

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA**

**Case No. 12-23919-Civ-COOKE/TURNOFF**

FEDERAL TRADE COMMISSION,	:
	:
Plaintiff,	:
	:
v.	:
	:
SHOPPER SYSTEMS, LLC,	:
a Florida Limited Liability Company,	:
	:
SHOPPER SELECT, LLC,	:
a Florida Limited Liability Company,	:
	:
CONCEPT ROCKET, LLC also d/b/a	:
SHOPPER SELECT and SHOPPER	:
SYSTEMS,	:
a Delaware Limited Liability Company,	:
	:
REVENUE WORKS, LLC also d/b/a	:
SURPLUS SUPPLIER,	:
a Vermont Limited Liability Company,	:
	:
EMZ VENTURES, LLC,	:
a Delaware Limited Liability Company,	:
	:
THE VERACITY GROUP, LP	:
a Texas Limited Partnership,	:
	:
BRETT BROSSEAU,	:
individually and as an owner and manager	:
of EMZ VENTURES, LLC and GEORGIA	:
FARM HOUSE LAND HOLDINGS, LLC	:
and as a manager of SHOPPER SYSTEMS,	:
LLC, CONCEPT ROCKET, LLC also d/b/a	:
SHOPPER SELECT and SHOPPER	:
SYSTEMS, and REVENUE WORKS, LLC	:
also d/b/a SURPLUS SUPPLIER,	:
	:
MICHAEL MOYSICH,	:
individually and as a manager and owner	:
of REVENUE WORKS, LLC also d/b/a	:
SURPLUS SUPPLIER, SHOPPER	:

SYSTEMS, LLC, SHOPPER SELECT,	:
LLC, and CONCEPT ROCKET, LLC also	:
d/b/a SHOPPER SELECT and SHOPPER	:
SYSTEMS,	:
	:
KEITH R. POWELL,	:
individually and as an officer of The	:
VERACITY GROUP, LP,	:
	:
Defendants, and	:
	:
PKP HOLDINGS,	:
a Texas General Partnership,	:
	:
STEPHANIE POWELL,	:
	:
SPORTSMEN OF NORTH AMERICA, LP	:
a Texas Limited Partnership,	:
	:
GEORGIA FARM HOUSE LAND	:
HOLDINGS, LLC,	:
a Vermont Limited Liability Company,	:
	:
Relief Defendants.	:
	:
	:

**FIRST AMENDED COMPLAINT FOR PERMANENT  
INJUNCTION AND OTHER EQUITABLE RELIEF**

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

1. Plaintiff FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, appointment of a receiver, and other equitable relief for the Defendants’ violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the

FTC's Trade Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Business Opportunities" ("Business Opportunity Rule" or "Rule"), 16 C.F.R. Part 437, as amended. The amended Business Opportunity Rule became effective on March 1, 2012, and has since that date remained in full force and effect.

### **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. §§ 53(b) and 57b. This action arises under 15 U.S.C. § 45(a)(1).

3. Venue is proper in the United States District Court for the Southern District of Florida pursuant to 28 U.S.C. §§ 1391(b)(2)-(3) and (c)(2) , and 15 U.S.C. § 53(b).

### **PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States government created by statute. 15 U.S.C. §§ 41– 58. The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The Commission also enforces the Business Opportunity Rule, 16 C.F.R. Part 437, as amended, which requires specific disclosures and prohibits certain misrepresentations in connection with the sale of a business opportunity.

5. The Commission is authorized to initiate federal district court proceedings, in its own name by its designated attorneys, to enjoin violations of the FTC Act and the Business Opportunity Rule and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(B) and 57b, and 16 C.F.R. Part 437, as amended.

**DEFENDANTS**

6. Defendant Shopper Systems, LLC (“Shopper Systems”) is a Florida limited liability corporation with a principal address of 6800 SW 40<sup>th</sup> Street, No. 642, Miami, Florida 33155. Shopper Systems is a seller who offers for sale, sells, and promotes business opportunities to consumers. At all times material to this Complaint, acting alone or in concert with others, Shopper Systems has transacted business in the Southern District of Florida and throughout the United States.

7. Defendant Shopper Select, LLC (“Shopper Select”) is a Florida limited liability corporation with a principal address of 6800 SW 40<sup>th</sup> Street, No. 642, Miami, Florida 33155. Shopper Select is a seller who has offered for sale, sold, and promoted business opportunities to consumers. At all times material to this Complaint, acting alone or in concert with others, Shopper Select has transacted business in the Southern District of Florida and throughout the United States.

8. Defendant Concept Rocket, LLC d/b/a Shopper Select and Shopper Systems (“Concept Rocket”) is a Delaware limited liability corporation with a principal address of 1 Lawson Lane, Suite 240, Burlington, Vermont 05401. Concept Rocket is a seller who has offered for sale, sold, and promoted business opportunities to consumers. At all times material to this Complaint, acting alone or in concert with others, Concept Rocket has transacted business in the Southern District of Florida and throughout the United States.

9. Defendant Revenue Works, LLC d/b/a Surplus Supplier (“Surplus Supplier”) is a Vermont limited liability corporation with a principal address of 1 Lawson Lane, Suite 240, Burlington, Vermont 05401. Surplus Supplier is a seller who offers for sale, sells, and promotes

business opportunities to consumers. At all times material to this Complaint, acting alone or in concert with others, Surplus Supplier has transacted business in the Southern District of Florida and throughout the United States.

10. Defendant The Veracity Group, L.P. (“Veracity”) is a Texas limited partnership with its principal place of business at 3218 I-30, Suite 103, Mesquite, Texas 75150. Veracity is a seller who offers for sale, sells, and promotes business opportunities to consumers. At all times material to this Complaint, acting alone or in concert with others, Veracity has transacted business in the Southern District of Florida and throughout the United States.

11. Defendant EMZ Ventures, LLC (“EMZ”) is a Delaware limited liability corporation with a principal address of 600 East Main Street, Suite 600, Newark, Delaware 19711. EMZ is a seller who offers for sale, sells, and promotes business opportunities to consumers through its marketing name “ExtraMoneyZone.” At all times material to this Complaint, acting alone or in concert with others, EMZ transacts or has transacted business in the Southern District of Florida and throughout the United States.

12. Defendant Brett Brosseau (“Brosseau”) is the manager and the owner of EMZ and the manager of Concept Rocket, Surplus Supplier and Shopper Systems. Brosseau is also the 50 percent owner of Relief Defendant Georgia Farm House Land Holdings, LLC. At all times material to this Complaint, acting alone or in concert with others, Brosseau has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Brosseau, in connection with the matters alleged herein, transacts or has transacted business in the Southern District of Florida and throughout the United States.

13. Defendant Michael Moysich (“Moysich”) is the manager and owner of Surplus Supplier, Shopper Systems, Shopper Select, and Concept Rocket. At all times material to this

Complaint, acting alone or in concert with others, Moysich has formulated, directed, controlled, had the authority to control, or participated in the acts and practices set forth in this Complaint. Moysich, in connection with the matters alleged herein, transacts or has transacted business in the Southern District of Florida and throughout the United States.

14. Defendant Keith R. Powell (“Powell”) is the president and chief executive officer of The Veracity Group, L.P. At all times material to this Complaint, acting alone or in concert with others, Powell has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Veracity, including the acts and practices set forth in this Complaint. Powell, in connection with the matters alleged herein, transacts or has transacted business in the Southern District of Florida and throughout the United States.

#### **RELIEF DEFENDANTS**

15. Relief Defendant PKP Holdings (“PKP”) is a Texas General Partnership with a principal address of 616 John Close, Murphy, Texas 75094. PKP holds a 99% ownership interest in Veracity. PKP has received funds that can be traced directly to Defendants’ unlawful acts or practices alleged below, and it has no legitimate claim to those funds. These funds include, but are not limited to, a substantial intercompany transfer of funds from Veracity to PKP.

16. Relief Defendant Stephanie Powell is the spouse of Defendant Powell. She is a 50 percent owner in Defendant PKP, and she has received funds that can be traced directly to Defendants’ unlawful acts or practices alleged below, and she has no legitimate claim to those funds. These funds include, but are not limited to, reported income and distributions of cash and marketable securities from PKP to Stephanie Powell. Stephanie Powell resides in Texas.

17. Relief Defendant Sportsmen of North America, LP (“SNA”) is a Texas Limited Partnership with a principal address of 3218 IH 30 Suite 102, Mesquite, Texas 75150. SNA has received funds from PKP that can be traced directly to Defendants’ unlawful acts or practices alleged below, and SNA has no legitimate claim to those funds. These funds include, but are not limited to, transfers to SNA from PKP that originated from Veracity and significant long-term SNA liabilities to PKP.

18. Relief Defendant Georgia Farm House Land Holdings, LLC (“Georgia Farm House”) is a Vermont Limited Liability Company with a principal address of South Pinnacle Drive, South Burlington, Vermont 05403. Georgia Farm House has received funds that can be traced directly to Defendants’ unlawful acts or practices alleged below, and it has no legitimate claim to those funds. These funds include, but are not limited to, multiple mortgage payments for property owned by Georgia Farm House made from accounts that received funds from the Defendants or funds traceable to the Defendants.

**COMMON ENTERPRISE**

19. Defendants Shopper Systems, Shopper Select, Concept Rocket, Surplus Supplier, and EMZ (“Common Defendants”) have operated as a common enterprise while engaging in the unfair and deceptive acts and practices and other violations of law alleged in this Complaint. Common Defendants have conducted the business practices described below through an interrelated network of companies that have common control, business functions, and accounting functions. Common Defendants have routinely transferred funds to a common account for payment of business expenses and other disbursements, including wire transfers to the personal accounts of Defendants Moysich and Brosseau.

20. In addition, Common Defendants rely on a unified marketing plan and utilize shared sales tactics, such as a single sales telemarketing script for both products. They all use Defendant Veracity for telemarketing services and use the same Sri Lankan-based customer service call center. Because Common Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices described in this Complaint. Defendants Brosseau and Moysich have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Common Defendants that constitute the common enterprise.

### **COMMERCE**

21. At all times material to this Complaint, the Defendants have maintained a substantial course of trade in the offering for sale and sale of business opportunities, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **THE DEFENDANTS’ BUSINESS PRACTICES**

#### ***The Business Opportunities***

22. Defendants market to consumers the opportunity to make money by engaging in the business of providing mystery shopping services to various retail establishments. Mystery shoppers are persons hired to pose as customers of a particular business and then prepare reports on its operations, personnel or facilities. Defendants represent that they will identify for purchasers of the business opportunity those retail establishments seeking mystery shoppers within consumers’ local areas.

23. Once consumers agree to purchase the mystery shopper opportunity, Defendants use deceptive sales tactics to enroll consumers into a second business opportunity, which is

purportedly to operate the consumer's own personal webstore on an internet outlet designed and maintained by Defendants EMZ or Surplus Supplier.

24. In fact, the Defendants' scheme is simply to lure consumers into two negative-option programs that result in unforeseen, recurring monthly charges to consumers' credit card accounts.

***Marketing The Business Opportunities***

25. Common Defendants have promoted their business opportunities primarily through the use of unsolicited text messages to consumers' mobile phones, which state, "Hiring in your Area! Secret Shoppers Needed Make up to \$50/hr.," and then direct consumers to call a telephone number.

26. In addition, Common Defendants promote their business opportunities through: (i) phone calls to consumers; (ii) corporate websites; (iii) advertisements in local circulation periodicals; and (iv) advertisements on internet employment websites.

27. To induce consumers to purchase the business opportunities, Common Defendants have disseminated or caused to be disseminated advertisements and other modes of communication that contain statements such as:

"Mystery Shoppers Make up to \$ 150 a Day"

"Make INSANE PROFIT"

28. Common Defendants' websites, advertisements, and unsolicited text messages list toll-free telephone numbers for consumers to call for additional information concerning the business opportunities. Consumers who call these toll-free telephone numbers are connected to Defendant Veracity's telemarketing call center. Common Defendants have retained Defendant

Veracity to provide telemarketers to offer and sell the mystery shopping and webstore business opportunities. Defendants' telemarketers work from a script to pitch these products and services.

29. During the telemarketing pitch, Defendants' telemarketers represent that there are a lot of stores looking for mystery shoppers in the consumers' local area. These telemarketers also state they will provide training to consumers, along with the list of entities who hire mystery shoppers in the consumers' local area that is updated on a daily basis.

30. Defendants' telemarketers further represent that the mystery shopping engagements normally take only about 15 to 20 minutes to complete and that consumers can provide their mystery shopping services either as a full or part-time business, based on their own preferences.

31. In the course of their sales presentations and communications, Defendants' telemarketers represent to potential purchasers that they can earn up to or an average of \$50 per mystery shopping assignment and they can choose as many assignments as they like. In addition, these telemarketers represent that consumers can earn a substantial income through these mystery shopping opportunities.

32. In the course of their sales presentations and communications, Defendants' telemarketers tell potential purchasers that for a nominal registration fee of \$2.95 they will be trained to become mystery shoppers and can participate in a seven-day trial period of the mystery shopping business opportunity.

33. Defendants' telemarketers tell consumers that after the seven-day trial period they will be charged \$49.95 per month for continued access to the list of mystery shopping opportunities but that they can discontinue at any time with no further obligation.

34. After a consumer agrees to purchase the mystery shopping trial period, the Defendants' telemarketers quickly mention that provided along with the mystery shopping program is a personal webstore, which is an additional way to make money. Defendants' telemarketers represent that EMZ or Surplus Supplier will design consumers' webstore, an outlet to sell products, and they will also handle any upkeep.

35. The charge to consumers for the personal webstore is \$3.95, which provides for a 14-day trial period, after which the charge is \$49.95 per month.

36. The telemarketers provide a single telephone number to call to cancel their trial memberships.

37. At best, the solicitation of consumers' authorizations to the webstore is made in a hurried and perfunctory manner. Indeed, consumers are frequently unaware that they have been enrolled in the personal webstore business opportunity at all.

38. Based on Defendants' telemarketers' representations, consumers who purchase the mystery shopping business opportunities expect to receive as many assignments as they want in their local areas. In fact, there are few, if any, such opportunities available within consumers' local areas.

39. While Common Defendants have claimed that consumers can make up to or an average of \$50 per mystery shopping opportunity, the mystery shopping opportunities listed by these defendants, to the extent any are available, pay substantially less than \$50 per opportunity.

40. Numerous consumers have called the telephone number provided by Defendants' telemarketers to avoid incurring additional charges, both before and after the expiration of the seven-day trial periods. In many instances, these cancellation calls are answered by a customer service call center located in Sri Lanka.

41. In many instances, consumers continue to be charged \$49.95 per month after calling the number Defendants' telemarketers provided to cancel the business opportunity membership.

42. Common Defendants inform consumers who complain about the failure to cancel the \$49.95 monthly charge that, in fact, the Common Defendants require two separate cancellation orders to cancel both the mystery shopper and webstore business opportunities. In many instances, this is the first time that consumers realize that they are being charged for a program that is separate and in addition to the mystery shopper program.

43. During consumers' transactions with Defendants for the purchase of Defendants' business opportunities, Defendants have failed to provide a written disclosure document to consumers, prior to the sale of the business opportunities, as required by the Business Opportunity Rule. Defendants have failed to disclose in writing any required information, such as identifying information, earnings claims, legal actions, cancellation or refund policies, or references.

44. Although Defendants have made claims to consumers about their likely earnings, Defendants have failed to provide prospective purchasers with an Earnings Claim statement, as required by the Business Opportunity Rule.

45. Common Defendants have also failed to furnish additional information in immediate conjunction with the earnings claims on their websites, advertisements, and unsolicited text messages, including the beginning and end dates when the represented earnings were achieved and the number and percentage of prior purchasers known by Defendants to have achieved the same or better results.

46. Defendants have engaged in the foregoing business practices since at least March 1, 2012 and have engaged in the same or similar business practices related to the sale of mystery shopping opportunities since at least late 2008.

**VIOLATIONS OF SECTION 5 OF THE FTC ACT**

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

48. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

49. Acts or practices are unfair under Section 5 of the FTC Act if they cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that is not outweighed by countervailing benefits to consumers or competition. 15 U.S.C. § 45(n).

50. As set forth below, Defendants have engaged and continue to engage in violations of Section 5(a) of the FTC Act in connection with the advertising, marketing and sale of their business opportunities.

**COUNT ONE**

**Deceptive Substantial Income Claim**

51. In numerous instances in connection with the advertising, marketing, promotion, offering for sale, or sale of Defendants’ business opportunities, Defendants have represented directly or indirectly, expressly or by implication, that purchasers of Defendants’ business opportunities will earn substantial income.

52. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 51 of this Complaint, purchasers of Defendants’ business opportunities have not earned substantial income.

53. Therefore, Defendants' representations as set forth in Paragraph 51 of this Complaint are false and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## COUNT TWO

### **Deceptive Claims Regarding the Availability of Mystery Shopping Opportunities**

54. In numerous instances, in the course of offering for sale or selling mystery shopping business opportunities, Defendants have represented, directly or indirectly, expressly or by implication, that they can provide consumers with access to a list of numerous, specifically identified, mystery shopping opportunities available in consumers' local areas.

55. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 54 of this Complaint, these Defendants do not provide consumers with access to a list of numerous, specifically identified, mystery shopping opportunities available in consumers' local areas.

56. Therefore, Defendants' representations, as set forth above in Paragraph 54, are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## COUNT THREE

### **Failure to Disclose or Disclose Adequately Terms of Webstore Opportunity**

57. In numerous instances in connection with the offering for sale or sale of mystery shopping business opportunities, Defendants have represented directly or indirectly, expressly or by implication that: (1) consumers' credit cards will be charged for a low-cost trial membership; (2) after the trial period, the membership costs \$49.95 per month; (3) consumers can avoid

additional monthly charges of \$49.95 by calling a toll-free customer service telephone number to cancel the membership.

58. In numerous instances in which Defendants have made the representations set forth in Paragraph 57 of this Complaint, Defendants failed to disclose or disclose adequately that: (1) consumers' credit cards will also be charged for a second and separate low-cost trial membership; (2) after the trial period, consumers will be charged for two separate membership programs at a cost of \$49.95 each; and (3) consumers must affirmatively request to cancel each of the two separate membership programs to avoid additional charges of \$49.95 for the second program.

59. Defendants' failure to adequately disclose the material information described in Paragraph 58, above, in light of the representations described in Paragraph 57, above, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT FOUR**

##### **Unfair Transmission of Text Spam Message**

60. In numerous instances, Common Defendants, Brosseau, and Moysich's practice of initiating or procuring the transmission of unauthorized or unsolicited commercial text messages to the mobile telephones and other wireless devices of consumers as described in Paragraph 25 has caused or is likely to cause substantial injury to consumers that consumers cannot reasonably avoid themselves and that it is not outweighed by countervailing benefits to consumers or competition.

61. Therefore, Common Defendants, Brosseau, and Moysich's practices as described in Paragraph 60 above, constitute unfair acts or practices in violation of Section 5 of the FTC Act, 15 U.S.C. §§ 45(a) and 45(n).

**VIOLATIONS OF THE BUSINESS OPPORTUNITY RULE**

62. Defendants are “sellers” who have sold or offered to sell “business opportunities” as defined by the Business Opportunity Rule, 16 C.F.R. § 437.1(c) and (q). Under the Business Opportunity Rule, a “seller” is a person who offers for sale or sells a business opportunity. 16 C.F.R. § 437.1(q). Under the Rule, a “business opportunity” means a “commercial arrangement” in which a “seller solicits a prospective purchaser to enter into a new business;” the “prospective purchaser makes a required payment;” and the “seller, expressly or by implication, orally or in writing, represents that the seller or one or more designated persons will:” “Provide outlets, accounts, or customers, including, but not limited to, Internet outlets, accounts, or customers, for the purchaser’s goods or services.” 16 C.F.R. 437.1 (c)(3)(ii) and (m).

63. Among other things, the Business Opportunity Rule requires sellers to provide prospective purchasers with a disclosure document in the form and using the language set forth in the Business Opportunity Rule and its Appendix A, and any required attachments. In the disclosure document, the seller must disclose to prospective purchasers five categories of information, including basic identifying information about the seller, any earnings claims the seller makes, the seller’s litigation history, any cancellation and refund policy the seller offers, and contact information of prior purchasers. 16 C.F.R. § 437.3(a)(1)-(5). Furthermore, this information must be disclosed at least seven (7) days before the prospective purchaser signs a contract or makes a payment. 16 C.F.R. § 437.2. The pre-sale disclosure of this information enables a prospective purchaser to contact prior purchasers and take other steps to assess the potential risks involved in the purchase of the business opportunity.

64. Defendants have made earnings claims in connection with the sale of their business opportunities, as defined by the Business Opportunity Rule, 16 C.F.R. § 437.1(f).

Under the Business Opportunity Rule, an “earnings claim” means “any oral, written, or visual representation to a prospective purchaser that conveys, expressly or by implication, a specific level or range of actual or potential sales, or gross or net income or profits.” 16 C.F.R. § 437.1(f).

65. The Business Opportunity Rule prohibits sellers from making earnings claims unless the seller: (1) has a reasonable basis for the claim at the time it is made; (2) has in its possession written materials to substantiate the claim at the time it is made; (3) furnishes an Earnings Claim statement to prospective purchasers in conjunction with the disclosure document, containing, among other things, information regarding the time frame captured by the earnings claim, the characteristics of the purchasers, and the number and percentage of all persons who purchased the business opportunity within the time frame who achieved at least the stated level of earnings; and (4) makes written substantiation of the earnings claim available to any prospective purchaser who requests it. 16 C.F.R. § 437.4(a).

66. Common Defendants have also made earnings claims in connection with the sale of their business opportunities in the general media, as defined by the Business Opportunity Rule, 16 C.F.R. § 437.1(h). Under the Business Opportunity Rule, “general media” means “any instrumentality through which a person may communicate with the public, including, but not limited to, television, radio, print, Internet, billboard, Web site, commercial bulk email, and mobile communications.” 16 C.F.R. § 437.1(h).

67. The Business Opportunity Rule prohibits sellers from making earnings claims in the general media unless the seller has a reasonable basis for and written substantiation of any earnings claims and states in immediate conjunction with those claims the beginning and ending dates when the represented earnings were achieved, and the number and percentage of all

persons who purchased Defendants' business opportunity prior to that ending date who achieved at least the stated level of earnings. 16 C.F.R. § 437.4(b).

68. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the Business Opportunity Rule constitutes an unfair or deceptive act or practice in or affecting commerce in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **COUNT FIVE**

### **Disclosure Document Violations**

69. In numerous instances in connection with the offer for sale, sale, or promotion of business opportunities, Defendants have failed to furnish prospective purchasers with any disclosure document and any required attachments, within the time period prescribed by the Business Opportunity Rule.

70. Defendants' acts and practices, as described in Paragraph 69 above, violate the Business Opportunity Rule, 16 C.F.R. §§ 437.2 and 437.3(a), and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **COUNT SIX**

### **Earnings Disclosure Violations**

71. In numerous instances, Defendants have made earnings claims to prospective purchasers in connection with the offering for sale, sale, or promotion of a business opportunity while, among other things: (1) lacking a reasonable basis for the earnings claim at the time it was made; (2) lacking written substantiation for the earnings claim at the time it was made; or (3) failing to provide an Earnings Claim statement to the prospective purchaser, as required by the Business Opportunity Rule.

72. Defendants' acts and practices, as described in Paragraph 71 above, violate the Business Opportunity Rule, 16 C.F.R. § 437.4(a) and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **COUNT SEVEN**

### **General Media Earnings Claims Violations**

73. Common Defendants, Brosseau, and Moysich have made earnings claims in the general media in connection with the offering for sale, sale, or promotion of a business opportunity while failing to state in immediate conjunction with those claims the beginning and ending dates when the represented earnings were achieved, and the number and percentage of all persons who purchased Defendants' business opportunity prior to that ending date who achieved at least the stated level of earnings.

74. Common Defendants, Brosseau, and Moysich's acts and practices, as described in Paragraph 73 above, violate the Business Opportunity Rule, 16 C.F.R. § 437.4(b)(3) and Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## **COUNT EIGHT**

### **Relief Defendants**

75. Relief Defendants PKP, Stephanie Powell, SNA, and Georgia Farm House have received, directly or indirectly, funds, other assets, or both, from Defendants that are traceable to funds obtained from Defendants' customers through the unlawful acts or practices described herein.

76. Relief Defendants PKP, Stephanie Powell, SNA, and Georgia Farm House have no legitimate claim to the funds, or other assets, of Defendants' customers, and Relief Defendants PKP, Stephanie Powell, SNA, and Georgia Farm House will be unjustly enriched if

they are not required to disgorge the funds or the value of the benefit they received as a result of Defendants' unlawful acts or practices.

77. By reason of the foregoing, Relief Defendants PKP, Stephanie Powell, SNA, and Georgia Farm House hold funds and assets in constructive trust for the benefit of Defendants' customers.

### **CONSUMER INJURY**

78. Consumers have suffered and will continue to suffer substantial monetary loss as a result of the Defendants' violations of Section 5(a) of the FTC Act and the Business Opportunity Rule. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, the Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

### **THIS COURT'S POWER TO GRANT RELIEF**

79. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of any provision of law enforced by the FTC. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies, to prevent and remedy any violation of any provision of law enforced by the FTC.

80. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the Business Opportunity Rule, including the rescission or reformation of contracts and the refund of money.

### **PRAYER FOR RELIEF**

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and the Business Opportunity Rule, and the Court's own equitable powers, requests that the Court:

- A. Award Plaintiff FTC such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, temporary and preliminary injunctions, an order freezing assets, immediate access, and the appointment of a receiver;
- B. Enter a permanent injunction to prevent future violations of the Business Opportunity Rule and the FTC Act by Defendants;
- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from the Defendants' violations of the Business Opportunity Rule and the FTC Act, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- D. Enter an order requiring Relief Defendants PKP, Stephanie Powell, SNA, and Georgia Farm House to disgorge all funds and assets, or the value of the benefit they received from the funds and assets, which are traceable to Defendants' unlawful acts or practices.
- E. Award Plaintiff FTC the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Respectfully submitted,

Jonathan E. Nuechterlein  
General Counsel

Dated: December 23, 2013

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