

UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

Plaintiff,

v.

VISIONS GROUP OF AMERICA, INC.,  
a New York corporation;

SOHO TECHNOLOGIES, INC.,  
a Delaware corporation;

MARK COLOSI, individually and as an  
officer and director of VISIONS GROUP  
OF AMERICA, INC.;

REX JUDD, individually and as an officer  
and director of VISIONS GROUP OF  
AMERICA, INC.; and

GREG KAZIMER, individually and as an  
officer and director of VISIONS GROUP  
OF AMERICA, INC. and SOHO  
TECHNOLOGIES, INC.,

Defendants.

CIVIL NO.

00 CV 08985 (SC)

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

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission ("Commission"), pursuant to Section 16(a)(1) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 56(a)(1), for its complaint alleges that:

1. Plaintiff brings this action under Sections 5(a)(1), 5(m)(1)(A), 13(b), 16(a), and 19 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), 56(a), and 57b, to secure civil penalties, permanent injunctive relief, consumer redress,

and other equitable relief for the defendants' violations of Section 5(a) of the FTC Act, and the Commission's Trade Regulation Rule entitled "Rule Concerning Cooling-Off Period For Sales Made At Homes or at Certain Other Locations" ("the Cooling-Off Rule" or "the Rule"), 16 C.F.R. Part 429.

### JURISDICTION AND VENUE

2. This Court has jurisdiction over this matter under 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355 and under 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b. This action arises under 15 U.S.C. § 45(a)(1).

3. Venue in the United States District Court for the Western District of New York is proper under 15 U.S.C. § 53(b), and under 28 U.S.C. §§ 1391(b-c) and 1395(a).

### DEFENDANTS

4. Defendant Visions Group of America, Inc. ("Visions Group") is a New York corporation which maintained its principal place of business at 1250 Scottsville Road, Rochester, New York 14624. From approximately May 1996 through June 1997, Visions Group promoted and sold business opportunities nationwide. Visions Group has transacted business in the Western District of New York.

5. Defendant SOHO Technologies, Inc. ("SOHO") is a Delaware corporation, with its principal office at 2600 West Ironwood Hills Drive #16178, Tucson, AZ 85745. Since at least July 1997, SOHO has promoted and sold business opportunities nationwide. SOHO has transacted business in the Western District of New York.

6. The foregoing defendant entities, Visions Group and Soho, operate a common enterprise to sell home-based business opportunities.

7. Defendant Mark Colosi is an officer and director of Visions Group and in charge of customer service for SOHO. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of one or more of the corporate defendants, including the acts and practices set forth in this

complaint. His business address is the same as that of defendant Visions Group. He has transacted business in the Western District of New York.

8. Defendant Rex Judd is an officer and director of Visions Group, who conducts SOHO promotional seminars nationwide in order to sell home-based business opportunities to consumers. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of one or more of the corporate defendants, including the acts and practices set forth in this complaint. His business address is the same as that of defendant Visions Group. He has transacted business in the Western District of New York.

9. Defendant Greg Kazimer is an officer and director of Visions Group and SOHO. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of one or more of the corporate defendants, including the acts and practices set forth in this complaint. His business address is the same as that of defendant Visions Group. He has transacted business in the Western District of New York.

#### COMMERCE

10. At all times relevant to this complaint, the defendants have maintained a substantial course of trade in the offering for sale and sale of home-based business opportunities, in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

#### THE DEFENDANTS' BUSINESS PRACTICES

11. Since at least 1996, the defendants have advertised nationwide on television, in the local press, or by mail that workshops, conferences, or training seminars will be held in local hotels, motels, conference centers, banquet halls, and other forums to show consumers how to begin home-based businesses. The defendants' advertising includes a Visions Group ("New American Dream") infomercial and a SOHO infomercial and direct mail piece; each contains numerous testimonials from purported purchasers of home-based business opportunities reporting substantial earnings from their SOHO businesses. The Visions Group and SOHO infomercials

and the SOHO direct mail piece state that "anyone" can have the same experience as that described by the testimonials.

12. At the defendants' promotional conferences, they sell information packets to guide purchasers in the start-up of home-based businesses, ordinarily \$499 for a single business opportunity. The defendants also commonly sell two home-based business opportunities for \$599 when purchased together.

13. Among the home-based business opportunities sold by the defendants are:

a. the "Inside Trader," a business that allegedly allows purchasers to buy brand name merchandise at or below wholesale cost for personal use and for resale at a profit;

b. "Net More Worth" and "Vision Net," businesses that allegedly allow purchasers to sell classified ads on the Internet for a profit; and

c. "Coupons on Demand" and "Fortunes in Coupons," businesses that allegedly allow people to buy and resell grocery coupons for profit.

14. Defendants Visions Group and SOHO have disseminated or have caused to be disseminated infomercials and other advertisements intended to attract prospective purchasers to Visions Group and SOHO conferences. Visions Group's "New American Dream Home Business Opportunities" infomercial contains, among other things, the following statements:

**"A man made \$12,000 Within Two Days!"**

\*

**"This man made \$30,000 Profit in One Weekend!"**

\*

**"We expect to make \$10,000 on our transactions this weekend and you can do it too!"**

\*

**"Michelle Diaz attended Rex's seminar and is now earning over \$9,000 a month in her own business."**

\*

**"These are examples of ordinary people with extraordinary income."**

\*

**"Anyone can apply these principles  
and make good money for the rest of their life."**

A SOHO direct mail piece, a copy of which is annexed hereto as Exhibit A, contains,  
among other things, the following statements:

**"SOHO Technologies  
Leading YOU to the Finest  
Money-Making Ventures of ALL TIME"**

\*

**"Ed Freihoff wanted enough extra income so his wife wouldn't have to work**

**Construction Worker**

**'Over the last six months, I made a quarter of a million dollars.  
Anybody can make \$500 to \$1,000 a day after attending  
the SOHO Technology Conference.'**"

\*

**"Jamic Neuman wanted to be his own boss.**

**Hotel/Restaurant Manager**

**'How did I start my business? I picked up the phone,  
I called the 800 number, and I attended the conference.  
This year I'm going to make \$250,000  
-- a quarter million dollars!'"**

\*

**"Barry Powell wanted to fund his son's college education**

**Real Estate Broker**

**'I expect to make close to about \$400,000 this year.  
And it's incredibly easy!'"**

\*

**"Rita Avens wanted to spend more time with her kids.**

**Homemaker**

**'Within 18 months, we were out of debt, our car loan was paid off,  
the college costs were paid off, we had \$100,000.  
And, I can make this kind of money year after year.'**"

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## VIOLATIONS OF SECTION 5 OF THE FTC ACT

### COUNT ONE

15. Through the use of the statements in Paragraph 14, the defendants represented, expressly or by implication, that prospective Visions Group and SOHO business opportunity purchasers can reasonably expect to achieve the specific levels of earnings contained in such statements.

16. In fact, few, if any, Visions Group and SOHO purchasers can reasonably expect to achieve the specific levels of earnings contained in such statements.

17. Therefore, the representation set forth in Paragraph 15 was, and is, false, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT TWO

18. Through the use of the statements in Paragraph 14, the defendants have represented, expressly or by implication, that they possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 15, at the time the representation was made.

19. In truth and in fact, the defendants did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 15, at the time the representation was made.

20. Therefore, the representation set forth in Paragraph 18 was, and is, false or misleading, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### VIOLATIONS OF THE COOLING-OFF RULE

21. The Cooling-Off Rule, promulgated by the Commission under Section 18 of the FTC Act, 15 U.S.C. § 57a, became effective in its entirety on June 7, 1974, and has since that date remained in full force and effect.

22. The Cooling-Off Rule gives purchasers of certain goods and services three days to cancel purchases of \$25 or more when such sales take place at a location other than the seller's

place of business, e.g., the purchaser's home, workplace or dormitory, or at facilities rented by the seller on a temporary or short-term basis. 16 C.F.R. § 429.0(a).

23. The Cooling-Off Rule requires the seller to furnish the purchaser with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which must contain a statement summarizing the purchaser's right of cancellation. 16 C.F.R. § 429.1(a).

24. The Cooling-Off Rule also requires the seller to tell purchasers about cancellation rights at the time of the sale by giving to the purchaser two copies of a cancellation form (one to keep and one to send). The Cooling-Off Rule also requires the cancellation form to be captioned either "NOTICE OF RIGHT TO CANCEL" or "NOTICE OF CANCELLATION" and sets forth the language that must be contained in the cancellation notice. 16 C.F.R. § 429.1(b).

25. The Cooling-Off Rule also declares it an unfair and deceptive act or practice for a seller to misrepresent in any manner the buyer's right to cancel. 16 C.F.R. § 429.1(f).

26. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. 57a(d)(3), a violation of the Cooling-Off Rule is an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### COUNT THREE

27. The defendants have been "sellers," as that term is defined in Section 429.0(c) of the Cooling-Off Rule, of "consumer goods or services," as that term is defined in Section 429.0(b) of the Cooling-Off Rule, and have been engaged in the "door-to-door sale," as that term is defined in Section 429.0(a) of the Cooling-Off Rule, of home-based business opportunities.

28. In numerous instances, in connection with the sale of home-based business opportunities sold at places other than the seller's place of business, the defendants have violated the Cooling-Off Rule in various respects, including but not limited to:

a. Failing to furnish buyers with a Summary Notice in substantially the form required by Paragraph (a) of the Cooling-Off Rule, in violation of 16 C.F.R. § 429.1(a);

b. Failing to furnish buyers with the Notice of Cancellation form required by Paragraph (b) of the Cooling-Off Rule, in violation of 16 C.F.R. § 429.1(b); and

c. Misrepresenting a buyer's right to cancel, in violation of 16 C.F.R. § 429.1(f).

29. By engaging in the Cooling-Off Rule violations described in Paragraph 28, above, the defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45 (a).

### **CONSUMER INJURY**

30. Consumers throughout the United States have suffered and continue to suffer substantial monetary loss as a result of the defendants' unlawful acts or practices. In addition, the defendants have been unjustly enriched as a result of their unlawful practices. Absent injunctive relief by this Court, the defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

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

31. The defendants have engaged in the acts and practices described above in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and in violation of the Cooling-Off Rule, 16 C.F.R. Part 429.

32. Under Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), this Court is authorized to issue a permanent injunction against defendants for violating the FTC Act, as well as other equitable relief, including relief to redress injury resulting from violations of the FTC Act.

33. Under Section 19 of the FTC Act, 15 U.S.C. § 57b, this Court is authorized to grant such relief as the Court finds necessary to redress injury resulting from violations of the Cooling-Off Rule by the defendants.

34. Under Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), this Court is authorized to award civil penalties of not more than \$11,000 for each violation of the Cooling-Off Rule. The defendants' violations of the Rule were committed with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).



35. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to remedy injury caused by the defendants' violations of the FTC Act and the Cooling-Off Rule.

**PRAYER**

WHEREFORE, plaintiff requests that this Court, as authorized by Sections 5(a)(1), 5(m)(1)(A), 13(b), and 19 of the FTC Act, 15 U.S.C. §§ 45(a)(1), 45(m)(1)(A), 53(b), and 57b, and pursuant to its own equitable powers:

(1) Award plaintiff such 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) Enter judgment against the defendants and in favor of plaintiff for each and every violation alleged in this complaint;

(3) Permanently enjoin the defendants from violating the FTC Act and the Cooling-Off Rule, as alleged herein, in connection with the offering, promotion, and sale of business opportunities;

(4) Award plaintiff monetary civil penalties for every violation of the Cooling-Off Rule;

(5) Find the defendants liable and award such relief as the Court finds necessary to redress injury to consumers resulting from the defendants' violations of the Cooling-Off Rule and Section 5 of the FTC Act, including but not limited to, the rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies; and,

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

Dated:

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