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13 **UNITED STATES DISTRICT COURT**  
14 **DISTRICT OF NEVADA**

15 FEDERAL TRADE COMMISSION,

16 Plaintiff,

17 vs.

18 VENDCO, LLC, a Nevada corporation;

19 CURT BRIGUGLIO, a.k.a., Curt Briggs,  
20 individually and as an officer or director of the  
above named corporation; and

21 JOHAN BRIGUGLIO, a.k.a., Jo Briggs,  
22 individually and as an officer or director of the  
above corporation,

23 Defendants.  
24

COMPLAINT FOR INJUNCTIVE  
AND OTHER EQUITABLE RELIEF

CV-S-

25  
26 Plaintiff Federal Trade Commission (“FTC” or “Commission”) for its Complaint alleges:

27 1. The FTC brings this action under Sections 5(a), 13(b) and 19 of the FTC Act, 15  
28 U.S.C. §§ 45(a), 53(b) and 57b, to obtain preliminary, and permanent injunctive relief, rescission of

1 contracts, restitution, disgorgement, and other equitable relief for the defendants' violations of Section  
2 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC's Trade Regulation Rule entitled "Disclosure  
3 Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures"  
4 ("Franchise Rule" or "Rule"), 16 C.F.R. § 436.

#### 5 **JURISDICTION AND VENUE**

6 2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§  
7 1331, 1337(a), and 1345, and 15 U.S.C. §§ 53(b) and 57b. This action arises under 15 U.S.C. §  
8 45(a)(1).

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

#### 11 **THE PARTIES**

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

19 5. Defendant Vendco, LLC, is a Nevada corporation with its principal place of business  
20 at 3620 North Rancho Drive, Suite 107, Las Vegas, NV. Vendco promotes and sells vending machine  
21 business ventures and has transacted business in Nevada.

22 6. Defendant Curt Briguglio is an officer, director, and principal owner of Vendco. At all  
23 times material to this Complaint, acting alone or in concert with others, he has formulated, directed,  
24 controlled or participated in the acts and practices of the corporate defendant, including the acts and  
25 practices set forth in this Complaint. He resides and has transacted business in the Nevada.

26 7. Defendant Johan Briguglio is an officer, director, and principal owner of Vendco. At all  
27 times material to this Complaint, acting alone or in concert with others, she has formulated, directed,  
28 controlled, or participated in the acts and practices of the corporate defendant, including the acts and

1 practices set forth in this Complaint. She resides and has transacted business in the Nevada.

2 **COMMERCE**

3 8. At all times relevant to this Complaint, the defendants have maintained a substantial  
4 course of trade in the offering for sale and sale of vending machine business ventures, in or affecting  
5 commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

6 **THE DEFENDANTS’ BUSINESS PRACTICES**

7 9. Defendants have offered and sold vending machine business ventures to consumers  
8 throughout the United States. The turnkey business venture that defendants sell involves consumers  
9 offering, selling, or distributing candy, snack, and soda vending services supplied by defendants. The  
10 defendants offer to secure locations or sites for the vending machines they sell to consumers and the  
11 defendants require the business venture purchasers to make a minimum payment of at least several  
12 thousand dollars. Defendants have promoted their vending machine business venture to prospective  
13 purchasers in a variety of media, including, but not limited to, the Internet.

14 10. Defendants advertise their vending machine business venture on their Internet web site,  
15 [www.vendcollc.com](http://www.vendcollc.com). On the web site, defendants claim that Vendco “is undoubtedly the best  
16 opportunity in America today.” Defendants state that Vendco’s business opportunity offers a:

- 17 • Recession proof business
- 18 • Never-ending supply of locations
- 19 • Quick return on your investment
- 20 • High profit industry
- 21 • Time tested and income proved
- 22 • Multiple incomes per location
- 23 • Quality Equipment with a 5 year warranty
- 24 • Customer service support for your vending business
- 25 • Expansion program/price protection
- 26 • One company does it all!
- 27 • 6 income, unique program for quarter machines
- 28 • Financing available
- The potential to make more money!
- Professional locating

24 Finally, the defendants’ web site urges consumers to contact defendants to learn more about the  
25 opportunity.

26 11. Consumers who call defendants’ toll-free telephone number often talk with the  
27 individual defendants, or other Vendco employees or agents, who represent to consumers that Vendco  
28

1 is offering a turnkey business where the sky's the limit as to how much money the consumers can make.  
2 Vendco claims that each employee of a business will spend an average of \$3 per week at the Vendco  
3 snack and soda vending machine that charges 65 cents per vend. Moreover, Vendco will find locations  
4 for the consumer that have at least 60 employees. Consequently, the consumer will average \$150 to  
5 \$200 per week per vending machine. Therefore, the consumer will gross \$81,000 per year and net  
6 almost \$50,000 per year by purchasing the suggested eight machine package from Vendco. At the end  
7 of the initial call, Vendco sends an information package to the consumers.

8 12. Vendco sends consumers written information in which it repeatedly claims that location  
9 is everything and Vendco guarantees locations. Moreover, the written information contains two  
10 examples of the money consumers will make by purchasing Vendco's vending machines. The more  
11 conservative claim states that using the low estimate of only 75% of vend capacity taken each week  
12 leads to a net income of \$47,840 per year. The second claim shows how consumers will gross  
13 \$81,120 per year. The calculation is:

14 **60 EMPLOYEES/people** taking ***only 1 vend per day*** x 5 work days a week = 300 vends!  
15 300 vends taken per week x **\$0.40 profit** = \$120 (Net) weekly income each machine  
16 \$120 (Net) weekly income x 8 machines = \$960 (Net) weekly x 52 weeks =  
***\$49,920 Net income each year***  
17 300 vends x \$0.65 = **\$81,120 Gross/Year**

18 13. Defendants' information package also includes a short video that repeats the earnings  
19 claims that are made on the phone and in the written materials. In the video, defendant Curt Briggs  
20 states that purchasing vending machines from Vendco will allow consumers to make as much money as  
21 they want and give them complete financial freedom. The video also includes a screen showing that  
22 consumers can make \$1,200 per week by working two hours a week. Again the calculation is based  
23 on each employee in the business spending \$3 per week in the vending machines that Vendco is selling  
24 the consumer. Finally, the video contains a testimonial from a purported purchaser of Vendco's  
25 business venture. Vendco supplies interested consumers with this person's name and number as a  
26 reference. When consumers call the reference, he says that he quit his prior job because he is making  
27 so much money with his Vendco business venture.

28 14. Many consumers claim that after they order and pay for the vending machines, Vendco  
fails to deliver them. Moreover, the consumers who do receive the machines state that instead of

1 receiving the high quality machines that Vendco promised, they receive low quality machines that often  
2 break down.

3 15. Consumers also state that instead of finding locations with at least 60 employees for  
4 their vending machines, Vendco finds businesses with few employees and visitors. Consumers also  
5 complain that many of the locations that Vendco represents as agreeing to accept the consumers'  
6 vending machines have not agreed to accept the machines and refuse the placement of the vending  
7 machines. When the consumers call to complain about the locations, Vendco promises to find better  
8 locations but fails to do so.

9 16. Defendants fail to provide basic franchise disclosure documents to the business venture  
10 purchasers as required by 16 C.F.R. 436.1(a)(1)-(a)(20). Defendants also represent that business  
11 venture purchasers are likely to have gross income of over \$80,000, but the defendants have no  
12 reasonable basis for these earnings representations, have failed to disclose additional information  
13 including the number and percentage of prior purchasers known by defendants to have achieved the  
14 same or better results, and have failed to provide prospective business venture purchasers with an  
15 earnings claim document containing information substantiating these earnings claims as required by 16  
16 C.F.R. § 436.1(b)-(e).

17 17. Few, if any, consumers who purchase defendants' vending machine business  
18 opportunity earn, or will earn, any income.

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

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

1 **COUNT I**

2 **Misrepresentations Regarding Income**

3 19. In numerous instances in the course of offering for sale and selling their business  
4 ventures, the defendants, directly or indirectly, represent, expressly or by implication, that consumers  
5 who purchase defendants' business ventures are likely to earn substantial income.

6 20. In truth and in fact, consumers who purchase the defendants' business ventures are not  
7 likely to earn substantial income.

8 21. Therefore, the defendants' representations as set forth in Paragraph 19 are false and  
9 misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
10 U.S.C. § 45(a).

11 **COUNT II**

12 **Misrepresentations Regarding Assistance to Business Purchasers**

13 22. In numerous instances in the course of offering for sale and selling their vending machine  
14 business ventures, the defendants, directly or indirectly, represent, expressly or by implication, that the  
15 defendants provide purchasers with significant assistance in the operation of their businesses, including  
16 but not limited to, claims that the defendants will find profitable, high volume locations for their vending  
17 machines.

18 23. In truth and in fact, in numerous instances, the defendants do not provide purchasers  
19 with significant assistance in the operation of their businesses.

20 24. Therefore, the defendants' representations as set forth in Paragraph 22 are false and  
21 misleading and constitute a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15  
22 U.S.C. § 45(a).

23 **THE FRANCHISE RULE**

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

27 26. The Franchise Rule requires a franchisor to provide prospective franchisees with a  
28 complete and accurate basic disclosure document containing twenty categories of information, including

1 information about the litigation and bankruptcy history of the franchisor and its principals, the terms and  
2 conditions under which the franchise operates, and information identifying existing franchisees. 16  
3 C.F.R. § 436.1(a)(1) - (a)(20). The pre-sale disclosure of this information required by the Rule  
4 enables a prospective franchisee to contact prior purchasers and take other steps to assess the potential  
5 risks involved in the purchase of the franchise.

6 27. The Franchise Rule additionally requires that a franchisor:

- 7 (a) have a reasonable basis for any oral, written, or visual earnings claim it makes,  
8 16 C.F.R. § 436.1(b)(2), (c)(2) and (e)(1);
- 9 (b) disclose, in immediate conjunction with any earnings claim it makes, and in a  
10 clear and conspicuous manner, that material which constitutes a reasonable  
11 basis for the earnings claim is available to prospective franchisees, 16 C.F.R. §  
12 436.1(b)(2) and (c)(2);
- 13 (c) provide, as prescribed by the Rule, an earnings claim document containing  
14 information that constitutes a reasonable basis for any earnings claim it makes,  
15 16 C.F.R. § 436.1(b) and (c); and
- 16 (d) clearly and conspicuously disclose, in immediate conjunction with any generally  
17 disseminated earnings claim, additional information including the number and  
18 percentage of prior purchasers known by the franchisor to have achieved the  
19 same or better results, 16 C.F.R. § 436.1(e)(3)-(4).

20 28. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. 57a(d)(3), and 16 C.F.R. §  
21 436.1, violations of the Franchise Rule constitute unfair or deceptive acts or practices in or affecting  
22 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### 23 **VIOLATIONS OF THE FRANCHISE RULE**

#### 24 **COUNT III**

##### 25 **Basic Disclosure Violations**

26 29. In connection with the offering of franchises, as “franchise” is defined in Section  
27 436.2(a) of the Franchise Rule, the defendants violate Section 436.1(a) of the Rule and Section 5(a) of  
28 the FTC Act by failing to provide prospective franchisees with complete and accurate basic disclosure

1 documents as prescribed by the Rule.

2 **COUNT IV**

3 **Earnings Disclosure Violations**

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

11 **CONSUMER INJURY**

12 31. Consumers nationwide have suffered or will suffer substantial monetary loss as a result  
13 of the defendants' violations of Section 5(a) of the FTC Act and the Franchise Rule. Absent injunctive  
14 relief by this Court, the defendants are likely to continue to injure consumers and harm the public  
15 interest.

16 **THIS COURT’S POWER TO GRANT RELIEF**

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

20 33. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief  
21 as the Court finds necessary to redress injury to consumers or other persons resulting from the  
22 defendants’ violations of the Franchise Rule, including the rescission and reformation of contracts, and  
23 the refund of money.

24 34. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to  
25 remedy injury caused by the defendants’ law violations.



1 **PRAYER FOR RELIEF**

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

4 1. Award plaintiff such preliminary injunctive and ancillary relief, including a preliminary  
5 injunction, as may be necessary to avert the likelihood of consumer injury during the pendency of this  
6 action and to preserve the possibility of effective final relief;

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

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

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

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16  
17 Dated: June \_\_\_, 2002

Respectfully Submitted,

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