

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF TEXAS

3 _____)
4 FEDERAL TRADE COMMISSION,)
5 Plaintiff,)
6 v.) Civil Action No.
7 ONESOURCE WORLDWIDE NETWORK, INC.,)
8 a corporation,)
9 JAMES MICHAEL FOBAIR,)
10 individually and as an officer of)
11 OneSource Worldwide Network, Inc.,)
12 Defendants.)
13 _____)

14 **COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

15 Plaintiff, the Federal Trade Commission ("FTC" or "the
16 Commission"), for its Complaint alleges as follows:

17 1. The FTC brings this action under Section 13(b) of the
18 Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to
19 secure a permanent injunction, rescission of contracts,
20 restitution, disgorgement, and other equitable relief for
21 Defendants' unfair or deceptive acts or practices in violation of
22 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23 2. This Court has jurisdiction over this matter pursuant to
24 28 U.S.C. §§ 1331, 1337(a) and 1345, and 15 U.S.C. § 53(b). This
25 action arises under 15 U.S.C. § 45(a)(1).

26 3. Venue in the United States District Court for the Northern
27 District of Texas is proper under 28 U.S.C. §§ 1391(b) and (c), and
28 15 U.S.C. § 53(b).

1 **THE PARTIES**

2 4. Plaintiff, the Federal Trade Commission, is an independent
3 agency of the United States Government created by statute. 15
4 U.S.C. §§ 41-58. The Commission is charged, inter alia, with
5 enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which
6 prohibits unfair or deceptive acts or practices in or affecting
7 commerce. The Commission is authorized to initiate federal
8 district court proceedings to enjoin violations of the FTC Act in
9 order to secure such equitable relief as may be appropriate in each
10 case. 15 U.S.C. § 53(b).

11 5. Defendant OneSource Worldwide Network, Inc. ("OneSource")
12 is a Texas corporation with its principal place of business at
13 12005 Ford Road, Suite 800, Dallas, Texas. OneSource transacts
14 business in the Northern District of Texas.

15 6. Defendant James Michael Fobair ("Fobair") is, and at all
16 relevant times was, the founder and President of OneSource. His
17 business address is the same as that of corporate defendant
18 OneSource. In connection with the matters alleged herein, Fobair
19 transacts business in the Northern District of Texas.

20 7. At all times material to this Complaint, individually or
21 in concert with others, Fobair has formulated, directed, and
22 controlled the acts and practices of OneSource, including the
23 various acts and practices set forth herein.

24 **COMMERCE**

25 8. At all times relevant to this Complaint, the Defendants
26 have maintained a substantial course of trade in the offering for
27 sale and sale of laundry aid products, in or affecting commerce, as

1 "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

2 **DEFENDANTS' COURSE OF CONDUCT**

3 9. Since at least January 1, 1997, Defendants have maintained
4 a substantial course of trade promoting, offering for sale, and
5 selling a product called "The Earthsmart Laundry CD" ("Laundry CD")
6 (a sealed plastic disc filled with blue liquid).

7 10. Fobair founded OneSource to market the Laundry CD and
8 other products by means of a multilevel marketing system utilizing
9 distributors. Fobair developed OneSource's marketing and
10 promotional materials and has sold the Laundry CD to purchasers.

11 11. Defendants developed and disseminated promotional
12 materials regarding the characteristics, ingredients, uses, and
13 benefits of the Laundry CD. Defendants' advertisements and
14 promotional materials include but are not necessarily limited to
15 the attached Exhibits "A" through "C." Among the statements made
16 in these advertisements and materials are the following:

17 A. "It replaces laundry detergent with quantum physics
18 and a structured water technology." (Exhibit "A").

19 B. "What kind of testing has been done on this product?
20 It has been tested in independent laboratories using ASTM testing
21 protocols for its ability to remove common stains, as well as its
22 ability to work on standard ASTM stained samples. ASTM stands for
23 the American Society for Testing Materials. ... Structured Water,
24 with the qualities of detergents, causes regular water to behave as
25 if it were in the presence of detergents." (Exhibit "B").

26 C. "Introducing Structured Water Technology™ The Future
27 Way to Clean ... Earth Smart Laundry CD™ ... Alternative to

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1 detergents and fabric softeners ... Designed to last up to 2,500
2 loads." (Exhibit "C").

3 D. Consumer endorser: "When I was introduced to the
4 Laundry CD, I just wanted to see it work. I am a single mother
5 with two small children, ages 5 & 8. They bring home all kinds of
6 dirt and grim, so I was ready to test the products. When I used
7 the Laundry CD, the clothes came out fluffy soft and I was
8 searching for any spots, but there were none. I'm now saving on
9 three products that I never have to buy again: fabric softener,
10 static sheets and detergents. Plus, the environmental benefits
11 make me feel good about using it. Lynda Howard, Carlsbad, CA"
12 (Exhibit "C").

13 E. "And, the Laundry CD™ container made of high density
14 polyethylene is completely recyclable." (Exhibit "C").

15 F. "Chlorine is a chemical that is frequently added to
16 rid water of excess phosphates and other chemicals found in
17 detergents. But that doesn't mean chlorine is good for you. ...
18 Chlorinated water contains carcinogens, which, when inside cells,
19 may cause mutations of DNA. ... When you use the Laundry CD™ ...
20 you are eliminating the phosphates from your wastewater. A
21 significant decrease in the phosphate content of our rivers and
22 lakes will decrease the need for chlorine to make them suitable for
23 drinking. Not only will our clothes and dishes benefit from softer
24 water, but our bodies will, too. ... [C]hlorine bleach is a major
25 enemy to the environment. Chlorine destroys the ozone layer and is
26 a known carcinogen." (Exhibit "C").

27 G. "With so many problems today, every real solution
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1 helps. The Earth Smart products from OneSource Worldwide Network™,
2 Inc. have the potential to reduce the amount of pollution that is
3 pumped into the environment by the five billion wash loads in the
4 U.S. every year, from the Laundry CD™ product alone. If we can
5 show enough people about this eco-conscious invention, we can do
6 wonders. But not only will you feel good about what you are doing
7 to help save the world we live in, leaving clean water and
8 healthier eco-systems for generations after you. You will also
9 feel good about the products, because they work." (Exhibit "C").

10 **DEFENDANTS' VIOLATIONS OF SECTION 5 OF THE FTC ACT**

11 12. As set forth below, in connection with the advertising,
12 offering for sale, sale, and distribution of the Laundry CD,
13 Defendants, individually or in concert with others, have
14 misrepresented material facts or made representations without
15 having a reasonable basis for such representations at the time they
16 were made, in violation of Section 5(a) of the FTC Act, 15 U.S.C.
17 § 45(a).

18 **COUNT ONE: FALSE CLAIMS**

19 13. Through the means described in Paragraph 11, Defendants
20 have represented, expressly or by implication, that:

21 A. The Laundry CD cleans laundry as well as conventional
22 laundry detergents.

23 B. The Laundry CD cleans laundry by changing the
24 molecular structure of water.

25 C. The Laundry CD is 100% recyclable.

26 14. In truth and in fact:

27 A. The Laundry CD does not clean laundry as well as
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1 conventional laundry detergents.

2 B. The Laundry CD does not clean laundry by changing the
3 molecular structure of water.

4 C. While the Laundry CDs are capable of being recycled,
5 the vast majority of consumers cannot recycle them because there
6 are only a few collection facilities nationwide that will accept
7 the Laundry CDs for recycling.

8 15. Through the means described in Paragraph 11, Defendants
9 have represented, expressly or by implication, that:

10 A. Scientific tests prove that the Laundry CD cleans
11 laundry as well as conventional laundry detergents.

12 B. Testimonials from consumers appearing in
13 advertisements for the Laundry CD reflect the typical or ordinary
14 experience of members of the public who use the product.

15 16. In truth and in fact:

16 A. Scientific tests do not prove that the Laundry CD
17 cleans laundry as well as conventional laundry detergents.

18 B. Testimonials from consumers appearing in
19 advertisements for the Laundry CD do not reflect the typical or
20 ordinary experience of members of the public who use the product.

21 17. Therefore, Defendants' representations as set forth in
22 Paragraphs 13 and 15 are false or misleading and constitute unfair
23 or deceptive acts or practices in violation of Section 5(a) of the
24 FTC Act, 15 U.S.C. § 45(a).

25 **COUNT TWO: FAILURE TO POSSESS A REASONABLE BASIS**

26 18. Through the means described in Paragraph 11, Defendants
27 have represented, expressly or by implication, that:

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1 A. The Laundry CD softens fabrics as well as
2 conventional fabric softeners.

3 B. Using the Laundry CD will make rivers, streams, and
4 oceans safer and cleaner by reducing the use of detergents and
5 soaps.

6 19. Through the means described in Paragraph 11, Defendants
7 have represented, expressly or by implication, that they possessed
8 and relied upon a reasonable basis that substantiated the
9 representations set forth in Paragraphs 13 and 18, at the time the
10 representations were made.

11 20. In truth and in fact, Defendants did not possess and rely
12 upon a reasonable basis that substantiated the representations set
13 forth in Paragraph 13 and 18, at the time the representations were
14 made. Therefore, the representation set forth in Paragraph 19 was,
15 and is, false or misleading and constitutes an unfair or deceptive
16 act or practice in violation of Section 5(a) of the FTC Act, 15
17 U.S.C. § 45(a).

18 **CONSUMER INJURY**

19 21. Consumers have suffered substantial monetary loss as a
20 result of Defendants' unlawful acts or practices. Absent
21 injunctive relief by this Court, Defendants are likely to continue
22 to injure consumers and harm the public interest.

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

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

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1 by the Federal Trade Commission.

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

5 **PRAYER FOR RELIEF**

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

9 1. Permanently enjoin the Defendants from violating Section
10 5 of the FTC Act, as alleged herein, in connection with the
11 offering for sale and promotion of laundry or cleaning products;

12 2. Award such relief as the Court finds necessary to redress
13 injury to consumers resulting from the Defendants' violations of
14 the FTC Act, including but not limited to, rescission of contracts,
15 the refund of monies paid, and the disgorgement of ill-gotten
16 monies; and

17 3. Award Plaintiff the costs of bringing this action, as
18 well as such other and additional relief as the Court may

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26 determine to be just and proper.

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1 DATED:

Respectfully submitted

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General Counsel

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