

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

)	
)	
FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	Civil Action No
)	
)	
v.)	
)	
GEORGIA INTERNATIONAL EXPORT)	COMPLAINT FOR
COMPANY, INC.,)	PERMANENT
<i>(a Georgia corporation)</i>)	INJUNCTION
)	AND OTHER
and)	EQUITABLE RELIEF
)	
GEORGIA INTERNATIONAL EXPORT)	
TECHNOLOGIES INTERNATIONAL)	COMPAN'
)	
and)	
)	
L & S MANUFACTURING, INC.)	
<i>(a Georgia corporation)</i>)	
)	
and)	
)	
ANDREW GILMORE)	
<i>(individually and as an officer of</i>)	
<i>one or more of the corporate defendants)</i>)	
)	
and)	
)	
STEVEN AXELROD)	
<i>(individually)</i>)	
)	
and)	
)	

PLAINTIFF

4. Plaintiff, the FTC, is an independent agency of the United States Government created by statute, 15 U.S.C. §

L&S manufactures and supplies vending machines to, and is an affiliate of, Export, doing business as Creative. L&S has transacted business in the Northern District of Georgia.

7. Defendant Andrew Gilmore holds himself out as the president of Creative. Gilmore also is the president, director, sole shareholder and registered agent of Export. 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 defendants, including the acts and practices set forth in this complaint. He has transacted business in the Northern District of Georgia.

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COMMERCE

11. At all times relevant to this complaint, the defendants have maintained a substantial course of trade in the promotion, offering for sale, and sale of vending machine-related business opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS ACTIVITIES

12. Since at least early 1996, the defendants have been engaged in a common scheme to promote, offer to sell and sell nationwide to consumers a business opportunity involving vending machines which distribute disposable cameras and other film products.

13. Defendants advertise their camera vending machine venture through newspaper advertisements. Typical advertisements include, but are not limited to, the following representations: "KODAK PRODUCTS, 45K P/T - 150K F/T, NO SELLING REQUIRED, Own and operate KODAK product PROFIT CENTERS, Minimum investment \$14,500, 1-800-520-0651."

14. If a consumer responds to the advertisement, his name and telephone number generally are taken by an operator, and the call is returned by a sales representative for the corporate defendants. These sales representatives include defendants Steven Axelrod, Arnold Filner, and Wayne Gregory.

15. In the return call, the sales representatives explain that the business opportunity being sold is vending machines that distribute disposable cameras and other film products. They state that the

initial minimum investment is \$14,500 for which the consumer receives three camera vending machines and the assistance of a professional location service. The investment price does not include the cost of any inventory. The consumer is told that the camera machines return "a very high profit," and that an investor can make \$5 to \$8 per item sold, with \$6 being the average profit per item sold. The sales pitch then indicates that while some of defendants' camera machines in the market are selling 15 to 20 items per day, that the consumer should "think [that] big" and that the lowest known average sales level for the camera machines is 5 to 7 items per day. The sales representatives then tell the consumer that an average of 4 or 5 sales per day will generate a net profit of \$8,000 to \$10,000 per year per machine, and that to achieve such a level of sales, consumers need not work full time. The sales representatives stress the importance of Creative's use of Kodak products to ensure the success of the business opportunity. The sales representative further states: that the camera vending machine idea is the result of "partnership" between Kodak and Creative; that Kodak itself has purchased 50 of the machines; and that the sales figures Creative represents as typical were verified by a Summer, 1996 survey of camera vending machines conducted by Kodak.

16. The sales representatives also state that while Creative only has been in existence for approximately one year, it is part of Export, which has been in business for four years.

17. The sales representatives also tell consumers that defendants' vending machines are easy to place, and that there are many good locations for them, such as hotels, hospital maternity wards, college dorms, and amusement parks. Creative's sales representatives further state Creative will arrange for the camera vending machines to be placed by a professional locator; that

the locator will place the camera vending machines at locations subject to the camera machine owner's approval; and that successful placement will ensure that the investment will be successful.

18. If the consumer remains interested after speaking with Creative's sales representative in the return call, then Creative sends the consumer a brochure, generally by United Parcel Service overnight delivery.

19. Defendants send consumers brochures that contain profit analysis projections, suggestions of the many types of profitable locations for their camera vending machines, and materials depicting the success rate of vending machines. The profit analysis projections show that three camera sales per vending machine per day will return an annual "profit" of \$21,130.20, and that four camera sales will return a profit of \$28,173.60. The profit analysis projections show that three film sales per day will return an annual profit of \$11,457. The camera vending machines do not provide the revenue or profit levels promised by Creative and its representatives.

20. In such return calls from Creative, defendants provide consumers with the names and telephone numbers of "references" who purportedly have purchased camera vending machines from Creative and are familiar with the business. These references include Ed Rubin and Brenda Grafton. When contacted by consumers, both Mr. Rubin and Ms. Grafton indicate that they own Creative camera vending machines and that their camera vending machines have been profitable or provide a good financial return.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

21. 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

22. Paragraphs 1 through 21 are incorporated herein by reference.

23. In the course of offering for sale and selling vending machine-related business opportunities, defendants have represented, directly or by implication, that purchasers may reasonably expect to achieve a specific level of annual earnings, such as income between \$8,000 and \$10,000 per camera vending machine. In order to support this representation, defendants cite a sales survey concerning the profitability of vending machines of one-time-use cameras purportedly conducted by the Eastman Kodak Company.

24. In truth and in fact, Eastman Kodak conducted no such survey, and consumers are unlikely to achieve the specific level of earnings represented by the defendants. Few if any customers have achieved revenues at the rate forecast by defendants.

25. Therefore, defendants' representations as set forth above in Paragraph 23 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.

27. In the course of offering for sale and selling vending machine-related business opportunities, defendants have represented, directly or by implication, that certain company-

32. In truth and in fact:

A. In numerous instances, it is difficult to find good locations for defendants' business opportunity purchasers' vending machines; and

B. Defendants are neither in a partnership nor are they affiliated with the Eastman Kodak Company, other than as purchasers of Eastman Kodak products.

33. Therefore, defendants' representations as set forth above in Paragraph 31 are false and

earnings claim, disclose the material basis (or the lack of such basis) for the earnings claim and

required by the Rule in immediate conjunction with such claims, thereby violating Sections 436.1(b)-(e) of the Rule, 16 C.F.R§ 436.1(b)-(e), and Section 5 of the FTC Act, 15 U.S.C.

1. Award plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including the appointment of a receiver;
2. Permanently enjoin the defendants from violating the Franchise Rule and the FTC Act, as alleged herein, in connection with the offering and promotion of business opportunities, distributorships, and franchises;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from the defendants' violations of the Franchise Rule and the FTC Act, including but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and
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.

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