and 19 of the FTC Act, 15 U.S.C.



4. Award plaintiff the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

Stephen Calkins  
General Counsel

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