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10 UNITED STATES DISTRICT COURT  
11 DISTRICT OF NEVADA

12 Federal Trade Commission,

CV-S-05-0160-RCJ-PAL

13 Plaintiff,

14 v.

15 **National Vending Consultants, Inc.**, a New  
Mexico corporation; **Success Vending Group,**  
16 **Inc.**, a New Mexico corporation;  
**USA Candy Express, Inc.**, a Nevada corporation;  
17 **Patrick Abeyta, Jr.**, individually and as an officer  
of National Vending Consultants, Inc.;  
18 **Debra Abeyta**, individually and as an officer of  
National Vending Consultants, Inc.; **Larry Welli**,  
19 individually and as an officer of Success Vending  
Group, Inc.; **Richard Savard**, individually and as  
20 an officer of Success Vending Group, Inc.;

**COMPLAINT FOR  
INJUNCTIVE AND OTHER  
EQUITABLE RELIEF**

21 Defendants,

22 and **Darlene Savard**, a/k/a Darlene Robarge,

23 Relief Defendant.  
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1 Plaintiff, the Federal Trade Commission ("FTC" or "Commission"), for its  
2 complaint alleges:

3 1. The FTC brings this action under Sections 5(a), 13(b) and 19 of the FTC  
4 Act, 15 U.S.C. §§ 45(a), 53(b) and 57b, to obtain temporary, preliminary, and permanent  
5 injunctive relief, rescission of contracts, restitution, disgorgement, appointment of a  
6 receiver, and other equitable relief for defendants' violations of Section 5(a) of the FTC  
7 Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "Disclosure  
8 Requirements and Prohibitions Concerning Franchising and Business Opportunity  
9 Ventures" ("Franchise Rule" or "Rule"), 16 C.F.R. § 436.

#### 10 JURISDICTION AND VENUE

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

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

#### 16 THE PARTIES

17 4. Plaintiff, the Federal Trade Commission, is an independent agency of the  
18 United States Government created by statute. 15 U.S.C. §§ 41 et seq. The Commission is  
19 charged, inter alia, with enforcement of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),  
20 which prohibits unfair or deceptive acts or practices in or affecting commerce, as well as  
21 enforcement of the Franchise Rule, 16 C.F.R. § 436. The Commission is authorized to  
22 initiate federal district court proceedings, by its own attorneys, to enjoin violations of  
23 the FTC Act and the Franchise Rule in order to secure such equitable relief as may be  
24 appropriate in each case, and to obtain consumer redress. 15 U.S.C. §§ 53(b) and 57b.

1           5.       Defendant National Vending Consultants, Inc. ("NVC"), a New Mexico  
2 corporation with its principal place of business at 1406 El Camino Real Street, Socorro,  
3 NM 87801, promotes and sells vending machine business ventures. NVC has transacted  
4 business in the District of Nevada.

5           6.       Success Vending Group, Inc. ("SVG"), also known as S. Vending, Inc., a  
6 New Mexico corporation listing its address as 11005 Spain N.E., 11<sup>th</sup> Floor,  
7 Albuquerque, NM 97111, and with its principal place of business at 1631 and 1651 East  
8 Sunset Road, Las Vegas, NV 89119, promotes and sells vending machine business  
9 ventures. SVG has transacted business in the District of Nevada.

10          7.       Defendant USA Candy Express, Inc. ("Candy Express") is a Nevada  
11 corporation with its principal place of business at 1631 East Sunset Road, Las Vegas, NV  
12 89119, engaged in the vending machine business. Candy Express has transacted  
13 business in the District of Nevada.

14          8.       Defendant Patrick Abeyta, Jr. is the President of NVC and an undisclosed  
15 officer or director of SVG. At all times material to this complaint, acting alone or in  
16 concert with others, he has formulated, directed, controlled or participated in the acts  
17 and practices of the corporate defendants, including the acts and practices set forth in  
18 this complaint. He has transacted business in the District of Nevada.

19          9.       Defendant Debra Abeyta is the Vice President of NVC. At all times  
20 material to this complaint, acting alone or in concert with others, she has formulated,  
21 directed, controlled or participated in the acts and practices of the defendant NVC,  
22 including the acts and practices set forth in this complaint. She has transacted business  
23 in the District of Nevada.

24          10.       Defendant Larry Welli is the President of SVG. At all times material to  
25 this complaint, acting alone or in concert with others, he has formulated, directed,  
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1 controlled or participated in the acts and practices of defendant SVG, including the acts  
2 and practices set forth in this complaint. He has transacted business in the District of  
3 Nevada.

4 11. Defendant Richard Savard is the General Manager of SVG and/or NVC,  
5 and holds himself out as the Vice President and co-owner of SVG. At all times material  
6 to this complaint, acting alone or in concert with others, he has formulated, directed,  
7 controlled or participated in the acts or practices of defendant SVG, including the acts  
8 and practices set forth in this complaint. He has transacted business in the District of  
9 Nevada.

10 12. Relief defendant Darlene Savard, also known as "Darlene Robarge," is an  
11 individual who has received funds that can be traced directly to the corporate  
12 defendants' deceptive acts or practices, and she has no legitimate claim to those funds.

### 13 COMMON ENTERPRISE

14 13. Corporate defendants SVG, NVC, and Candy Express (herein, the  
15 "Vending Enterprise") have operated as a common enterprise while engaging in the  
16 deceptive acts and practices and other violations of law alleged below. Individual  
17 defendants Patrick Abeyta, Jr., Debra Abeyta, Larry Welli, and Richard Savard have  
18 formulated, directed, controlled or had authority to control, or participated in the acts  
19 and practices of the corporate defendants that comprise the common enterprise.

### 20 COMMERCE

21 14. At all times relevant to this complaint, the defendants have maintained a  
22 substantial course of trade in the offering for sale and sale of vending machine business  
23 opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the  
24 FTC Act, 15 U.S.C. § 44.



AAA Vending  
Excellent Routes  
\$9,995 Invest.  
888-660-8363.

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17. Consumers who call the toll-free number provided in such an advertisement are connected to telemarketers for the Vending Enterprise, who represent to prospective purchasers that they will receive what they need to get started in a vending machine business venture, including: (1) vending machines; and (2) locations in which to place those machines. The Vending Enterprise sells different types of vending machines in various quantities, but the least expensive package of machines and locations costs \$9,995.

18. In the course of its initial sales pitch or in subsequent telephone conversations with prospective purchasers, telemarketers for the Vending Enterprise make oral representations about the earnings potential in the business venture. For example, telemarketers working for the Vending Enterprise typically represent that individuals who operate thirty (30) Tri-Star Deluxe vending machines can expect to earn \$900 per week, and individuals who purchase ten (10) Snackmate vending machines can expect to earn a minimum of \$700 per week.

19. The Vending Enterprise sends a packet of materials to prospective purchasers shortly after the initial sales pitch. The packet contains promotional materials stating or implying that vending machine businesses are highly profitable. For example, the packet contains a page with the heading "Return On Investment," which states that Peanut M & Ms sold through a vending machine generate a "700% Return on Investment!" A question follows: "What would you have if you had 20 machines out there making you 700% every day of the week? How about if you had 100 machines making 700% - 2000% Return on Investment?" Another page with the heading "LOCATIONS" states in bold face type: "Remember, if you empty your full

1 machine just 3 times, you have paid for the machine free and clear." A page labeled  
2 "NOW IS THE TIME" states that "Vending is an all cash business that provides a  
3 steady, dependable income week after week, month after month." Other materials  
4 state: "Immediate Cash Flow!" and "Incredible Return on Investment!"

5 20. The packet of materials also includes a Franchise Offering Circular which  
6 has a disclaimer stating that NVC and SVG: "[do] not furnish or authorize its  
7 salespersons to furnish any oral or written information concerning the actual or  
8 potential sales, costs, income or profits of a vending business. Actual results vary from  
9 unit to unit and [NVC and SVG] cannot estimate the results of any particular franchise."  
10 In reality, the Vending Enterprise and its telemarketers do make representations to  
11 prospective purchasers concerning the purported actual or potential sales, costs,  
12 income, or profits of their vending machine business opportunities.

13 21. In fact, the earnings representations made by the Vending Enterprise are  
14 false and misleading.

15 22. The Vending Enterprise represents to prospective purchasers that the  
16 money they pay for the vending machine business opportunity includes locations to  
17 place the vending machines, and that a locator company that the Vending Enterprise  
18 recommends will secure retail outlets for the vending machines.

19 23. In the course of the initial sales pitch or in subsequent telephone calls, the  
20 Vending Enterprise typically pressures prospective purchasers to make their purchase  
21 quickly. For example, telemarketers for the Vending Enterprise often tell consumers  
22 that available locations in the prospective purchaser's geographic area are likely to be  
23 taken by other interested callers if they fail to act quickly. In numerous instances, the  
24 Vending Enterprise pressures prospective purchasers to send their purchase money by  
25 wire transfer less than ten days after providing the prospective purchaser with the  
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1 disclosure documents required by the Franchise Rule.

2 24. The Vending Enterprise provides to prospective purchasers the names  
3 and telephone numbers of purported "references." The Vending Enterprise represents  
4 that these references are prior purchasers of business opportunities from NVC or SVG  
5 and will provide accurate descriptions of their experiences with their vending machine  
6 business ventures. However, the Vending Enterprise's representations about the  
7 company-selected references are false and misleading. The references have not  
8 purchased business opportunities from the defendants or do not provide reliable  
9 descriptions of their experiences.

10 25. The Vending Enterprise, doing business as SVG, encourages its customers  
11 who have bought vending machines to travel to SVG's Las Vegas offices to receive  
12 "training." In reality, the Vending Enterprise gathers customers at its Las Vegas facility  
13 to attempt to sell them more products, such as a dollar bill changer, through deception.  
14 The Vending Enterprise pays someone from its sales staff to pose as a customer during  
15 the "training" to try to convince the trainees that they should buy the dollar bill  
16 changers. The shill misrepresents to customers that he has a vending machine business  
17 that he purchased from SVG and further misrepresents that he made a lot of money  
18 with his vending machine business after he purchased the dollar bill changers.

19 26. The Franchise Rule requires a franchisor to disclose the business  
20 experience of each of the franchisor's current directors and executive officers. SVG fails  
21 to disclose that Patrick Abeyta, Jr., and Richard Savard are directors or executive  
22 officers of SVG.

23 27. The Franchise Rule requires franchisors to disclose to consumers if the  
24 franchise or its directors and executive officers have been subject to law enforcement  
25 actions relating to franchise activities. The Franchise Offering Circular sent to  
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1 consumers by the Vending Enterprise fails to disclose the 2001 permanent injunction  
2 that enjoins NVC, Patrick Abeyta, Jr., and Debra Abeyta from violating the Franchise  
3 Rule and from making misrepresentations to consumers in the course of offering  
4 business ventures for sale, as described in Paragraph 15.

5       28. The Franchise Rule requires the franchisor to disclose to consumers  
6 whether any of its current directors or executive officers have, at any time in the  
7 previous seven fiscal years, been convicted of a felony that involves fraud. The  
8 Vending Enterprise, doing business as SVG, fails to disclose that Richard Savard pled  
9 guilty to one count of conspiracy to commit mail fraud in 2001, in the United States  
10 District Court for Southern District of Florida, case number 00-531-CR-Seitz.

11       29. The Franchise Rule requires franchisors to disclose to consumers the  
12 length of time the franchisor has offered or sold a franchise and the business experience  
13 of the franchisor's executive officers. The Vending Enterprise, doing business as SVG,  
14 represents to prospective purchasers orally and in its Franchise Offering Circular, that it  
15 has been in business for seventeen (17) years "offering this specific business opportunity  
16 program." In addition, the Franchise Offering Circular represents that, "[f]rom October  
17 1987 through the Present, Mr. [Larry] Welli has been President and head of Marketing  
18 for [SVG], involved primarily in marketing and distribution of vending equipment and  
19 assisting start-up vendors."

20       30. The representations in SVG's Franchise Offering Circular regarding the  
21 length of time SVG has offered vending machine opportunities and the business  
22 experience of its President, Larry Welli, are false. Although it was originally  
23 incorporated in 1987, SVG has done business under the name "Success Vending Group,  
24 Inc." only since August of 2003. In 1987, the company was incorporated as "First  
25 Shelph Corp.," and its listed business purpose was to improve and develop real  
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1 property. The President of First Shelp Corp. was Leland Franks. In 1998, the company  
2 changed its name to D.P.S. Technologies, Inc., and the articles of incorporation were  
3 amended to reflect that the purpose of the business was to offer for sale vending  
4 machines. The President of D.P.S. Technologies, Inc., was defendant Patrick Abeyta, Jr.  
5 In August of 2003, the name of the company changed again to Success Vending Group,  
6 Inc., and it listed Larry Welli as its only officer. Thus, the defendants fail to disclose  
7 accurate information concerning the length of time the franchisor has offered or sold a  
8 franchise, and fail to disclose accurate information about the business experience of the  
9 franchisor's executive officer, Larry Welli.

10 31. The Franchise Rule requires franchisors to provide to consumers a  
11 disclosure of, among other things, a list of existing franchisees and a balance sheet and  
12 income statement for the franchisor. The Vending Enterprise's disclosure document is  
13 incomplete because it fails to disclose a list of existing franchisees, and fails to include a  
14 balance sheet and income statement for the franchisor.

15 32. The Vending Enterprise has no reasonable basis for its earnings  
16 representations, fails to disclose that materials are available which demonstrate a  
17 reasonable basis for the claims, or fails to provide the earnings claim document required  
18 by the Franchise Rule.

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

20 33. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or  
21 deceptive acts or practices in or affecting commerce."

22 **COUNT I**

23 **Misrepresentations Regarding Income**

24 34. In numerous instances in the course of offering for sale and selling their  
25 vending machine business ventures, the defendants, directly or indirectly, represent,  
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1 expressly or by implication, that consumers who purchase the defendants' business  
2 ventures are likely to earn substantial income.

3 35. In truth and in fact, consumers who purchase the defendants' business  
4 ventures are not likely to earn substantial income.

5 36. Therefore, defendants' representations as set forth in Paragraph 34 are  
6 false and misleading and constitute a deceptive act or practice in violation of Section  
7 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## 8 COUNT II

### 9 Misrepresentations Regarding References and Current Customers

10 37. In numerous instances, in the course of offering for sale and selling their  
11 vending machine business ventures, the defendants, directly or indirectly, represent,  
12 expressly or by implication, that certain company-selected references and other  
13 individuals have purchased the defendants' business ventures or will provide reliable  
14 descriptions of experiences with these business ventures.

15 38. In truth and in fact, in numerous instances, the references and other  
16 individuals have not purchased the defendants' business ventures or do not provide  
17 reliable descriptions of experiences with these business ventures.

18 39. Therefore, the defendants' representations as set forth in Paragraph 37 are  
19 false and misleading and constitute deceptive acts or practices in violation of Section  
20 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## 21 THE FRANCHISE RULE

22 40. The business ventures sold by the defendants are franchises, as  
23 "franchise" is defined in Sections 436.2(a)(1)(ii), (a)(2), and (a)(5) of the Franchise Rule,  
24 16 C.F.R. §§ 436.2(a)(1)(ii), (a)(2), and (a)(5).

1           41.     The Franchise Rule requires a franchisor to provide prospective  
2 franchisees with a complete and accurate basic disclosure document containing twenty  
3 categories of information, including information about existing injunctions relating to  
4 franchise activities, the length of time the franchisor has offered or sold a franchise, the  
5 business experience of the franchise's executive officers, an income statement of the  
6 franchisor, and information identifying existing franchisees. 16 C.F.R. § 436.1(a)(1) -  
7 (a)(20). The pre-sale disclosure of this information required by the Rule enables a  
8 prospective franchisee to contact prior purchasers and take other steps to assess the  
9 potential risks involved in the purchase of the franchise. Furthermore, this information  
10 must be disclosed at least 10 days prior to payment by the prospective franchisee.

11           42.     As a matter of policy, the FTC has authorized franchisors to comply with  
12 the Rule by furnishing prospective franchisees with disclosures in a format known as  
13 the Uniform Franchise Offering Circular ("UFOC"). Authorization to use the UFOC  
14 format to comply with the Rule's disclosure requirements was first granted by the  
15 Commission in the Final Interpretive Guides to the Rule, 44 Fed. Reg. 49966, 49970-71,  
16 and expressly requires adherence to the UFOC disclosure requirements in their  
17 "entirety." This conditional authorization has been ratified by the Commission  
18 following subsequent amendments to the UFOC requirements by the North American  
19 Securities Administrators Association, most recently on December 30, 1993. 58 Fed.  
20 Reg. 69224. Corporate defendants NVC and SVG have elected to use the UFOC  
21 disclosure format.

22           43.     Item 19 of the UFOC Guidelines requires the franchisor to disclose  
23 whether or not an earnings claim is made. Item 19 further requires that "[a]n earnings  
24 claim made in connection with an offer of a franchise must be included in full in the  
25 offering circular and must have a reasonable basis at the time it was made" and that  
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1 “[a]n earnings claim shall include a description of its factual basis and the material  
2 assumptions underlying its preparation and presentation.” Item 19 recognizes an  
3 income multiplication table to be an earnings claim.

4 44. The Franchise Rule specifically prohibits franchisors from making any  
5 claim or representation that contradicts information required to be disclosed pursuant  
6 to Section 436.1 of the Rule. 16 C.F.R. § 436.1(f).

7 45. The Franchise Rule additionally requires that a franchisor:

- 8 (a) have a reasonable basis for any oral, written, or visual earnings  
9 claim it makes, 16 C.F.R. § 436.1(b)(2), (c)(2) and (e)(1);  
10 (b) disclose, in immediate conjunction with any earnings claim it  
11 makes, and in a clear and conspicuous manner, that material which  
12 constitutes a reasonable basis for the earnings claim is available to  
13 prospective franchisees, 16 C.F.R. § 436.1(b)(2) and (c)(2); and  
14 (c) provide, as prescribed by the Rule, an earnings claim document  
15 containing information that constitutes a reasonable basis for any  
16 earnings claim it makes, 16 C.F.R. § 436.1(b) and (c).

17 46. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), and 16  
18 C.F.R. § 436.1, violations of the Franchise Rule constitute unfair or deceptive acts or  
19 practices in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C.  
20 § 45(a).

21 **VIOLATIONS OF THE FRANCHISE RULE**

22 **COUNT III**

23 **Basic Disclosure Violations**

24 47. In connection with the offering of franchises, as “franchise” is defined in  
25 Section 436.2(a) of the Rule, the defendants violate Section 436.1(a) of the Rule and  
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1 Section 5(a) of the FTC Act by failing to provide prospective franchisees with accurate  
2 and complete disclosure documents within the time period prescribed by the Rule.

3 **COUNT IV**

4 **Earnings Disclosure Violations**

5 48. In connection with the offering of franchises, as "franchise" is defined in  
6 Section 436.2(a) of the Franchise Rule, the defendants violate Sections 436.1(b)-(c) of the  
7 Rule and Section 5(a) of the FTC Act by making earnings claims to prospective  
8 franchisees while, *inter alia*: (1) lacking a reasonable basis for each claim at the times it is  
9 made; (2) failing to disclose, in immediate conjunction with each earnings claim, and in  
10 a clear and conspicuous manner, that material which constitutes a reasonable basis for  
11 the claim is available to prospective franchisees; and/or (3) failing to provide  
12 prospective franchisees with an earnings claim document, as prescribed by the Rule,  
13 and / or earnings disclosures as prescribed by Item 19 of the UFOC Guidelines.

14 **COUNT V**

15 **Claim or Representation That Contradicts a Required Disclosure**

16 49. In connection with the offering of franchises, as "franchise" is defined in  
17 Section 436.2(a) of the Rule, defendants violate Section 436.1(f) of the Rule and Section  
18 5(a) of the FTC Act by making claims or representations to prospective franchisees that  
19 are contradictory to the information required to be disclosed by Section 436.1 of the  
20 Rule.

21 **DISGORGEMENT OF RELIEF DEFENDANT'S ILL-GOTTEN GAINS**

22 **COUNT VI**

23 50. In the course of offering for sale and selling their vending machine  
24 business ventures, the defendants have committed deceptive acts or practices.



1 and reformation of contracts, and the refund of money.

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

4 **PRAYER FOR RELIEF**

5 WHEREFORE, plaintiff requests that this Court, as authorized by Sections  
6 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and pursuant to its own  
7 equitable powers:

8 1. Award plaintiff such preliminary injunctive and ancillary relief,  
9 including a temporary restraining order, asset freeze, and appointment of a receiver, as  
10 may be necessary to avert the likelihood of consumer injury during the pendency of this  
11 action and to preserve the possibility of effective final relief;

12 2. Permanently enjoin the defendants from violating the FTC Act and  
13 the Franchise Rule, as alleged herein;

14 3. Award such relief as the Court finds necessary to redress injury to  
15 consumers resulting from the defendants' violations of the FTC Act and the Franchise  
16 Rule, including but not limited to, rescission of contracts, the refund of monies paid,  
17 and the disgorgement of ill-gotten gains by the defendants and the relief defendant; and

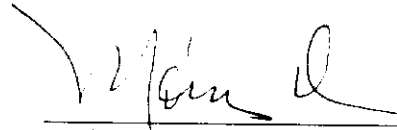
18 4. Award plaintiff the costs of bringing this action, as well as such  
19 other and additional relief as the Court may determine to be just and proper.

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Respectfully submitted,

John D. Graubert  
Acting General Counsel



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# CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

### I. (a) PLAINTIFFS

Federal Trade Commission

(b) County of Residence of First Listed Plaintiff Socorro  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

**Hillary A. Davidson and Monica E. Vaca**  
**600 Penn. Ave., NW, Wash. DC 20580 (202) 326-2384**

**DEFENDANTS** **National Vending Consultants, Inc.**  
**Success Vending Group, Inc., USA Candy Express, Inc.**  
**Patrick Abeyta, Jr., Debra Abeyta, Larry Welli,**  
**Richard & Darlene Savard**  
County of Residence of First Listed Defendant Socorro County, NM

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

### II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

### III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   |                            |                            |   |                            |                            |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation  | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

### IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 510 Motions to Vacate Sentence  <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

### V. ORIGIN

(Place an "X" in One Box Only)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

### VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):  
15 U.S.C. 45(a) and 53(b)

Brief description of cause:

Defts. engage in unfair or deceptive acts or practices in the sale of vending machine business opportunities.

### VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

### VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

2-7-05

SIGNATURE OF ATTORNEY OF RECORD

*Hillary A. Davidson*

FOR OFFICE USE ONLY

RECEIPT # \_\_\_\_\_ AMOUNT \_\_\_\_\_ APPLYING IFP \_\_\_\_\_

CV-S-05-0160-RCJ-PAI