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13 **UNITED STATES DISTRICT COURT**
14 **DISTRICT OF NEVADA**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 vs.

18 VENDCO, LLC, a Nevada corporation;

19 CURT BRIGUGLIO, a.k.a., Curt Briggs,
20 individually and as an officer or director of the
above named corporation; and

21 JOHAN BRIGUGLIO, a.k.a., Jo Briggs,
22 individually and as an officer or director of the
above corporation,

23 Defendants.
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COMPLAINT FOR INJUNCTIVE
AND OTHER EQUITABLE RELIEF

CV-S-

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26 Plaintiff Federal Trade Commission (“FTC” or “Commission”) for its Complaint alleges:

27 1. The FTC brings this action under Sections 5(a), 13(b) and 19 of the FTC Act, 15
28 U.S.C. §§ 45(a), 53(b) and 57b, to obtain preliminary, and permanent injunctive relief, rescission of

1 contracts, restitution, disgorgement, and other equitable relief for the defendants' violations of Section
2 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "Disclosure
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1 practices set forth in this Complaint. She resides and has transacted business in the Nevada.

2 **COMMERCE**

3 8. At all times relevant to this Complaint, the defendants have maintained a substantial
4 course of trade in the offering for sale and sale of vending machine business ventures, in or affecting
5 commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6 **THE DEFENDANTS’ BUSINESS PRACTICES**

7 9. Defendants have offered and sold vending machine business ventures to consumers
8 throughout the United States. The turnkey business venture that defendants sell involves consumers
9 offering, selling, or distributing candy, snack, and soda vending services supplied by defendants. The
10 defendants offer to secure locations or sites for the vending machines they sell to consumers and the
11 defendants require the business venture purchasers to make a minimum payment of at least several
12 thousand dollars. Defendants have promoted their vending machine business venture to prospective
13 purchasers in a variety of media, including, but not limited to, the Internet.

14 10. Defendants advertise their vending machine business venture on their Internet web site,
15 www.vendcollc.com. On the web site, defendants claim that Vendco “is undoubtedly the best
16 opportunity in America today.” Defendants state that Vendco’s business opportunity offers a:

- 17 C Recession proof business
- 18 C Never-ending supply of locations
- 19 C Quick return on your investment
- 20 C High profit industry
- 21 C Time tested and income proved
- 22 C Multiple incomes per location
- 23 C Quality Equipment with a 5 year warranty
- 24 C Customer service support for your vending business
- 25 C Expansion program/price protection
- 26 C One company does it all!
- 27 C 6 income, unique program for quarter machines
- 28 C Financing available
- 29 C The potential to make more money!
- 30 C Professional locating

31 Finally, the defendants’ web site urges consumers to contact defendants to learn more about the
32 opportunity.

33 11. Consumers who call defendants’ toll-free telephone number often talk with the
34 individual defendants, or other Vendco employees or agents, who represent to consumers that Vendco

1 is offering a turnkey business where the sky's the limit as to how much money the consumers can make.
2 Vendco claims that each employee of a business will spend an average of \$3 per week at the Vendco
3 snack and soda vending machine that charges 65 cents per vend. Moreover, Vendco will find locations
4 for the consumer that have at least 60 employees. Consequently, the consumer will average \$150 to
5 \$200 per week per vending machine. Therefore, the consumer will gross \$81,000 per year and net
6 almost \$50,000 per year by purchasing the suggested eight machine package from Vendco. At the end
7 of the initial call, Vendco sends an information package to the consumers.

8 12. Vendco sends consumers written information in which it repeatedly claims that location
9 is everything and Vendco guarantees locations. Moreover, the written information contains two
10 examples of the money consumers will make by purchasing Vendco's vending machines. The more
11 conservative claim states that using the low estimate of only 75% of vend capacity taken each week
12 leads to a net income of \$47,840 per year. The second claim shows how consumers will gross
13 \$81,120 per year. The calculation is:

14 **60 EMPLOYEES/people** taking ***only 1 vend per day*** x 5 work days a week = 300 vends!
15 300 vends taken per week x **\$0.40 profit** = \$120 (Net) weekly income each machine
16 \$120 (Net) weekly income x 8 machines = \$960 (Net) weekly x 52 weeks =
\$49,920 Net income each year
17 300 vends x \$0.65 = **\$81,120 Gross/Year**

18 13. Defendants' information package also includes a short video that repeats the earnings
19 claims that are made on the phone and in the written materials. In the video, defendant Curt Briggs
20 states that purchasing vending machines from Vendco will allow consumers to make as much money as
21 they want and give them complete financial freedom. The video also includes a screen showing that
22 consumers can make \$1,200 per week by working two hours a week. Again the calculation is based
23 on each employee in the business spending \$3 per week in the vending machines that Vendco is selling
24 the consumer. Finally, the video contains a testimonial from a purported purchaser of Vendco's
25 business venture. Vendco supplies interested consumers with this person's name and number as a
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1 receiving the high quality machines that Vendco promised, they receive low quality machines that often
2 break down.

3 15. Consumers also state that instead of finding locations with at least 60 employees for
4 their vending machines, Vendco finds businesses with few employees and visitors. Consumers also
5 complain that many of the locations that Vendco represents as a8 18 0.in thac 0ndcoacwrg matns thco

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1 **COUNT I**

2 **Misrepresentations Regarding Income**

3 19. In numerous instances in the course of offering for sale and selling their business
4 ventures, the defendants, directly or indirectly, represent, expressly or by implication, that consumers
5 who purchase defendants' business ventures are likely to earn substantial income.

6 20. In truth and in fact, consumers who purchase the defendants' business ventures are not
7 likely to earn substantial income.

8 21. Therefore, the defendants' representations as set forth in Paragraph 19 are false and
9 misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15
10 U.S.C. § 45(a).

11 **COUNT II**

12 **Misrepresentations Regarding Assistance to Business Purchasers**

13 22. In numerous instances in the course of offering for sale and selling their vending machine
14 business ventures, the defendants, directly or indirectly, represent, expressly or by implication, that the
15 defendants provide purchasers with significant assistance in the operation of their businesses, including
16 but not limited to, claims that the defendants will find profitable, high volume locations for their vending
17 machines.

18 23. In truth and in fact, in numerous instances, the defendants do not provide purchasers
19 with significant assistance in the operation of their businesses.

20 24. Therefore, the defendants' representations as set forth in Paragraph 22 are false and
21 misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15
22 U.S.C. § 45(a).

23 **THE FRANCHISE RULE**

24 25. The business ventures sold by the defendants are franchises, as "franchise" is defined in
25 Sections 436.2(a)(1)(ii), (a)(2), and (a)(5) of the Franchise Rule, 16 C.F.R. §§ 436.2(a)(1)(ii), (a)(2),
26 and (a)(5).

27 26. The Franchise Rule requires a franchisor to provide prospective franchisees with a
28 complete and accurate basic disclosure document containing twenty categories of information, including

1 information about the litigation and bankruptcy history of the franchisor and its principals, the terms and
2 conditions under which the franchise operates, and information identifying existing franchisees. 16
3 C.F.R. § 436.1(a)(1) - (a)(20). The pre-sale disclosure of this information required by the Rule
4 enables a prospective franchisee to contact prior purchasers and take other steps to assess the potential
5 risks involved in the purchase of the franchise.

6 27. The Franchise Rule additionally requires that a franchisor:

- 7 (a) have a reasonable basis for any oral, written, or visual earnings claim it makes,
8 16 C.F.R. § 436.1(b)(2), (c)(2) and (e)(1);
- 9 (b) disclose, in immediate conjunction with any earnings claim it makes, and in a
10 clear and conspicuous manner, that material which constitutes a reasonable
11 basis for the earnings claim is available to prospective franchisees, 16 C.F.R. §
12 436.1(b)(2) and (c)(2);
- 13 (c) provide, as prescribed by the Rule, an earnings claim document containing
14 information that constitutes a reasonable basis for any earnings claim it makes,
15 16 C.F.R. § 436.1(b) and (c); and
- 16 (d) clearly and conspicuously disclose, in immediate conjunction with any generally
17 disseminated earnings claim, additional information including the number and
18 percentage of prior purchasers known by the franchisor to have achieved the
19 same or better results, 16 C.F.R. § 436.1(e)(3)-(4).

20 28. Pursuant to 16 C.F.R. § 436.1(d)(3) of the FTC Act, 15 U.S.C. 57a(d)(3), and 16 C.F.R. §
21 436.1, violations of the Franchise Rule constitute unfair or deceptive acts or practices in or aff,
22 commerce, in violation of 15 U.S.C. § 45(a).

23 **VIOLATIONS OF THE FRANCHISE RULE**

24 **COUNT III**

25 **Basic Disclosure Violations**

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PRAYER FOR RELIEF

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