

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of

Kalvin P. Schmidt, individually, and doing business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com , and www.mkt-usa.com.

FILE NO. 972"3308

AGREEMENT CONTAINING CONSENT ORDER

The Federal Trade Commission has conducted an investigation of certain acts and practices of Calvin P. Schmidt, individually, and doing business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com ("proposed respondent"). Proposed respondent, having been represented by counsel, is willing to enter into an agreement containing a consent order resolving the allegations contained in the attached draft complaint. Therefore,

IT IS HEREBY AGREED by and between Calvin P. Schmidt, and counsel for the Federal Trade Commission that:

1. Proposed respondent Calvin P. Schmidt is a Minnesota resident who does business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com. He conducts his business activities out of his home, 911 3rd Street, N.W., Waseca, Minnesota 56093.
2. Proposed respondent admits all the jurisdictional facts set forth in the draft complaint.
3. Proposed respondent waives:
 - a. Any further procedural steps;
 - b. The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law; and
 - c. All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement.
4. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission, it, together with the draft complaint, will be placed on the public record for a period of sixty (60) days and information about it publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify proposed respondents, in which event it will take such action as it may consider appropriate, or issue and serve its complaint (in such form as the circumstances may require) and decision in disposition of the proceeding.
5. This agreement is for settlement purposes only and does not constitute an admission by proposed respondent that the law has been violated as alleged in the draft complaint, or that the facts as alleged in the draft complaint, other than the jurisdictional facts, are true.

6. This agreement contemplates that, if it is accepted by the Commission, and if such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of Section 2.34 of the Commission's Rules, the Commission may, without further notice to proposed respondent, (1) issue its complaint corresponding in form and substance with the attached draft complaint and its decision containing the following order in disposition of the proceeding, and (2) make information about it public. When so entered, the order shall have the same force and effect and may be altered, modified, or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery of the complaint and the decision and order to proposed respondent's address as stated in this agreement by any means specified in Section 4.4(a) of the Commission's Rules shall constitute service. Proposed respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order. No agreement, understanding, representation, or interpretation not contained in the order or in the agreement may be used to vary or contradict the terms of the order.

7. Proposed respondent has read the draft complaint and consent order. He understands that he may be liable for civil penalties in the amount provided by law and other appropriate relief for each violation of the order after it becomes final.

ORDER

DEFINITIONS

For purposes of this order, the following definitions shall apply:

1. "Prohibited Marketing Program" means a pyramid sales scheme, 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 promotor or others; (ii) sales made to or by such recruits or their recruits; or (iii) any other payments made by recruits. A "Prohibited Marketing Program" does not include a marketing plan or program in which the program promotor demonstrates that it has instituted and enforced rules that have the actual effect of insuring that a participant derives income primarily from the sale of goods or services to persons who do not recruit participants into the program.

disclosure shall be of a size and shade, and shall appear on the screen for a duration, sufficient for an ordinary consumer to read and comprehend it. In addition to the foregoing, in interactive media the disclosure shall also be

B. Make any representation in any manner, expressly or by implication, of specific earnings, profits or sales volume that have been achieved or may be achieved by participants in any marketing program or purchasers or any good or service without also clearly and prominently disclosing (1) the number of persons who earned at least the amount represented, and (2) the percentage of total participants or purchasers who earned at least the amount represented.

III.

IT IS FURTHER ORDERED that respondent Calvin P. Schmidt, in connection with any business owned or controlled, in whole or in part, by him, for five (5) years after the date of issuance of this order, shall maintain and upon request make available to the Federal Trade Commission, for inspection and copying, business records demonstrating his compliance with the terms and provisions of this order, including:

A. All advertisements and promotional materials containing representations concerning actual or possible earnings by participants in any marketing plan or program or by purchasers of any good or service;

B. All materials that were relied upon in disseminating representations concerning actual or possible earnings by participants in any marketing plan or program or by purchasers of any good or service;

C. The income, disbursements, transactions, and use of money by any such business;

D. The name, address, telephone number, and social security number of each person employed by any such business in any capacity;

E. The name, address, and telephone number of each person whom respondent has recruited to participate in any marketing plan or program, or to whom respondent has sold any good or service;

F. All complaints and other communications between respondent and any consumer or any governmental or consumer protection organization; and

G. All documents relating in any way to any conduct subject to this Final Order

IV.

IT IS FURTHER ORDERED that respondent Calvin P. Schmidt shall deliver a copy of this order to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities.

V.

IT IS FURTHER ORDERED that respondent Calvin P. Schmidt, for a period of seven (7) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or employment, or of his affiliation with any new

