

UNITED STATES OF AMERICA
BEFORE THE FEDERAL TRADE COMMISSION

COMMISSIONERS: Timothy J. Muris, Chairman
Sheila F. Anthony
Mozelle W. Thompson
Orson Swindle
Thomas B. Leary

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In the Matter of)	
)	
THE TED WARREN CORPORATION,)	DOCKET NO. C-4078
a corporation,)	
)	
THE KEN ROBERTS INSTITUTE, INC.,)	
a corporation,)	
)	DECISION AND ORDER
THE KEN ROBERTS COMPANY,)	
a corporation, and)	
)	
KEN ROBERTS,)	
as an officer of the corporations.)	
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The Federal Trade Commission (“Commission”), having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of the complaint which the Bureau of Consumer Protection proposed to present to the Commission for its consideration and which, if issued by the Commission, would charge respondents with violations of the Federal Trade Commission Act; and

Respondents and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, or that the facts as alleged in such complaint, other than jurisdictional facts, are true and waivers and other provisions as required by the Commission’s Rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of thirty (30) days, now in further conformity with the procedure prescribed in § 2.34 of its Rules, the Commission hereby issues its complaint, makes the following jurisdictional findings and enters the following order:

1. Respondent The Ted Warren Corporation (“TWC”) is an Oregon corporation with its principal office or place of business at 128 S.W. “I” Street, Grants Pass, OR 97526.
2. Respondent The Ken Roberts Institute, Inc., (“KRI”) is an Oregon corporation with its principal office or place of business at 333 S.W. 5th Street, Grants Pass, OR 97526.
3. Respondent The Ken Roberts Company (“KRC”) is an Oregon corporation with its principal office or place of business at 333 S.W. 5th Street, Grants Pass, OR 97526.
4. Respondent Ken Roberts is an officer of TWC, KRI, and KRC. As an officer, Ken Roberts, individually or in concert with others, formulates, directs, or controls, the policies, acts, or practices of TWC, KRI, and KRC. His principal places of business are the same as those of TWC, KRI, and KRC.
5. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For purposes of this order, the following definitions shall apply:

1. "Clearly and conspicuously" shall mean as follows:
 - a. In an advertisement communicated through an electronic medium (such as television, video, radio, and interactive media such as the Internet and online services), the disclosure shall be presented simultaneously in both the audio and visual portions of the advertisement. *Provided, however*, that in any advertisement presented solely through visual or audio means, the disclosure may be made through the same means in which the ad is presented. The audio disclosure shall be delivered in a volume and cadence sufficient for an ordinary consumer to hear and comprehend it. The visual disclosure shall be of a size and shade, and shall appear on the screen for a duration sufficient for an ordinary consumer to read and comprehend it.

- b. In a print advertisement, promotional material, or instructional manual, the disclosure shall be in a type size and location sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.
- c. On a product label, the disclosure shall be in a type size and location on the principal display panel sufficiently noticeable for an ordinary consumer to read and comprehend it, in print that contrasts with the background against which it appears.

The disclosure shall be in understandable language and syntax. Nothing contrary to, inconsistent with, or in mitigation of the disclosure shall be used in any advertisement or on any label.

- 2. In the case of advertisements disseminated by means of an interactive electronic medium such as the Internet or other online services, "in close proximity" shall mean on the same Web page and proximate to the triggering representation, and not on other portions of the Web site, accessed or displayed through hyperlinks or other means.
- 3. "Commerce" shall mean as defined in Section 4 of the Federal Trade Commission Act, 15 U.S.C. § 44.
- 4. "Investment Course" shall mean any program, service, course, instruction, system, training, manual, computer software, or other materials involving the purchase or sale of stocks, currencies, commodity futures, options, real estate through probate proceedings, or other financial instruments or investments.
- 5. Unless otherwise specified, "respondents" shall mean: TWC, its successors, assigns, and its officers; KRI, its successors, assigns, and its officers; and KRC, its successors, assigns, and its officers; Ken Roberts, as an officer of TWC, KRI, and KRC; and each of the above's agents, representatives, and employees.

I.

IT IS ORDERED that respondents, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any Investment Course, in or affecting commerce, shall not misrepresent, in any manner, expressly or by implication, that purchasers of Investment Courses who make profitable "paper trades" – practice trades in which no funds are actually invested – are likely to make profitable actual trades when their funds are invested in the market.

II.

IT IS FURTHER ORDERED that respondents, directly or through any corporation, subsidiary, division, trade name, or other device, in connection with the advertising, promotion, offering for sale, sale, or distribution of any Investment Course, in or affecting commerce, shall not make any representation, in any manner, expressly or by implication, about the financial benefits of such Investment Course, unless they disclose, clearly and conspicuously, and in close proximity to the representation,

- B. For all Investment Courses: **“WARNING: [FUTURES TRADING, STOCK TRADING, CURRENCY TRADING, OPTIONS TRADING, ETC., as applicable] involves high risks and YOU can LOSE a lot of money.”**
- C. For all Investment Courses in which purchasers are advised or instructed to “paper trade” or otherwise practice making investments without investing actual funds: **“Being a successful PAPER TRADER during one time period does not mean that you will make money when you actually invest during a later time period. Market conditions constantly change.”**
- D. For all Investment Courses involving securities or the purchasing of options: **“When investing in [securities or the purchasing of options, as applicable] you may lose all of the money you invested.”**
- E. For all Investment Courses involving futures or the granting of options: **“When investing in (futures or the granting of options, as applicable) you may lose more than the funds you invested.”**
- F. For all Investment Courses involving futures and commodity options: **“Trading in commodity futures or options involves substantial risk of loss. According to many experts, most individual investors who trade commodity futures or options lose money.”**
- G. For all Investment Courses in which claims are made regarding past performance: **“Past Results are not necessarily indicative of Future Results.”**

Provided, the disclosures required by this Part are in addition to, and not in lieu of, any other disclosure that respondents may be required to make, including but not limited to any disclosures required by state or federal law or by a self-regulatory organization. The requirements of this Part are not intended to, and shall not be interpreted to, exempt respondents from making any other disclosures.

III.

IT IS FURTHER ORDERED that respondents shall, for five (5) years after the last date of dissemination of any representation covered by this order, maintain and upon request make available to the Federal Trade Commission for inspection and copying:

- A. All advertisements and promotional materials containing the representation;
- B. All materials that were relied upon in disseminating the representation; and
- C. All tests, reports, studies, surveys, demonstrations, or other evidence in their possession or control that contradict, qualify, or call into question the representation, or the basis relied upon for the representation, including complaints and other communications with consumers or with governmental or consumer protection organizations.

IV.

IT IS FURTHER ORDERED that respondents shall deliver a copy of this order to all current and future principals, officers, directors, and managers of TWC, KRI, and KRC, and to all current and future employees, agents, and representatives having responsibilities with respect to the subject matter of this order, and shall secure from each such person a signed and dated statement acknowledging receipt of the order. Respondents shall deliver this order to current personnel within thirty (30) days after the date of service of this order, and to future personnel within thirty (30) days after the person assumes such position or responsibilities. Respondents shall maintain and upon request make available to the Commission for inspection and copying each such signed and dated statement for a period of five (5) years after creation.

V.

IT IS FURTHER ORDERED that respondents shall notify the Commission at least thirty (30) days prior to any change in TWC, KRI, or KRC that may affect compliance obligations arising under this order, including but not limited to the formation of a corporation, the proposed filing of a bankruptcy petition, or a change in the company name or address.

VI.

IT IS FURTHER ORDERED that Ken Roberts, for a period of ten (10) years after the date of issuance of this order, shall notify the Commission of the discontinuance of his current business or

employment, or of his affiliation with any new business or employment. The notice shall include his new business address and telephone number and a description of the nature of the business or employment and his duties and responsibilities.

VII.

IT IS FURTHER ORDERED that respondents TWC, KRI, and KRC shall, within sixty (60) days after the date of service of this order, and at such other times as the Federal Trade Commission may require, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

VIII.

This order will terminate on April 29, 2023, or twenty (20) years from the most recent date that the United States or the Federal Trade Commission files a complaint (with or without an accompanying consent decree) in federal court alleging any violation of the order, whichever comes later; *provided, however*, that the filing of such a complaint will not affect the duration of:

- A. Any Part in this order that terminates in less than twenty (20) years;
- B. This order's application to any respondent that is not named as a defendant in such complaint; and
- C. This order if such complaint is filed after the order has terminated pursuant to this Part.

Provided further, that if such complaint is dismissed or a federal court rules that the respondent did not violate any provision of the order, and the dismissal or ruling is either not appealed or upheld on appeal, then the order will terminate according to this Part as though the complaint had never been filed, except that the order will not terminate between the date such complaint is filed and the later of the deadline for appealing such dismissal or ruling and the date such dismissal or ruling is upheld on appeal.

IX.

All notices required to be sent to the Commission pursuant to this Order shall be sent by certified mail to the Associate Director, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580. Attn.: In the Matter of The Ted Warren Corporation, Inc.

By the Commission.

Donald S. Clark
Secretary

ISSUED: April 29, 2003

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