

3. Venue in the United States District Court for the District of North Dakota 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. Defendants Chad and Megan Estenson do business using the names CMJ Enterprises and Rockin' E Marketing. Defendants conduct business from their residence located at 8325 35th Street, NE, Warwick, North Dakota, and from a Post Office Box located in Devils Lake, North Dakota. At all times material to this complaint, acting alone or in concert with others, the defendants have formulated, directed, controlled, or participated in the acts or practices set forth in this complaint. Defendants reside and transact or have transacted business in the District of North Dakota.

COMMERCE

6. 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

7. Since at least September 2000, the defendants have promoted a “get rich quick” scheme through the use of unsolicited commercial email (“UCE” or “spam”) sent in bulk to numerous consumers throughout the country, and through the placement of advertisements in Internet newsgroups. The content and form of both the defendants’ email messages and Internet ads are virtually identical.

8. The scheme promoted by the defendants instruct a new recruit to mail a five dollar bill to four or five participants whose names and addresses appear in a numbered list in the message. Upon receipt of the cash payment, the participants email to the new recruit one of four or five different “reports” on how to engage in the scheme, i.e., how to send bulk spam and advertise for “free” on the Internet. In the email message or Internet ad, the new recruit who wants to participate in the scheme is instructed to enter his or her own name and address into position one on the list of participants, move every other participant’s name one entry level down on the list, and remove the participant that is in the last position on the list. After this revision is complete, and the new recruit receives each of the four or five reports from the other participants, he or she is instructed to forward the revised message to thousands of new names, using his or her own bulk spam or Internet ads.

9. In their UCE and Internet ads touting this scheme, the defendants have represented, expressly or by implication, that participants will receive substantial income by participating in the program, including, but not limited to, the following representations:

- A. “Making over half million dollars every 4 to 5 months from your home for an investment of only \$25 U.S. Dollars expense one time.”
- B. “BE A MILLIONAIRE LIKE OTHERS WITHIN A YEAR!!!”
- C. “If you would like to make at least \$500,000 every 4 to 5 months easily and comfortably, please read the following program. . . THEN READ IT AGAIN!!!”
- D. “There is NO LIMIT to the income you can generate from this business!!!”

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

11. The defendants promote what is commonly known as a “chain letter” or pyramid scheme that necessarily enriches only a few initial participants at the expense of the majority of other participants. In a chain letter, each participant pays money to other participants preceding them in the chain, in exchange for the right to recruit new participants. Participants then receive benefits for each individual they recruit or who appears below them in the chain. Earnings in a chain letter scheme are derived primarily from recruiting other participants into the program, not from the *bona fide* sale of products or services to retail customers.

12. The structure of a chain letter places severe limitations upon the success of its participants. Participants can only make money if they recruit a substantial number of newer participants in levels below them. Eventually, chain letter schemes break down due to

B.

13. In their UCE and Internet ads, the defendants also have represented, expressly or by implication, that the program is legal. For example, the defendants' message includes the following representations:

- A. "Due to the popularity of this letter on the Internet, a major nightly news program recently devoted an entire show to the investigation of the program described below. . . Their findings proved once and for all that there are absolutely NO laws prohibiting the participation in this program."
- B. "You have just received information that can give you financial freedom for the rest of your life, with NO RISK and JUST A LITTLE BIT OF EFFORT."

14. In fact, this program is a chain letter scheme that is illegal under a variety of federal statutes, including the FTC Act, 15 U.S.C. § 45, the Mail Fraud Statute, 18 U.S.C. § 1341, and the Lottery Statutes, 18 U.S.C. §§ 1301-02.

15. The defendants have continued to promote this program through spam and Internet ads even after receiving a warning letter from the FTC in or around September 2000, explicitly advising the defendants that the program was, in fact, illegal.

16. Through the sending of bulk spam and the posting of Internet advertisements, the defendants have solicited consumers nationwide, including consumers who reside in this district.

VIOLATIONS OF THE FTC ACT

17. 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

18. In numerous instances, the defendants represent, expressly or by implication, that consumers who participate in the chain letter program are likely to receive substantial income.

19. In truth and in fact, in numerous instances, consumers who participate in the chain letter program are not likely to receive substantial income.

20. Therefore, the representation set forth in paragraph 18 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

21. As alleged in paragraphs 7 through 12, the program promoted by the defendants is characterized by the payment of money by a new recruit to other participants in the program, in return for which the recruit obtains the right to receive income for recruiting others into the program.

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

COUNT THREE

23. In numerous instances, the defendants represent, expressly or by implication, that the program is legal.

24. In truth and in fact, the program is not legal.

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 FOUR

26. The defendants provide participants in the program with copies of the chain letter to be used in recruiting new participants. As described in Counts One, Two and Three above, that chain letter contains false and misleading representations.

27. By providing participants with the chain letter, the defendants have provided the means and instrumentalities for the commission of deceptive acts and practices.

28. Therefore, the defendants' practices, as described in paragraph 26, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

29. 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, the defendants are likely to continue to injure consumers and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

30. 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 other equitable relief, including rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies, as is necessary in order to redress injury to consumers and the public interest resulting from defendants' violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a); 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: January 14, 2002

Respectfully submitted,

William E. Kovacic
General Counsel

David M. Torok
Attorney for Plaintiff Federal Trade Commission
600 Pennsylvania Avenue, N.W., Room H-238
Washington, D.C. 20580
Telephone: 202-326-3075
Facsimile: 202-326-3395
Email: dtorok@ftc.gov