

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI**

FEDERAL TRADE COMMISSION,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 4:96CV02162SNL
JOSEPH HAYES,)	
individually, d/b/a Retail Sales)	
& Marketing, and as an officer)	
of Automated Guest Directories, Inc.,)	
)	
THELMA HAYES,)	
individually, d/b/a Retail Sales)	
& Marketing, and as an officer)	
of Automated Guest Directories, Inc.,)	
)	
ALLAN O'HEARN,)	
individually, d/b/a Retail Sales)	
& Marketing, and as an officer of)	
Automated Guest Directories, Inc.,)	
)	
ANN FOX,)	
individually, d/b/a Retail Sales)	
& Marketing, and as an officer of)	
Automated Guest Directories, Inc., and)	
)	
AUTOMATED GUEST DIRECTORIES, INC.,)	
a Nevada corporation,)	
)	
Defendants.)	

**COMPLAINT FOR PERMANENT INJUNCTION
AND OTHER EQUITABLE RELIEF**

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. §§ 53(b) and 57b, to secure preliminary and permanent injunctive relief, rescission of contracts, restitution, disgorgement, and other equitable relief for defendants' unfair and deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C.

DEFENDANTS

5. Defendant Joseph Hays has conducted business as Retail Sales & Marketing and is an owner and officer of defendant Automated Guest Directories, Inc. He resides and has transacted business within the Eastern District of Missouri. 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 set forth in this complaint.

6. Defendant Thelma Hayes has conducted business as Retail Sales & Marketing and is an owner and officer of defendant Automated Guest Directories, Inc. She resides and has transacted business within the Eastern District of Missouri. 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 set forth in this complaint.

7. Defendant Allan O'Hearn has conducted business as Retail Sales & Marketing and has been an officer of defendant Automated Guest Directories, Inc. He resides and has transacted business within the Eastern District of Missouri. 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 set forth in this complaint.

8. Defendant Ann Fox has conducted business as Retail Sales & Marketing and is an officer of defendant Automated Guest Directories, Inc. She resides and has transacted business within the Eastern District of Missouri. 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 set forth in this complaint.

9. Defendant Automated Guest Directories, Inc. (

13. The defendants began selling their business opportunities in Montana under the fictitious name Retail Sales & Marketing. The defendants then moved their operations to Nebraska. Without notice to existing business opportunity purchasers, the defendants then moved their operations to Missouri and began selling guest directory business opportunities under the name Automated Guest Directories, Inc.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

14. Section 5(a) of the FTC Act, 15 U.S.C§ 45(a), provides that unfair or deceptive acts or practices in or affecting commerce are unlawful. Misrepresentations and omissions of material facts made to induce a reasonable consumer to purchase a business opportunity are

purchasers with a complete“turnkey” business opportunity with ongoing support services, including but not limited to, the following:

- a. locating the automated guest directory boards in prime locations, such as Marriott, Sheraton, and Ramada hotels; and
- b. providing investors with a sales manager and training a sales force capable of obtaining advertisers for the directory boards.

19. In truth and in fact, in numerous instances, the defendants do not provide purchasers with a complete“turnkey” business opportunity with ongoing support services. In fact, in numerous instances the defendants:

- a. do not locate the automated guest directory boards in prime locations, such as Marriott, Sheraton, and Ramada hotels; and
- b. do not provide investors with a sales manager or train a sales force capable of obtaining advertisers for the directory boards.

20. Therefore, defendant’s representations as set forth in Paragraph 18 are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THE FRANCHISE RULE

21. The business opportunities sold by the defendants are franchises, “franchise” is defined in Section 436.2(a) of the Franchise Rule, 16 C.F.R.

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.

Sections 436.1(b)-(d) of the Rule, 16 C.F.R. §§ 436.1(b)-(d), and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

27. Consumers in many areas of the United States have suffered substantial monetary loss as a result of defendant's unlawful acts or practices. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers and harm the public interest.

THIS COURTS POWER TO GRANT RELIEF

28. 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.

29. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers or other persons resulting from defendant's violations of the Franchise Rule, including the rescission and reformation of contracts, and the refund of money.

30. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by the defendant's 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. §§ 53(b) and 57b, and pursuant to its own equitable powers:

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;
2. Permanently enjoin the defendants from violating the FTC Act and the Franchise Rule, as alleged herein, in connection with the offering and promotion of business ventures, distributorships, business opportunities, and franchises;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from defendants' violations of the FTC Act and the Franchise Rule, including but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains; 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.

Dated: November ____, 1996

Respectfully submitted,

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