

ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

FUTURENET, INC., a Nevada corporation, FUTURENET ONLINE, INC., a California corporation, ALAN J. SETLIN, individually and as an officer of FutureNet, Inc., and FutureNet Online, Inc., ROBERT DEPEW, individually and as an officer of FutureNet, Inc., and FutureNet Online, Inc., CHRIS LOBATO, individually and as an officer of FutureNet, Inc., and FutureNet Online, Inc., DAVID SOTO, individually and as an officer of FutureNet, Inc., and FutureNet Online, Inc., and LARRY HUFF, individually,

Defendants.

CIVIL NO.

COMPLAINT FOR INJUNCTION AND OTHER EQUITABLE RELIEF

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

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement, appointment of a receiver, and other equitable relief for defendants' violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

JURISDICTION AND VENUE

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

3. Venue in the Central District of California is proper under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

THE PARTIES

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. § 41 et seq. The Commission is charged, inter alia, with enforcement of 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 is authorized to initiate federal district court proceedings to enjoin violations of the FTC Act in order to secure such equitable relief as may be appropriate in each case, and to obtain consumer redress. 15 U.S.C. § 53(b).

5. Defendant FutureNet, Inc. ("FutureNet"), a Nevada corporation with its principal place of business at 28460 Avenue Stanford, Valencia, California 91355, promotes and sells business ventures for the sale of Internet access appliances, other products, and the business venture itself. FutureNet has transacted business in the Central District.

6. Defendant FutureNet Online, Inc. ("FutureNet Online"), a California corporation with its principal place of business at 28460 Avenue Stanford, Valencia, California 91355, promotes and sells business ventures for the sale of Internet access appliances, other products, and the business venture itself. FutureNet Online has transacted business in the Central District.

7. Defendant Alan J. Setlin is an officer and director of FutureNet and FutureNet Online. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. He has transacted business in the Central District.

8. Defendant Robert Depew has been an officer and director of FutureNet and FutureNet Online. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. He has transacted business in the Central District.

9. Defendant Chris Lobato is an officer of FutureNet Online. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. He has transacted business in the Central District.

10. Defendant David Soto is an officer and director of FutureNet and FutureNet Online. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. He has transacted business in the Central District.

11. Defendant Larry Huff is co-founder of FutureNet, and a distributor and trainer for FutureNet and FutureNet Online. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts and practices of the corporate defendants, including the acts and practices set forth in this complaint. He has transacted business in the Central District.

COMMERCE

12. At all times material to this complaint, the defendants have maintained a substantial course of trade in the offering for sale and sale of a multi-level business venture and its associated products, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS' BUSINESS PRACTICES

13. Since 1996, the defendants have been engaged in a deceptive scheme to offer and sell a purportedly profitable business venture that constitutes a "pyramid scheme" to members of the public. Pyramid schemes are characterized by the payment of money to the scheme's promoter in return for which participants receive the right to recruit new participants. Participants then receive payments based upon the number of individuals they recruit or who appear below them in their pyramid (commonly referred to as a "downline"). Earnings in a pyramid scheme are derived primarily from recruiting other participants into the program, not from the retail sale of products or services.

14. Pyramid schemes are inherently injurious to consumers because they must eventually collapse. Like chain letters, pyramid schemes may make money for those at the top of the chain or pyramid, but end up injuring the vast majority of participants at the bottom who can find few or no recruits.

15. Defendants sell two types of distributorship in the FutureNet business venture: a "FutureNet Consultant" distributorship costing \$195 and an "Internet Consultant" distributorship costing an additional \$499-\$599(for a total of \$694-\$794). FutureNet Consultants receive the right to receive compensation based upon the purchase or sale of goods or services, either by themselves or by members of their downline. Internet Consultants receive the same rights and, in addition, receive the right to compensation

based upon sales of Internet Consultant distributorships by themselves or members of their downline.

16. The compensation received by FutureNet Consultants or Internet Consultants from purchases of goods or services by members of their downlines is not primarily based upon the sale of products or services to users who are not participants in FutureNet's marketing plan. Although defendants purport to require the acquisition of two new customers each month as a condition for the payment of compensation, they do not ensure that products or services purchased by distributors are primarily resold to ultimate users who are not part of the marketing plan.

17. The compensation received by Internet Consultants from their own and their downline's recruitment of new Internet consultants is unrelated to the sale of products or services to ultimate users.

18. Defendants have represented that distributors will receive substantial income through recruitment and the growth of the FutureNet pyramid, including but not limited to representations that:

- a. Distributor downlines can grow to 100 persons deep;
- b. Internet Consultants will receive \$200-400 when they personally recruit another Internet Consultant and \$25-50 when a person in their downline recruits an Internet Consultant;
- c. Distributors will receive substantial residual income for the rest of their lives from purchases by their downlines without the need for active sales by the distributors;
- d. Distributors who sell five or more Internet Consultant distributorships in one month can receive bonuses up to \$11,000; and
- e. Defendants can sell 20 or more Internet Consultant distributorships and generate downline purchases of \$5,000 to \$125,000 per month, on which they will receive compensation.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

COUNT I

19. In the course of offering for sale and selling distributorships in FutureNet, defendants have represented, expressly or by implication, that consumers who purchase FutureNet

distributorships will receive substantial income from the purchase of products and services by their downline and the sale of additional distributorships.

20. In truth and in fact, most consumers who purchase FutureNet distributorships will not receive substantial income from the purchase of products and services by their downline and the sale of additional distributorships. Indeed, most participants in the pyramid scheme will lose money.

21. Therefore, defendants' representations as set forth in Paragraph 19 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 II

22. By providing FutureNet distributors with promotional materials that contain false representations, including but not limited to the false representations described in Paragraph 19 above, to be used in recruiting new participants, defendants have provided these persons with the means and instrumentalities for the commission of deceptive acts and practices.

23. Defendants' practices, as described in Paragraph 22, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

24. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of the defendants' unlawful acts or practices. In addition, the defendants have been unjustly enriched as a result of their unlawful 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

25. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief, including consumer redress, disgorgement, and restitution, to prevent and remedy any violations of any provision of law enforced by the Commission.

26. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy the injury caused by the defendants' law violations.

PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

1. Award plaintiff 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;
2. Permanently enjoin the defendants from violating the FTC Act, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting from the defendants' violations of 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
4. Award plaintiffs the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

Date: February 17, 1998

Respectfully Submitted,

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Washington, DC 20580

Federal Trade Commission
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ATTORNEYS FOR PLAINTIFF
FEDERAL TRADE COMMISSION