

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

2. The Complaint states claims upon which relief may be granted against the defendants under Sections 5(a) of the FTC Act, as amended, 15 U.S.C. §§ 45(a);
3. Venue in this district is proper under 28 U.S.C. §§ 1391(b) and (c) and 15 U.S.C. § 53(b);
4. The acts and practices of the defendants were or are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44;
5. Defendants waive any claim they may have under the Equal Access to Justice Act, 28 U.S.C. § 2412, amended by PL 104-121, 110 Stat. 847, 863-64 (1996), concerning the prosecution of this action to the date of this Order;
6. Defendants waive all rights to seek judicial review or otherwise challenge or contest the validity of this Order, and further waive and release any claim they may have against the FTC and the employees, agents, or representatives of the FTC;
7. Nothing in this Order shall be construed as an admission by the defendants that they have engaged in violations of the FTC Act or any other law, rule or regulation; and
8. Entry of this Order is in the public interest.

DEFINITIONS

For the purposes of this Order, the following definitions apply:

- A. “Defendants” means Chad Estenson and Megan Estenson, individually and doing business as CMJ Enterprises and Rockin’ E Marketing.
- B. “Multi-level marketing program” means any marketing program in which participants pay money to the program promoter in return for which the participants obtain the right to:
 - (1) recruit additional participants or have additional participants placed by the promoter

or any other person into the program participant's downline, tree, cooperative, income center, or other similar program grouping; (2) sell goods or services; and (3) receive payment or other compensation, in whole or in part, based upon the sales of those in the participant's downline, tree, cooperative, income center or similar program grouping.

- C. "Participating" in a multi-level marketing program or a prohibited marketing scheme includes, but is not limited to, promoting, marketing, advertising, offering for sale or selling, or assisting others in the offering for sale or selling the right to participate in, the program or scheme, as well as acting or serving as an officer, director, employee, salesperson, agent, shareholder, advisor, consultant, independent contractor or distributor, or acting as a speaker or spokesperson on behalf of the program or scheme.
- D. "Prohibited marketing program" means any marketing program, Ponzi scheme, chain marketing scheme, or other marketing plan or program in which a person who participates makes a payment and receives the right, license or opportunity to derive income as a participant primarily from: (i) the recruitment of additional recruits by the participant, program, promoter or others; or (ii) non-retail sales made to or by such recruits or their successive generations of recruits.
- E. "Retail sales" means sales of goods or services to third-party end-users who are not participants or recruits in the multi-level marketing program.

ORDER

Conduct Prohibitions

I.

IT IS THEREFORE ORDERED that the defendants, their officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from participating, in any manner or capacity whatsoever, directly, in concert with others, or through any business entity or other device, in any prohibited marketing scheme.

II.

IT IS FURTHER ORDERED that the defendants, their officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, while participating in any multi-level marketing program not subject to Paragraph I, are hereby permanently restrained and enjoined from making, or assisting in the making of, expressly or by implication, directly or indirectly, orally or in writing, any false or misleading statement or omission of material fact, including but not limited to the following:

- A. Misrepresentations about the potential earnings or income derived from such activity;
- B. Misrepresentations about the benefits any person participating in such an activity actually can receive or reasonably can expect to receive from such activity;
- C. Misrepresentations about the amount of sales, incentives, profits or rewards a person actually made or can potentially make through such activity; and

D. Misrepresentations about the legality of the program.

III.

IT IS FURTHER ORDERED that the defendants, their officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, while participating in any multi-level marketing program not subject to Paragraph I, are hereby permanently restrained and enjoined from providing to others the means and instrumentalities with which to make, expressly or by implication, directly or indirectly, orally or in writing, any false or misleading statement.

IV.

IT IS FURTHER ORDERED that the defendants, their officers, agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this Order by personal service or otherwise, are hereby permanently restrained and enjoined from selling, renting, leasing, transferring or otherwise disclosing the name, address, telephone number, credit card number, bank account number, e-mail address or other identifying information of any person who paid any money to the defendants in connection with any prohibited marketing program. Provided, however, that the defendants may disclose such identifying information to a law enforcement agency or as required by any law, regulation or court order.

V.

IT IS FURTHER ORDERED that the defendants shall, from the date of his signing of this Order and continuing into the future, refund by mail, within fifteen (15) days of receipt, any

payments made to them by any person or entity as part of the chain letter program described in the FTC's Complaint in this matter, and shall include with the mailed refund a copy of the notification letter that is attached to this Order as Appendix A.

Compliance Reporting

VI.

IT IS FURTHER ORDERED that, to assist the Commission in monitoring compliance with the provisions of this Order:

- A. For a period of three (3) years from the date of entry of this Order, the defendants shall notify the Commission of any changes in the defendants' residence, mailing addresses and telephone numbers, within ten (10) days of the date of such change;
- B. One hundred eighty (180) days after the date of entry of this Order, the defendants shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the following:
 1. The defendants' then current residence address and telephone number;
 2. A statement describing the manner in which the defendants have complied and are complying with the Order; and
 3. A list of the names and addresses of all individuals or entities to which the defendants have sent a refund and notification letter, pursuant to Paragraph V of this Order;

- C. Upon written request by a representative of the Commission, the defendants shall submit additional written reports (under oath, if requested) and produce documents on fifteen (15) days' notice with respect to any conduct subject to this Order; and
- D. For purposes of the compliance reporting required by this Paragraph, the Commission is authorized to communicate directly with the defendants.

Compliance Monitoring

VII.

IT IS FURTHER ORDERED that the Commission is authorized to monitor the

Record Keeping Provisions

VIII.

Associate Director for Marketing Practices
Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

Retention of Jurisdiction and Entry of Judgment

XI.

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes.

There being no just cause for delay, this Stipulated Final Judgment and Order for a Permanent Injunction as to defendants Chad Estenson and Megan Estenson is hereby entered this ___ day of _____, 2001.

United States District Judge

The parties hereby consent to the terms and conditions of the Final Order as set forth above and consent to entry thereof.

FOR THE COMMISSION:

DAVID M. TOROK, ESQ.
Federal Trade Commission
600 Pennsylvania Ave., N.W., Room 238
Washington, D.C. 20580
(202) 326-3075
(202) 326-3395 (Fax)
Email: dtorok@ftc.gov

FOR THE DEFENDANTS:

CHAD ESTENSON, individually and doing
business as CMJ ENTERPRISES and
ROCKIN' E MARKETING

MEGAN ESTENSON, individually and
doing business as CMJ ENTERPRISES
and ROCKIN' E MARKETING

DOUGLAS A. GOULDING, ESQ.
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Counsel for Chad and Megan Estenson

Appendix A
Sample Notification Letter Required by Paragraph V

Chad and Megan Estenson

Appendix B

UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA

FEDERAL TRADE COMMISSION,)
)
)
 Plaintiff,)
)
 v.) Civil No.
)
CHAD ESTENSON and)
MEGAN ESTENSON,)
)
 individually and doing business as)
CMJ ENTERPRISES and)
ROCKIN' E MARKETING)
)
 Defendants.)

AFFIDAVIT OF CHAD AND MEGAN ESTENSON

We, Chad and Megan Estenson, being duly sworn, hereby state and affirm as follows:

1. Our names are Chad and Megan Estenson. Our current residence address is 8325 35th Street, NE, Warwick, North Dakota 58381. We are citizens of the United States and are both over the age of eighteen. We have personal knowledge of the facts set forth in this Affidavit.
2. We are defendants in FTC v. Chad and Megan Estenson, Case No. _____ (United States District Court for the District of North Dakota).
3. On _____ [date], we received a copy of the Stipulated Final Judgment and Final Order For Permanent Injunction, which was signed by the Honorable _____

[name of judge] and entered by the Court on _____ [date of entry of Final Order]. A true and correct copy of the Final Order we received is appended to this Affidavit.

We declare under penalty of perjury under the laws of the United States that the foregoing is true and correct. Executed on _____ [date], at _____ [city and state].

Chad Estenson

Megan Estenson

Subscribed and sworn to before me this ____ day of _____, 2001.

Notary Public
My Commission Expires:
