

1 UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF TEXAS

3 \_\_\_\_\_ )  
4 FEDERAL TRADE COMMISSION, )  
Plaintiff, )

5 v. )

6 ONESOURCE WORLDWIDE NETWORK, INC., )  
7 a corporation, )  
8 JAMES MICHAEL FOBAIR, )  
individually and as an officer of )  
9 OneSource Worldwide Network, Inc., )  
Defendants. )  
\_\_\_\_\_ )

Civil Action No.

10  
11 **COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

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

15 1. The FTC brings this action under Section 13(b) of the  
16 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to  
17 secure a permanent injunction, rescission of contracts,  
18 restitution, disgorgement, and other equitable relief for  
19 Defendants' unfair or deceptive acts or practices in violation of  
20 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

21 2. This Court has jurisdiction over this matter pursuant to  
22 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. § 53(b). This  
23 action arises under 15 U.S.C. § 45(a)(1).

24 3. Venue in the United States District Court for the Northern  
25 District of Texas is proper under 28 U.S.C. §§ 1391(b) and (c), and  
26 15 U.S.C. § 53(b).

1 **THE PARTIES**

2 4. Plaintiff, the Federal Trade Commission, is an independent  
3 agency of the United States Government created by statute. 15  
4 U.S.C. §§ 41-58. The Commission is charged, inter alia, with  
5 enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which  
6 prohibits unfair or deceptive acts or practices in or affecting  
7 commerce. The Commission is authorized to initiate federal  
8 district court proceedings to enjoin violations of the FTC Act in  
9 order to secure such equitable relief as may be appropriate in each  
10 case. 15 U.S.C. § 53(b).

11 5. Defendant OneSource Worldwide Network, Inc. ("OneSource")  
12 is a Texas corporation with its principal place of business at  
13 12005 Ford Road, Suite 800, Dallas, Texas. OneSource transacts  
14 business in the Northern District of Texas.

15 6. Defendant James Michael Fobair ("Fobair") is, and at all  
16 relevant times was, the founder and President of OneSource. His  
17 business address is the same as that of corporate defendant  
18 OneSource. In connection with the matters alleged herein, Fobair  
19 transacts business in the Northern District of Texas.

20 7. At all times material to this Complaint, individually or  
21 in concert with others, Fobair has formulated, directed, and  
22 controlled the acts and practices of OneSource, including the  
23 various acts and practices set forth herein.

24 **COMMERCE**

25 8. At all times relevant to this Complaint, the Defendants  
26 have maintained a substantial course of trade in the offering for  
27 sale and sale of laundry aid products, in or affecting commerce, as

1 "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

2 **DEFENDANTS' COURSE OF CONDUCT**

3 9. Since at least January 1, 1997, Defendants have maintained  
4 a substantial course of trade promoting, offering for sale, and  
5 selling a product called "The Earthsmart Laundry CD" ("Laundry CD")  
6 (a sealed plastic disc filled with blue liquid).

7 10. Fobair founded OneSource to market the Laundry CD and  
8 other products by means of a multilevel marketing system utilizing  
9 distributors. Fobair developed OneSource's marketing and  
10 promotional materials and has sold the Laundry CD to purchasers.

11 11. Defendants developed and disseminated promotional  
12 materials regarding the characteristics, ingredients, uses, and  
13 benefits of the Laundry CD. Defendants' advertisements and  
14 promotional materials include but are not necessarily limited to  
15 the attached Exhibits "A" through "C." Among the statements made  
16 in these advertisements and materials are the following:

17 A. "It replaces laundry detergent with quantum physics  
18 and a structured water technology." (Exhibit "A").

19 B. "What kind of testing has been done on this product?  
20 It has been tested in independent laboratories using ASTM testing  
21 protocols for its ability to remove common stains, as well as its  
22 ability to work on standard ASTM stained samples. ASTM stands for  
23 the American Society for Testing Materials. ... Structured Water,  
24 with the qualities of detergents, causes regular water to behave as  
25 if it were in the presence of detergents." (Exhibit "B").

26 C. "Introducing Structured Water Technology™ The Future  
27 Way to Clean ... Earth Smart Laundry CD™ ... Alternative to

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1 detergents and fabric softeners ... Designed to last up to 2,500  
2 loads." (Exhibit "C").

3 D. Consumer endorser: "When I was introduced to the  
4 Laundry CD, I just wanted to see it work. I am a single mother  
5 with two small children, ages 5 & 8. They bring home all kinds of  
6 dirt and grim, so I was ready to test the products. When I used  
7 the Laundry CD, the clothes came out fluffy soft and I was  
8 searching for any spots, but there were none. I'm now saving on  
9 three products that I never have to buy again: fabric softener,  
10 static sheets and detergents. Plus, the environmental benefits  
11 make me feel good about using it. Lynda Howard, Carlsbad, CA"  
12 (Exhibit "C").

13 E. "And, the Laundry CD™ container made of high density  
14 polyethylene is completely recyclable." (Exhibit "C").

15 F. "Chlorine is a chemical that is frequently added to  
16 rid water of excess phosphates and other chemicals found in  
17 detergents. But that doesn't mean chlorine is good for you. ...  
18 Chlorinated water contains carcinogens, which, when inside cells,  
19 may cause mutations of DNA. ... When you use the Laundry CD™ ...  
20 you are eliminating the phosphates from your wastewater. A  
21 significant decrease in the phosphate content of our rivers and  
22 lakes will decrease the need for chlorine to make them suitable for  
23 drinking. Not only will our clothes and dishes benefit from softer  
24 water, but our bodies will, too. ... [C]hlorine bleach is a major  
25 enemy to the environment. Chlorine destroys the ozone layer and is  
26 a known carcinogen." (Exhibit "C").

27 G. "With so many problems today, every real solution  
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1 helps. The Earth Smart products from OneSource Worldwide Network<sup>tm</sup>,  
2 Inc. have the potential to reduce the amount of pollution that is

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1 conventional laundry detergents.

2 B. The Laundry CD does not clean laundry by changing the  
3 molecular structure of water.

4 C. While the Laundry CDs are capable of being recycled,  
5 the vast majority of consumers cannot recycle them because there  
6 are only a few collection facilities nationwide that will accept  
7 the Laundry CDs for recycling.

8 15. Through the means described in Paragraph 11, Defendants  
9 have represented, expressly or by implication, that:

10 A. Scientific tests prove that the Laundry CD cleans  
11 laundry as well as conventional laundry detergents.

12 B. Testimonials from consumers appearing in  
13 advertisements for the Laundry CD reflect the typical or ordinary  
14 experience of members of the public who use the product.

15 16. In truth and in fact:

16 A. Scientific tests do not prove that the Laundry CD  
17 cleans laundry as well as conventional laundry detergents.

18 B. Testimonials from consumers appearing in  
19 advertisements for the Laundry CD do not reflect the typical or  
20 ordinary experience of members of the public who use the product.

21 17. Therefore, Defendants' representations as set forth in  
22 Paragraphs 13 and 15 are false or misleading and constitute unfair  
23 or deceptive acts or practices in violation of Section 5(a) of the  
24 FTC Act, 15 U.S.C. § 45(a).

25 **COUNT TWO: FAILURE TO POSSESS A REASONABLE BASIS**

26 18. Through the means described in Paragraph 11, Defendants  
27 have represented, expressly or by implication, that:

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1 by the Federal Trade Commission.

2 23. This Court, in the exercise of its equitable  
3 jurisdiction, may award other ancillary relief to remedy injury  
4 caused by the Defendants' law violations.

5 **PRAYER FOR RELIEF**

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

9 1. Permanently enjoin the Defendants from violating Section  
10 5 of the FTC Act, as alleged herein, in connection with the  
11 offering for sale and promotion of laundry or cleaning products;

12 2. Award such relief as the Court finds necessary to redress  
13 injury to consumers resulting from the Defendants' violations of  
14 the FTC Act, including but not limited to, rescission of contracts,  
15 the refund of monies paid, and the disgorgement of ill-gotten  
16 monies; and

17 3. Award Plaintiff the costs of bringing this action, as  
18 well as such other and additional relief as the Court may

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26 determine to be just and proper.

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1 DATED:

Respectfully submitted

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DEBRA A. VALENTINE  
General Counsel

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