

FILED
U.S. DISTRICT COURT
DISTRICT OF MARYLAND

2005 SEP -6 10:21 AM
IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

CLERK'S OFFICE
AT BALTIMORE

BY _____ DEPUTY

AUG 31 2005

FEDERAL TRADE COMMISSION and
STATE OF MARYLAND,

Plaintiffs,

v.

SANDRA L. JACOBSON,
individually and doing business
as SLJ, LLC,

Defendant.

Civil Action No. **1:04-CV-1176-CCB**

**STIPULATED FINAL ORDER FOR PERMANENT INJUNCTION AND OTHER
EQUITABLE RELIEF AGAINST DEFENDANT SANDRA L. JACOBSON**

Plaintiffs Federal Trade Commission ("Commission" or "FTC") and the State of Maryland ("Maryland") filed a Complaint for a permanent injunction and other equitable relief pursuant to Section 13(b) of the Federal Trade Commission Act ("FTC Act") and Section 11-702 of the Maryland Securities Act, Md. Code Ann., Corps. & Ass'ns §§11-101 et seq. (1999 Repl. Vol. and Supp. 2002) (the "Maryland Securities Act"). The Complaint charges Defendant Sandra L. Jacobson ("Defendant") with violations of Section 5(a) of the FTC Act, as amended, 15 U.S.C. § 45(a), and Sections 11-501, 11-401, and 11-301 of the Maryland Securities Act. Plaintiffs and the Defendant have agreed to entry of this Stipulated Final Order for Permanent Injunction and Other Equitable Relief ("Order") by the Court to resolve all matters in dispute in this action. The Defendant has consented to entry of this Order without trial or adjudication of any issue of law or fact herein and has agreed that entry of this Order in the docket by the Court

will constitute notice to her of the terms and conditions of the Order. Plaintiffs and Defendant having requested the Court to enter this Order, the Court hereby finds and orders as follows:

FINDINGS

1. This is an action instituted by the Commission under Section 13(b) of the FTC Act and by the State of Maryland under Section 11-702 of the Maryland Securities Act in connection with Defendant's participation in the sale and offering for sale by Trek Alliance, Inc. of the right to participate in a multi-level marketing program. The Complaint seeks permanent injunctive and other equitable relief against Defendant.

2. This Court has jurisdiction of the subject matter of this case and over the Defendant. Venue in the District of Maryland is proper.

3. The Complaint states a claim upon which relief may be granted against the Defendant under Sections 5(a) and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a) and 53(b), and Sections 11-501, 11-401, and 11-301 of the Maryland Securities Act.

4. Plaintiff FTC has the authority under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), to seek the relief it has requested.

5. Plaintiff State of Maryland has the authority under Section 11-702 of the Maryland Securities Act to seek the relief it has requested.

6. The activities of the Defendant charged in the Complaint are in or affecting commerce, as defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

7. The Defendant does not admit liability for the charges in the Complaint.

8. The Defendant has waived all rights to seek judicial review or otherwise challenge or contest the validity of this Order. The Defendant has also waived all claims under

the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended by PL 104-121, 110 Stat. 847, 863-64 (1996).

9. Entry of this Order is in the public interest.

DEFINITIONS

1. The term "document" is synonymous in meaning and equal in scope to the usage of the term in Federal Rule of Civil Procedure 34(a), and includes writings, drawings, graphs, charts, photographs, audio and video recordings, computer records, and other data compilations from which information can be obtained and translated, if necessary, through detection devices into reasonably usable form. A draft or non-identical copy is a separate document within the meaning of the term.

2. "Material" means likely to affect a person's choice of, or conduct regarding, goods or services.

3. "Multi-Level Marketing Program" means any marketing program in which any participants are given 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, sales group, tree, cooperative, income center, or other similar program grouping; (2) sell goods or services; and (3) receive payment or other compensation that is based in whole or in part upon (a) the sales or purchases of those in the participant's downline, sales group, tree, cooperative, income center, or other similar program grouping, or (b) the recruitment of additional participants.

4. "Marketing Program" includes, but is not limited to, any Multi-Level Marketing Program, business investment opportunity, pyramid marketing scheme, Ponzi scheme, or chain marketing scheme.

5. "Prohibited Marketing Program" means any Marketing Program or plan in which any participants pay money or valuable consideration to the company in return for which they receive the right to receive rewards, in return for recruiting other participants into the program, which are unrelated to the sale of products or services to persons who are not participants in the Marketing Program.

6. "Business Venture" means any written or oral business arrangement, however denominated, whether or not covered by 16 C.F.R. Part 436, that consists of the payment of any consideration for (i) the right or means to offer, sell, or distribute goods or services (whether or not identified by a trademark, service mark, trade name, advertising or other commercial symbol); and (ii) assistance to any person in connection with or incident to the establishment, maintenance, or operation of a new business, or the entry by an existing business into a new line or type of business.

ORDER

I.

Prohibition Against Participating in

Multi-Level Marketing Programs and Pyramid Schemes

IT IS HEREBY ORDERED that Defendant, whether acting directly or through any corporation, subsidiary, division, or other device, is hereby prohibited from engaging or participating in, or assisting others in, (i) the operation or promotion of any Multi-Level Marketing Program or Prohibited Marketing Program, or (ii) offering, marketing, advertising, promotion, distribution or sale of the right to participate in any Multi-Level Marketing Program or Prohibited Marketing Program.

II.

Prohibition on Promoting, Offering or Selling Securities in Maryland

IT IS FURTHER ORDERED that Defendant is permanently restrained and enjoined from promoting, offering or selling securities in the State of Maryland, as defined in the Maryland Securities Act. Provided, however, that Defendant may offer and sell securities on her own behalf and can participate in a registered public offering of any company with which she is involved directly or indirectly as a minority owner. In order to participate in a registered public offering of any company with which she is involved directly or indirectly as a majority owner, this Order shall be fully disclosed in the company's offering materials, and such offering otherwise must comply with state and federal securities laws. Defendant may petition the State of Maryland to modify or waive this disclosure requirement.

III.

Prohibited Representations

A. **IT IS FURTHER ORDERED** that Defendant, and her agents, servants, employees, and attorneys, and all persons or entities directly or indirectly under her control, and all other persons or entities in active concert or participation with her who receive actual notice of this Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the offering, marketing, advertising, promotion, distribution or sale of any Business Venture, are hereby prohibited from:

1. Falsely representing, or assisting others in falsely representing, expressly or by implication, the amount of earnings or income that can be or which is likely to be derived from the participation in or purchase of the Business Venture;

2. Falsely representing, or assisting others in falsely representing, expressly or by implication, that persons who participate in or purchase the Business Venture are likely to realize substantial financial gain;

3. Falsely representing, or assisting others in falsely representing, expressly or by implication, the benefits that can or which are likely to be derived from participation in or purchase of the Business Venture;

4. Falsely representing, or assisting others in falsely representing, expressly or by implication, the amount of sales that any person or persons have made, or that participants can or are likely to make;

5. Making or assisting others in making any false or misleading hypothetical earnings claims, expressly or by implication;

6. Making any oral, written or visual representation, or assisting others in making any such representation, expressly or by implication, which states a specific level of potential sales, income, gross or net profit for a prospective participant or purchaser, or which states other facts that suggest such a specific level, unless at the time such representation is made, a reasonable basis exists for such representation and Defendant has in her possession material that constitutes a reasonable basis for such representation, and such material is made available to any prospective participant or purchaser and to the Commission or its staff upon reasonable demand;

7. Representing, or assisting others in representing, expressly or by implication, that the people who fail to make significant income from the Business Venture are those who do not devote substantial or sufficient effort;

8. Falsely representing, or assisting others in falsely representing, expressly or by implication, that salaried or permanent employment opportunities are available; and

9. Falsely representing, or assisting others in falsely representing, expressly or by implication, any other material fact.

B. **IT IS FURTHER ORDERED** that Defendant, and her agents, servants, employees, and attorneys, and all persons or entities directly or indirectly under her control, and all other persons or entities in active concert or participation with her who receive actual notice of this Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, subsidiary, division, or other device, are hereby prohibited from making, or assisting others in making, any false or misleading representation of material fact in connection with the advertising, promotion, marketing, distribution, offering for sale or sale of **any** good or service.

IV.

Prohibition Against Providing Means and Instrumentalities

IT IS FURTHER ORDERED that Defendant, and her agents, servants, employees, and attorneys, and all persons or entities directly or indirectly under her control, and all other persons or entities in active concert or participation with her who receive actual notice of this Order by personal service or otherwise, and each such person, whether acting directly or through any corporation, subsidiary, division, or other device, in connection with the offering, marketing, advertising, promotion, distribution or sale by any person of (i) the right to participate in any Marketing Program or (ii) any Business Venture, are hereby prohibited from providing to others the means or instrumentalities with which to make, expressly or by implication, orally or in writing, any false or misleading representation of material fact.

V.

Monetary Judgment and Redress

IT IS FURTHER ORDERED that judgment is hereby entered against Defendant in the amount of \$804,813.00 (EIGHT HUNDRED FOUR THOUSAND, EIGHT HUNDRED THIRTEEN DOLLARS).

A The Commission shall file a satisfaction of judgment if Defendant transfers to the Commission, by wire transfer in accordance with instructions from Commission staff, the amount of \$5,000.00 (FIVE THOUSAND DOLLARS) within thirty (30) days after the date of entry of this Order. Time is of the essence. In the event that Defendant fails to pay the entire \$5,000 within thirty days after the date of entry of this Order, she shall immediately be liable for the entire judgment amount of \$804,813.00, less any payments already made.

B. All funds paid pursuant to this Section shall be deposited into a fund administered by the Commission or its agent to be used for equitable relief, including but not limited to consumer redress and any attendant expenses for the administration of any redress fund. In the event that direct redress to consumers is wholly or partially impracticable or funds remain after redress is completed, the Commission may apply any remaining funds for such other equitable relief (including consumer information remedies) as it determines to be reasonably related to Defendant's practices alleged in the complaint. Any funds not used for such equitable relief shall be deposited to the Treasury as disgorgement. Defendant shall have no right to challenge the Commission's choice of remedies under this Section.

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VI.

Right to Reopen

IT IS FURTHER ORDERED that the Commission's agreement to this Order is expressly premised upon the truthfulness, accuracy and completeness of the "Financial Statement of Individual Defendant" of Defendant Sandra L. Jacobson dated March 13, 2005, as well as documents submitted therewith, that Defendant has submitted to the Commission. Said financial statement contains material information upon which the FTC has relied in negotiating and agreeing to the terms of this Order. If, upon motion by the Commission to the Court, the Court finds that Defendant failed to disclose any material asset with a value exceeding \$1,000, or materially misrepresented the value of any asset, or made any other material misrepresentation in or omission from the Defendant's financial statement, then the entire judgment amount of \$804,813.00, less any amounts that Defendant has previously paid to the Commission, will be immediately due and payable. Reinstatement of the full judgment amount shall be in addition to, and not in lieu of, any other remedies that may lie for the act or omission on which the reinstatement is based. For purposes of this Section, and any subsequent proceedings to enforce payment, including but not limited to a non-dischargeability complaint filed in a bankruptcy proceeding, Defendant stipulates to all of the allegations in Plaintiffs' Complaint in this matter.

VII.

Acknowledgment of Receipt

IT IS FURTHER ORDERED that Defendant, within five (5) business days of receipt of this Order as entered by the Court, must submit to each of the Plaintiffs a truthful sworn and notarized statement acknowledging receipt of this Order.

VIII.

Record Keeping

IT IS FURTHER ORDERED that, for a period of seven (7) years from the date of entry of this Order, Defendant, in connection with any company or business which offers, sells, promotes or operates a Business Venture, where the Defendant is the majority owner or otherwise directly or indirectly manages or controls the business, is hereby restrained and enjoined from failing to create and retain the following records:

A. Accounting records that reflect (i) the cost of goods or services sold; (ii) revenues generated; and (iii) the disbursement of such revenues;

B. Personnel records accurately reflecting (i) the name, address, and telephone number of each person employed in any capacity by such business, including as an independent contractor; (ii) that person's job title or position; (iii) the date upon which the person commenced work; and (iv) the date and reason for the person's termination, if applicable;

C. Customer files containing the names, addresses, phone numbers, dollar amounts paid, quantity of items or services purchased, and description of items or services purchased, to the extent such information is obtained in the ordinary course of business;

D. Computer records containing the name, address, and phone number of each purchaser of a Business Venture (however denominated, including without limitation sales representatives, distributors, or independent business owners), as well as (i) dollar amounts paid by the participant to the business or any affiliate for any purpose, and the date of each payment; and (ii) all commissions or other pecuniary benefit paid to the participant, and the date of each payment;

E. Complaints and refund requests (whether received directly, indirectly or through any third party) and any responses to those complaints or requests;

F. Copies of all sales scripts, training materials, advertisements, and other marketing materials; and

G. All records and documents necessary to demonstrate full compliance with each provision of this Order, including but not limited to copies of acknowledgments of receipt of this Order (required by Section XI of this Order), and all reports submitted to the FTC pursuant to Section IX of this Order.

IX.

Compliance Reporting by Defendant

IT IS FURTHER ORDERED that, in order that compliance with the provisions of this Order may be monitored:

A. For a period of four (4) years from the date of entry of this Order,

1. Defendant shall notify each of the Plaintiffs of the following:

a. any changes in the Defendant's residence, mailing addresses, and telephone numbers, within ten (10) days of the date of such change;

b. any changes in the Defendant's employment status (including self-employment) within ten (10) days of the date of such change.

Such notice shall include the name and address of each business that the Defendant is affiliated with, employed by, or performs services for; a statement of the nature of the business; and a

statement of the Defendant's duties and responsibilities in connection with the business; and

- c. any changes in the Defendant's name or use of any aliases or fictitious names;
2. Defendant shall notify the Commission of any changes in any business entity that she directly or indirectly controls, or has an ownership interest in, that may affect compliance obligations arising under this Order, including but not limited to a dissolution, assignment, sale, merger, or other action that would result in the emergence of a successor entity; the creation or dissolution of a subsidiary, parent, or affiliate that engages in any acts or practices subject to this Order; the filing of a bankruptcy petition; or a change in the corporate name or address, at least thirty (30) days prior to such change, *provided* that, with respect to any proposed change in the business entity about which the Defendant learns less than thirty (30) days prior to the date such action is to take place, Defendant shall notify the Commission as soon as is practicable after obtaining such knowledge.

B. One hundred eighty (180) days after the date of entry of this Order, Defendant shall provide a written report to the FTC, sworn to under penalty of perjury, setting forth in detail the manner and form in which she has complied and is complying with each section of this Order. This report shall include, but not be limited to:

1. the Defendant's then-current residence address, mailing addresses, and telephone numbers;

2. the Defendant's then-current employment and business addresses and telephone numbers, a description of the business activities of each such employer or business, and the Defendant's title and responsibilities, for each such employer or business;
3. any changes required to be reported pursuant to Paragraph A above; and
4. a copy of each acknowledgment of receipt of this Order obtained by Defendant pursuant to Section XI;

C. For the purposes of this Order, Defendant shall, unless otherwise directed by the Commission's authorized representatives, mail all written notifications to the Commission to:

Federal Trade Commission
Attn: Assistant Regional Director
10877 Wilshire Blvd., Suite 700
Los Angeles, CA 90024
Re: FTC v. Sandra L. Jacobson

D. For purposes of the compliance reporting required by this Paragraph, Plaintiffs and their counsel are authorized to communicate directly with Defendant.

X.

Compliance Monitoring

IT IS FURTHER ORDERED that, for the purpose of monitoring and investigating compliance with any provision of this Order,

A. Within ten (10) days of receipt of written notice from a representative of the Commission, Defendant shall submit additional written reports, sworn to under penalty of perjury; produce documents for inspection and copying; appear for deposition; and/or provide entry during normal business hours to any business location in the Defendant's possession or direct or indirect control to inspect the business operation; *provided that*: Defendant may, after

attempting in good faith to resolve with the Commission any dispute arising from a request made by the Commission under this Section, file a motion with this Court seeking a protective order under Fed. R. Civ. P. 26(c), which shall be issued only upon a showing of good cause.

B. In addition, the Commission and its representatives are authorized to monitor compliance with this Order by all other lawful means, including but not limited to the following:

1. obtaining discovery from any person, without further leave of court, using the procedures prescribed by Fed. R. Civ. P. 30, 31, 33, 34, 36, and 45;
2. communicating with Defendant, any entity managed or controlled in whole or in part by Defendant, or any of her employees, while posing as consumers or prospective customers or suppliers, without the necessity of identification or prior notice;

Provided, however, that nothing in this Order shall limit the Commission's lawful use of compulsory process, pursuant to Sections 9 and 20 of the FTC Act, 15 U.S.C. §§ 49, 57b-1, to obtain any documentary material, tangible things, testimony, or information relevant to unfair or deceptive acts or practices in or affecting commerce (within the meaning of 15 U.S.C. § 45(a)(1)).

C. Defendant shall permit representatives of the Commission to interview any employer, consultant, independent contractor, representative, agent, or employee who has agreed to such an interview, relating in any way to any conduct subject to this Order. The person interviewed may have counsel present.

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XI.

Order Distribution by Defendant

IT IS FURTHER ORDERED that, for a period of four (4) years from the date of entry of this Order, Defendant shall deliver copies of this Order as directed below:

A. For any business that Defendant controls, directly or indirectly, or in which she has a majority ownership interest, and which sells or offers the right to participate in any Business Venture, Defendant shall deliver a copy of this Order to (1) all principals, officers, directors and managers of that business, and (2) all employees, agents, and representatives of that business who engage in conduct related to the subject matter of the Order. For current personnel, delivery shall be within (5) days of service of this Order upon Defendant. For new personnel, delivery shall occur prior to their assumption of responsibilities.

B. With respect to any business (a) for which Defendant works or performs services, directly or through any other person or business entity, and (b) which she does not own or control, and (c) which otherwise engages in conduct related to the subject matter of this Order, Defendant shall deliver a copy of this Order to all principals and managers of such business before engaging in such conduct.

C. Defendant shall secure a signed and dated statement acknowledging receipt of the Order, within thirty (30) days of delivery, from all persons receiving a copy of the Order pursuant to this Section. Defendant shall retain all acknowledgments and make them available to the Commission upon request.

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XII.

Independence of Obligations

IT IS FURTHER ORDERED that each of the obligations imposed by this Order is independent of all other obligations under the Order, and that the expiration of any requirements imposed by this Order shall not affect any other obligation arising under this Order.

XIII.

Costs and Attorneys Fees

IT IS FURTHER ORDERED that each party to this Order bear its own costs and attorneys fees incurred in connection with this action.

XIV.

Waiver of Claims

IT IS FURTHER ORDERED that Defendant waives and releases any and all claims she may have against the Plaintiffs, their employees, representatives, attorneys and/or agents for any acts or omissions prior to and up to the date of this Order.

XV.

Continued Jurisdiction

IT IS FURTHER ORDERED that this Court shall retain jurisdiction of this matter for all purposes, including construction, modification and enforcement of this Order.

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XVI.

Entry by Clerk

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO STIPULATED:

Plaintiffs:

FEDERAL TRADE COMMISSION
William Blumenthal, General Counsel

STATE OF MARYLAND
J. JOSEPH CURRAN, JR.
Attorney General
MELANIE SENTER LUBIN
Maryland Securities Commissioner

By: John D. Jacobs
Jennifer M. Brennan
David C. Fix
(310) 824-4343
Attorneys for Plaintiff FTC

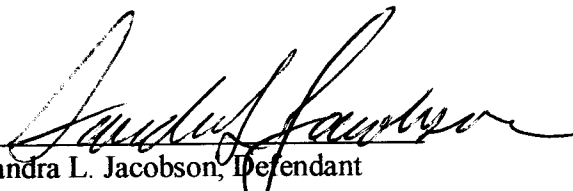
By: Dale E. Cantone
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place
Baltimore, MD 21202-2020
(410) 576-6368
Attorney for Plaintiff State of Maryland

Dated: _____

Dated: _____

Defendant:


Dated: 6-21-05



Sandra L. Jacobson, Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: 8-25-05



Jeffrey S. Pagliuca
Holland & Pagliuca, P.C.
Attorney for Defendant

IT IS SO ORDERED.

Dated: _____

Judge of the District Court

XVI.

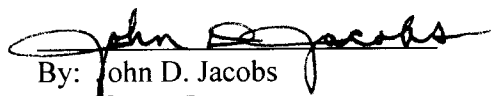
Entry by Clerk

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.

SO STIPULATED:

Plaintiffs:

FEDERAL TRADE COMMISSION
William Blumenthal, General Counsel



By: John D. Jacobs
Jennifer M. Brennan
David C. Fix
(310) 824-4343
Attorneys for Plaintiff FTC

STATE OF MARYLAND
J. JOSEPH CURRAN, JR.
Attorney General
MELANIE SENTER LUBIN
Maryland Securities Commissioner

By: Dale E. Cantone
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place
Baltimore, MD 21202-2020
(410) 576-6368
Attorney for Plaintiff State of Maryland

Dated: August 30, 2005

Dated: _____

Defendant:

Dated: _____

Sandra L. Jacobson, Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: _____

Jeffrey S. Pagliuca
Holland & Pagliuca, P.C.
Attorney for Defendant

IT IS SO ORDERED.

Dated: _____

Judge of the District Court

XVI.

Entry by Clerk

There being no just reason for delay, the Clerk of the Court is hereby directed to enter this Order.


SO STIPULATED:

Plaintiffs:

FEDERAL TRADE COMMISSION
William Blumenthal, General Counsel

By: John D. Jacobs
Jennifer M. Brennan
David C. Fix
(310) 824-4343
Attorneys for Plaintiff FTC

STATE OF MARYLAND
J. JOSEPH CURRAN, JR.
Attorney General
MELANIE SENTER LUBIN
Maryland Securities Commissioner


By: Dale E. Cantone
Assistant Attorney General
Office of the Attorney General
200 Saint Paul Place
Baltimore, MD 21202-2020
(410) 576-6368
Attorney for Plaintiff State of Maryland

Dated: _____

Dated: August 29, 2005

Defendant:

Dated: _____

Sandra L. Jacobson, Defendant

APPROVED AS TO FORM AND CONTENT:

Dated: _____

Jeffrey S. Pagliuca
Holland & Pagliuca, P.C.
Attorney for Defendant

IT IS SO ORDERED.

Dated: Sept 6, 2005



Judge of the District Court