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9 UNITED STATES DISTRICT COURT
10 SOUTHERN DISTRICT OF CALIFORNIA

11 _____)
12)
13 **FEDERAL TRADE COMMISSION,**)

14) Civil No.
15 Plaintiff,)

16) **COMPLAINT FOR**
17 v.) **INJUNCTIVE AND**

18) **OTHER EQUITABLE**
19 **JOHN LUTHERAN,**) **RELIEF**

20)
21 Defendant.)
22 _____)
23

24 Plaintiff, the Federal Trade Commission (“FTC” or “Commission”), for its Complaint
25 alleges as follows:

26 1. The Commission brings this action under Section 13(b) of the Federal Trade
27 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to obtain permanent injunctive relief against
28 the defendant to prevent him from engaging in deceptive acts or practices in violation of
29 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including
30 rescission, restitution, and disgorgement, as is necessary in order to redress injury to consumers
31 and the public interest resulting from the defendant’s violations of the FTC Act.

32 **JURISDICTION AND VENUE**

33 2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. § 53(b) and
34 28 U.S.C. §§1331, 1337(a), and 1345.

1 **DEFENDANT’S BUSINESS PRACTICES**

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

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

18 9. In his UCE and Internet ads touting this scheme, the defendant has represented,
19 expressly or by implication, that participants will receive substantial income by participating in
20 the program, including, but not limited to, the following representations:

- 21 A. “Making over half million dollars every 4 to 5 months from your home for
22 an investment of only \$25 U.S. Dollars expense one time.”
23

- 1 B. "BE A MILLIONAIRE LIKE OTHERS WITHIN A YEAR!!!"
2
3 C. "If you would like to make at least \$500,000 every 4 to 5 months easily
4 and comfortably, please read the following program. . . THEN READ IT
5 AGAIN!!!"
6
7 D. "There is NO LIMIT to the income you can generate from this business!!!"
8

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

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

18 12. The structure of a chain letter places severe limitations upon the success of its
19 participants. Participants can only make money if they recruit a substantial number of newer
20 participants in levels below them. Eventually, chain letter schemes break down due to
21 exhaustion of the pool of possible recruits. Those at the bottom of the chain, the majority of
22 participants, lose money because there is no one left to recruit into positions below them in the
23 chain.

24 13. In his UCE and Internet ads, the defendant also has represented, expressly or by
25 implication, that the program is legal. For example, the defendant's message includes the
26 following representations:

- 1
2 A. “Due to the popularity of this letter on the Internet, a major nightly news
3 program recently devoted an entire show to the investigation of the
4 program described below. . . Their findings proved once and for all that
5 there are absolutely NO laws prohibiting the participation in this
6 program.”
7
8 B. “You have just received information that can give you financial freedom
9 for the rest of your life, with NO RISK and JUST A LITTLE BIT OF
10 EFFORT.”
11

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

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

18 16. Through the sending of bulk spam and the posting of Internet advertisements, the
19 defendant has solicited consumers nationwide, including consumers who reside in this district.

20 **VIOLATIONS OF THE FTC ACT**

21 17. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits unfair or deceptive acts
22 or practices in or affecting commerce.

23 **COUNT ONE**

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

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

1 to consumers and the public interest resulting from defendant's violations of Section 5(a) of the
2 FTC Act, 15 U.S.C. § 45(a); and

3 3. Award the Commission the costs of bringing this action, as well as any other
4 equitable relief that the Court may determine to be just and proper.

5
6 Date: January 14, 2002

7
8 Respectfully submitted,

9
10 William E. Kovacic
11 General Counsel

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15 _____
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