

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

**FILED**

MAR 29 2002

KENNETH J. MURPHY, Clerk  
DAYTON, OHIO

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

LINDA JEAN LIGHTFOOT, individually,  
and d/b/a/ UNIVERSAL DIRECT,

Case No. **C 3-02-145**

CHARLES F. CHILDS, individually, and  
d/b/a UNIVERSAL DIRECT,

WALTER HERBERT RICE

Defendants.

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**COMPLAINT FOR INJUNCTIVE AND OTHER EQUITABLE RELIEF**

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

1. The Commission brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive relief against the defendants to prevent them from engaging in deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable relief, including rescission, restitution, and disgorgement, as is necessary in order to redress injury to consumers and the public interest resulting from the defendants' violations of the FTC Act.

**JURISDICTION AND VENUE**

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

3. Venue in the United States District Court for the Southern District of Ohio is proper under 15 U.S.C. § 53(b) and 28 U.S.C. ¶ 1391(b).

#### **PLAINTIFF**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 *et seq.* The Commission enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits deceptive acts or practices in or affecting commerce. The Commission is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such other equitable relief as may be appropriate in each case, including redress and disgorgement. 15 U.S.C. § 53(b).

#### **DEFENDANTS**

5. Defendant Linda Jean Lightfoot ("Lightfoot"), a/k/a Linda J. Beasley, operates a business out of her home under the name Universal Direct a/k/a MegaDirect, located at 4132 Pompton Court, Dayton, OH 45405. At all times material to this complaint, acting alone or in concert with others, Lightfoot has formulated, directed, controlled, or participated in the acts and practices of Universal Direct, including the acts and practices set forth in this complaint. She resides or has resided and transacts or has transacted business in the Southern District of Ohio.

6. Defendant Charles F. Childs ("Childs") also operates a business under the name Universal Direct a/k/a MegaDirect, located at 4132 Pompton Court, Dayton, OH 45405. At all times material to this complaint, acting alone or in concert with others, Childs has formulated, directed, controlled, or participated in the acts and practices of Universal Direct, including the acts and practices set forth in this complaint. He resides or has resided and transacts or has transacted business in the Southern District of Ohio.

## COMMERCE

7. At all times relevant to this complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### DEFENDANTS' BUSINESS PRACTICES

8. Since at least February 1999, Defendants have promoted a "get rich quick" scheme through the use of unsolicited commercial email ("UCE" or "spam") sent in bulk to numerous consumers throughout the country. Defendants also promote their scheme through Internet Web sites. The content and form of both the spam and the Web sites are virtually identical.

9. In their spam and Internet advertisements, Defendants characterize their scheme as "a MLM Gifting Program that CAN'T FAIL." Defendants promise that each participant will receive \$10,000 in "gifts" within a "Short Period." Consumers can join the program by paying a one-time \$41 membership fee. After paying this fee, participants simply do nothing, because Defendants promise to "do all the work" by recruiting 1,000 people for each participants' downline. Defendants "guarantee each participant 10 people in their Downline, because we mail until each participant has 10 people no matter how many flyers we have to mail." Once Defendants have recruited 1,000 people for a participant's downline, that participant can rejoin the program and start a second cycle.

10. Although not required by Defendants to do so, participants may also send "mailings on their own" to "increase the speed of your gifts" using a "Camera-Ready copy of the Universal Direct Club Flyer," bulk spam software, and email lists that Defendants provide.

11. In their spam and Web sites touting this scheme, Defendants have represented, expressly or by implication, that participants will receive substantial income by participating in the program, including, but not limited to, the following representations:

- A. "EACH PARTICIPANT WILL RECEIVE \$10,000 IN GIFTS!!!"
- B. "This is a 100% HONEST and CONTROLLED program that will insure you \$10,000 in Gifts."
- C. "Commission Pays Daily!"
- D. "The earnings are truly unlimited . . . Making \$\$\$ from your computer has never been so easy!"

12. In reality, the vast majority of participants in the program cannot realize financial success, or make very modest earnings.

13. Defendants' scheme is what is commonly known as a chain mail scheme that necessarily enriches only a few initial participants at the expense of the majority of other participants. In a traditional chain mail scheme, each participant pays money to other participants preceding them, in exchange for the right to recruit new participants. Participants then receive benefits for each individual they recruit or who appears below them in the chain. Earnings in a chain mail scheme are derived primarily from recruiting other participants into the program, and not from the *bona fide* sale of products or services to retail customers.

14. The structure of a chain mail scheme places severe limitations upon the success of its participants. Participants can only make money if a substantial number of newer participants is recruited in levels below them. Those at the bottom of the chain, the majority of participants, lose money because there is no one left to recruit into positions below them in the chain.

15. The result of the structure and operation of Defendants' program is that financial gains to participants are primarily dependant upon the continued, successive recruitment of other participants. Participants are not required to recruit new participants or make retail sales as a condition precedent to the realization of such financial gains.

16. Defendants have provided participants in the Universal Direct program with marketing materials that include the representations in Paragraphs 11 and 17 for use in recruiting new participants and inducing them to participate in the Universal Direct program.

17. In their spam advertisements and Web sites, Defendants also have represented, expressly or by implication, that the program is legal. For example, Defendants' spam message includes the following representations:

- A. "This is a 100% HONEST AND CONTROLLED program"
- B. "THIS PROGRAM IS LEGAL, ETHICAL, MORAL, HONEST, AND CONTROLLED."

18. In fact, Defendants' program is a chain mail scheme that is illegal under a variety of federal statutes, including the FTC Act, 15 U.S.C. § 45, the Mail Fraud Statute, 18 U.S.C. § 1341, and the Lottery Statutes, 18 U.S.C. §§ 1301-02.

19. Through the sending of bulk spam, Defendants have solicited consumers nationwide, including consumers who reside in this district.

#### **VIOLATIONS OF THE FTC ACT**

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

### COUNT ONE

21. In numerous instances, Defendants represent, expressly or by implication, that consumers who participate in their program are likely to receive substantial income.

22. In truth and in fact, most consumers who participate in Defendants' scheme are not likely to receive substantial income.

23. Therefore, the representation set forth in paragraph 21 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT TWO

24. As alleged above, Defendants use spam to solicit payments from consumers by promising financial gain based on payments from future participants in the scheme to whom the same promises are made.

2. This type of scheme, known as a chain mail scheme, is a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT THREE

25. In numerous instances, Defendants represent, expressly or by implication, that participants in the Universal Direct program are likely to receive substantial income.

26. Defendants fail to disclose that Universal Direct's structure ensures that most participants in the Universal Direct program are not likely to receive substantial income.

27. This additional information would be material to consumers in deciding whether to participate in the Universal Direct program.

28. Defendants' failure to disclose the material information in paragraph 26, in light of the representations made in paragraph 25, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT FOUR**

29. Defendants provide participants in the program with copies of the email advertisement to be used in recruiting new participants. As described in Counts One and Five, the chain letter contains false and misleading representations.

30. By providing participants with the email advertisement, Defendants have provided others with the means and instrumentalities for the commission of deceptive acts and practices.

31. Therefore, Defendants' practices, as described in paragraph 29, constitute deceptive acts and practices in violation of 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT FIVE**

32. In numerous instances, Defendants represent, expressly or by implication, that their program is legal.

33. In truth and in fact, the program is not legal.

34. Therefore, the representation set forth in paragraph 32 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **CONSUMER INJURY**

35. Consumers throughout the United States have suffered, or are likely to suffer, injury as a result of Defendants' violations of Section 5 of the FTC Act, 15 U.S.C. § 45(a).

Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

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

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

### **PRAYER FOR RELIEF**

37. WHEREFORE, plaintiff, the Federal Trade Commission, requests that this Court, as authorized by Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and pursuant to its own equitable powers:

1. Award preliminary injunctive and ancillary relief 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 5(a) of the FTC Act, 15 U.S.C. § 45(a), as alleged in this Complaint;

3. Award other equitable relief, including rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies, as is necessary in order to redress injury to consumers and the public interest resulting from Defendants' violations of 5(a) of the FTC Act, 15 U.S.C. § 45(a); and

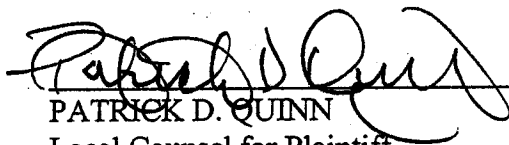


4. Award the Commission the costs of bringing this action, as well as any other equitable relief that the Court may determine to be just and proper.

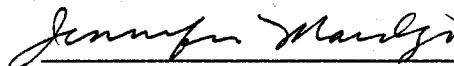
Respectfully submitted,

WILLIAM E. KOVACIC  
General Counsel

Dated: March \_\_, 2002



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