

Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a), 53(b) and 57b, and Section 7(a) of the Controlling the Assault of Non-Solicited Pornography and Marketing Act of 2003 ("CAN-SPAM Act"), 15 U.S.C. § 7706(a), to obtain temporary, preliminary and permanent injunctive relief, rescission of contracts, restitution, redress, disgorgement and other equitable relief for

Defendants' deceptive acts or omissions in violation of Section 5(a) of the FTC Act, 15 U.S.C. §

[REDACTED]

45(a), and Section 5(a) of the CAN-SPAM Act, 15 U.S.C. § 7704(a).

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C.

§§ 1331, 1337(a), and 1345, 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the CAN-SPAM Act, 15 U.S.C. §

[REDACTED]

15 U.S.C. § 53(b) and 7706(a).

DEFENDANTS

Defendant Sun Day Trading, Inc. (Sun Day Trading) a Florida corporation

controlled, or participated in the acts and practices alleged in this Complaint. He transacted business

transacted business in the Southern District of Florida.

COMMERCE

10. At all times relevant to this Complaint, Defendants have maintained a substantial course of trade in the offering for sale and sale of envelope stuffing employment opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFINITIONS

11. "Commercial electronic mail message" means any electronic mail message the primary purpose of which is the commercial advertisement or promotion of a commercial product or service (including the content on an Internet website operated for commercial purposes). 15 U.S.C. § 7702(2).

12. "Initiate," when used with respect to a commercial e-mail message, means to originate or transmit such message or to procure the origination or transmission of such message. 15 U.S.C. § 7702(9).

13. "Procure," when used with respect to the initiation of a commercial e-mail

message, means intentionally to pay or provide other consideration to, or induce, another person

10/10/03 11:00 AM 101-000-1010 MEMPHIS TN 37117-0000

DEFENDANTS' BUSINESS PRACTICES

15. Since at least June 2003, and continuing thereafter, Defendants have offered for

sale and sold envelope stuffing employment opportunities to consumers throughout the United

States. Defendants have promoted these envelope stuffing employment opportunities to prospective purchasers through unsolicited commercial e-mail or "spam" and through their

02/10/00 12:00 FAX 404 350 1578 ATLANTA FIC 0227033
Envelope "Make Ten Dollars From Home Now!" "We need Homeworke

Earn \$\$\$\$ from home," where the contents or subject matter of the e-mail does not pertain to a legitimate money-making opportunity in which consumers can earn a substantial amount of money; and

B. "Earn a Big Paycheck from Home Now!," "We need Homeworke

one and Earn" "How much do you want to earn from home?"

Paychecks coming; Act now," and "Where will we send the paychecks," where the contents or subject matter of the e-mail does not pertain to a legitimate employment opportunity.

20. When consumers open the e-mail messages initiated by Defendants, there is no substantive message regarding the representations made in the subject headings, but instead,

money by inserting circulars into envelopes and mailing them. For instance, Defendants' websites typically state:

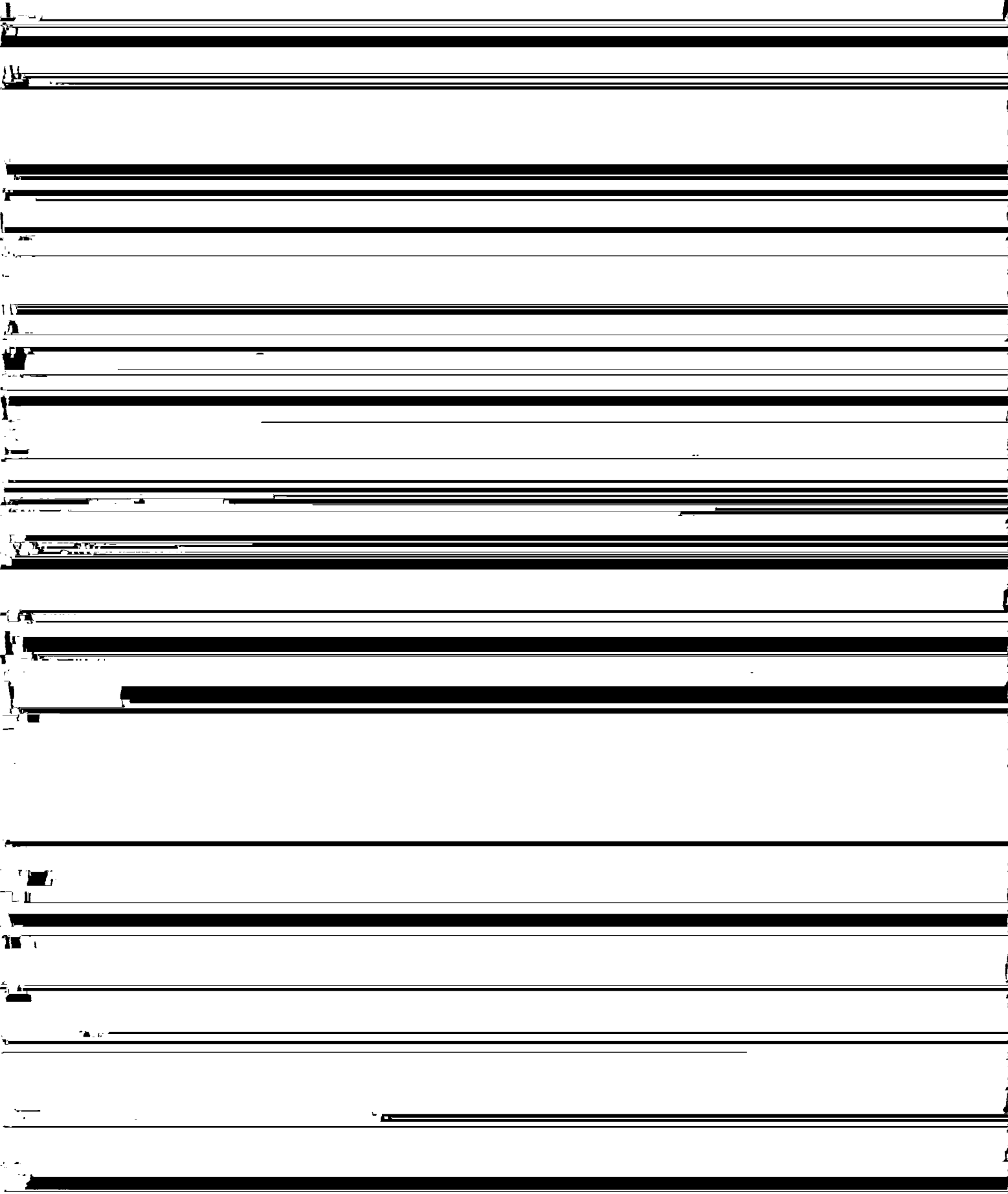
WE NEED YOU TO FOLD AND MAIL OUR CATALOG CIRCULARS IMMEDIATELY!

**Paychecks mailed to you every Wednesday!
Advance Paycheck Forms included in your Package!
You Could be Earning BIG PAYCHECKS Within TWO WEEKS . . . If you Act NOW!**

Congratulations Friend,

We have selected you to be one of our new catalog subscribers.

Your only job is to place our special advertising advertisement



02/10/88 11:57 AM 404 080 1075 ATLANTA FIC 02/10/88

Group #1 is \$550.00 Weekly

Group #2 is \$750.00 Weekly

Group #3 is \$950.00 Weekly

Group #4 is \$3000.00 Weekly! . . . This is the Most Popular Group.

Group #5 is for established mailers who start in **Group #4 and get promoted after**

Once you're in **Group #5** you have the potential to earn \$5000.00 but you must start in **Group #4** if you want to be promoted to **Group #5**. We will leave it up to you to choose your own starting group.

For example, if you start in **Group #2 . . .**

Income Groups #3: (\$950.00) Fee is \$95.00 plus \$10 S&H

You will receive 95 letters, 95 envelopes and 95 customer mailing labels.

Income Group #4: (\$3,000.00) Fee is \$300.00
NOW ONLY \$150.00 plus \$10 S&H

You will receive 300 letters, 300 envelopes and 300 customer mailing labels.

(Emphasis in original).

27. Consumers who complete the Program Selection Form and pay a registration fee ranging from \$65.00 to \$160.00 to Defendants, typically receive a package of supplies that contains the quantity of address labels, envelopes, and the "special advertising circulars" corresponding to the program selected by the consumer as well as instructions to process the

envelopes.

28. When consumers receive Defendants' package, they learn for the first time that

have been mailed, respond to the direct mail solicitation and actually purchase Defendants' new envelope stuffing employment opportunity for themselves.

30. Few, if any, consumers receive even a single paycheck from Defendants for the envelopes that they process and mail. In addition, few, if any, consumers receive any payment or reimbursement from Defendants for their out-of-pocket postage costs to mail the envelopes as promised

received payment for processing envelopes and reimbursement for postage costs. These attempts

stuffing employment opportunities, Defendants represent, expressly or by implication, that consumers who purchase Defendants' envelope stuffing employment opportunities are likely to earn a substantial amount of money, such as \$550.00 to \$3,000.00 per week, from Defendants' envelope stuffing employment opportunities.

employment opportunities are not likely to earn a substantial amount of money, such as \$550.00 to \$3,000.00 per week, from Defendants' envelope stuffing employment opportunities.

36. Therefore, Defendants' representation that consumers who purchase Defendants' envelope stuffing employment opportunities are likely to earn a substantial amount of money, such as \$550.00 to \$3,000.00 per week, from Defendants' envelope stuffing employment opportunities, is false and misleading.

COUNT III

40. In numerous instances, in the course of offering for sale and selling envelope

stuffing employment opportunities. Defendants conspired, arranged, and

basis of objective circumstances, that a subject heading of the message would be likely to mislead a recipient, acting reasonably under the circumstances, about a material fact regarding the contents or subject matter of the message (consistent

Commission Act (15 U.S.C. 45)).

47. Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a), states:

[T]his Act shall be enforced by the [Federal Trade] Commission as if the violation of this Act were an unfair or deceptive trade practice.

amount of money; and

"Get a Big Paycheck from Home Now!" "We need Homeworkers. Do

one and Earn." "Earn paychecks from Home Every Week." "Rip

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

PRAYER FOR RELIEF

WHEREFORE Plaintiff requests that this Court, as authorized by Sections 13(h) and 19

of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 7(a) of the CAN-SPAM Act, 15 U.S.C. § 7706(a), and pursuant to its own equitable powers:

1. Award Plaintiff such preliminary injunctive and ancillary relief, including, but not limited to, a temporary restraining order, 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 Defendants from violating Section 5(a) of the FTC Act and

additional relief as the Court may determine to be just and proper.

Dated: 1/8/85

Acting General Counsel



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