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UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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FEDERAL TRADE COMMISSION,	)	
STATE OF HAWAII,	)	
MARYLAND SECURITIES COMMISSIONER,	)	
STATE OF NEVADA,	)	CIVIL ACTION NO:
STATE OF NORTH CAROLINA,	)	
COMMONWEALTH OF PENNSYLVANIA,	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	
	)	
EQUINOX INTERNATIONAL CORP.,	)	
ADVANCED MARKETING SEMINARS, INC.,	)	
BG MANAGEMENT, INC., and	)	
WILLIAM GOULDD,	)	
	)	
Defendants.	)	

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

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

Plaintiffs, the Federal Trade Commission (“FTC” or “Commission”), the State of Hawaii, the Securities Commissioner of the State of Maryland, the State of Nevada, the State of North Carolina, the Commonwealth of Pennsylvania, and the State of South Carolina, by their undersigned attorneys, allege:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 53(b), to secure a permanent injunction, preliminary relief and other equitable relief against defendants for their unfair or deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

2. The State of Hawaii brings this action under the Hawaii Uniform Securities Act, Chapter 485, to secure injunctive relief, equitable relief, and civil penalties against defendants for violations of the Hawaii Uniform Securities Act.

3. The Maryland Securities Commissioner, Office of the Attorney General, brings this action under § 11-702 of the Maryland Securities Act, Md. Code Ann. Corps. & Ass’ns §§11-101 et seq. (1993 Repl. Vol. and Supp. 1998) (the “Maryland Securities Act”) to secure a permanent injunction, preliminary relief, other equitable relief, and statutory monetary penalties against the defendants for offering and selling a security in Maryland in violation of the registration and antifraud provisions of the Maryland Securities Act.

4. The State of Nevada, Office of Attorney General, brings this action, pursuant to the Nevada Revised Statutes (“NRS”) §§ 598.0963(3), 598.100, and 207.174, to secure a permanent injunction, preliminary relief, civil penalties, suspension of Nevada corporations, other equitable remedies and the award of costs and attorneys fees against defendants for their deceptive trade

practices, securities law violations, and false advertising in violation of NRS §§ 598.0915(11), 598.0923(2), and 207.171.

5. The State of North Carolina, Office of Attorney General, brings this action, under the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1 et seq., and under the North Carolina Pyramid and Chain Schemes Act, N.C. Gen. Stat. § 14-291.1, to secure a permanent injunction, preliminary relief, other equitable relief, civil penalties, and attorneys' fees, against defendants for their unfair or deceptive acts or practices in violation of N.C. Gen. Stat. § 75-1.1 and for their operation of a pyramid or chain scheme in violation of N.C. Gen. Stat. § 14-291.1.

6. The Commonwealth of Pennsylvania, acting by Attorney General D. Michael Fisher, brings this action under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 et seq., as amended, to secure a permanent injunction, preliminary relief, and other equitable relief, civil penalties, and costs, against defendants for their unfair or deceptive acts or practices in violation of the Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 et seq.

7. The State of South Carolina, Office of the Secretary of State, brings this action, under the South Carolina Business Opportunity Sales Act, S.C. Code Ann. §§ 39-57-10 et seq. (1976 & Supp. 1998), to secure a permanent injunction, preliminary relief and other equitable relief, and civil penalties against defendants for their acts or practices in violation of S.C. Code Ann. §§ 39-57-10 et seq.

## **JURISDICTION AND VENUE**

8. This Court has subject matter jurisdiction over the FTC's claims pursuant to 15 U.S.C. §§ 45(a) and 53(b) and 28 U.S.C. §§ 1331, 1337(a) and 1345, and over the claims of the States of Hawaii, Maryland, Nevada, North Carolina, South Carolina, and the Commonwealth of Pennsylvania, pursuant to 28 U.S.C. § 1367.

9. Venue in the District of Nevada is proper under 15 U.S.C. § 53(b) and 28 U.S.C. § 1391(b) and (c).

## **PLAINTIFFS**

10. Plaintiff, the FTC, 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 unfair or deceptive acts or practices in or affecting commerce. The Commission may initiate federal district court proceedings to enjoin violations of the FTC Act and to secure such equitable relief as is appropriate in each case. 15 U.S.C. § 53(b).

11. Plaintiff State of Hawaii is one of the fifty sovereign states of the United States. Ryan S. Ushijima is the duly appointed and qualified Commissioner of Securities acting for plaintiff State of Hawaii, and brings this action under the Hawaii Uniform Securities Act. This Court has supplemental jurisdiction over plaintiff Hawaii's claims under 28 U.S.C. § 1367.

12. Plaintiff Maryland Securities Commissioner is the principal executive officer of the Maryland Securities Division, a division of the Office of the Attorney General of Maryland. Melanie Senter Lubin is the Maryland Securities Commissioner and brings this action under the Maryland Securities Act. This Court has supplemental jurisdiction over plaintiff Maryland's claims under 28 U.S.C. § 1367.

13. Plaintiff State of Nevada is one of the fifty sovereign states of the United States. Frankie Sue Del Papa is the duly elected and qualified Attorney General acting for plaintiff State of Nevada, and brings this action under Nevada Consumer Protection Laws. This Court has supplemental jurisdiction over plaintiff Nevada's claims under 28 U.S.C. § 1367.

14. Plaintiff State of North Carolina is one of the fifty sovereign states of the United States. Michael F. Easley is the duly elected and qualified Attorney General acting for plaintiff State of North Carolina, and brings this action under the North Carolina Unfair and Deceptive Trade Practices Act and under the North Carolina Pyramid and Chain Schemes Act. This Court has supplemental jurisdiction over plaintiff North Carolina's claims under 28 U.S.C. § 1367.

15. Plaintiff the Commonwealth of Pennsylvania is one of the fifty sovereign states of the United States. D. Michael Fisher is the duly elected and qualified Attorney General acting on behalf of plaintiff Commonwealth of Pennsylvania, and brings this action under the Pennsylvania Unfair Trade Practices and Consumer Protection Law. This Court has supplemental jurisdiction over plaintiff Pennsylvania's claims under 28 U.S.C. § 1367.

16. Plaintiff State of South Carolina is one of the fifty sovereign states of the United States. Jim Miles is the duly elected and qualified Secretary of State acting for plaintiff State of South Carolina, and brings this action under the South Carolina Business Opportunity Sales Act. This Court has supplemental jurisdiction over plaintiff South Carolina's claims under 28 U.S.C. § 1367.

#### **DEFENDANTS**

17. Defendant Equinox International Corporation ("Equinox") is a Nevada corporation with a principal place of business at 10190 Covington Cross, Las Vegas, Nevada and has

conducted business since at least 1991 as a multi-level marketing company.

18. Defendant Advanced Marketing Seminars, Inc. (“AMS”) is a Nevada corporation with a principal place of business at 10190 Covington Cross, Las Vegas, Nevada and has conducted business since at least 1992. AMS promotes Equinox through AMS training and seminars for distributors and prospective recruits.

19. BG Management, Inc. (“BG”) is a business entity with a principal place of business at 10190 Covington Cross, Las Vegas, Nevada and has conducted business since at least 1992. BG is a management company for Equinox and AMS and is the entity through which defendant William Gould receives compensation for his services to Equinox and AMS.

20. Defendant William Gould (“Gould”), is an individual with a principal place of business at 10190 Covington Cross, Las Vegas, Nevada and is the founder of Equinox, AMS and BG. Individually or in concert with others, Gould directs, controls or participates in the acts and practices of Equinox, AMS and BG as set forth below.

21. Defendants transact or have transacted business in this district and in each of the plaintiff States.

### **COMMERCE**

22. At all times material to this complaint, defendants’ course of business, including the acts and practices alleged herein, have been and are in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

### **DEFENDANTS’ BUSINESS PRACTICES**

23. Since approximately 1991, defendants have operated what is commonly known as a “multi-level” marketing company, which is a business entity with three characteristics: (a) it

distributes goods or services through distributors at different levels; (b) those distributors may recruit other participants; and (c) compensation of distributors is based on the sale of the goods or services or recruitment of other participants.

24. Defendants offer and sell products through a network of distributors who are also authorized to sell distributorships. The principal products that defendants sell to their distributors are water filters, vitamins, nutritional supplements and skin care products.

25. Equinox compensates distributors based upon the “sales volume” produced by their sales group. A sales group is composed of a distributor and the distributor’s “downline”- the distributor’s recruits and the recruits’ successive generation of recruits. Sales volume is determined by the volume of products that a sales group purchases from Equinox, and does not represent retail sales.

26. Distributors receive compensation under Equinox’s multi-level compensation plan in the form of “rebates” and “bonuses” that are based on a percentage of their sales groups’ sales volume. The higher up in the distribution chain distributors are, the greater the rebates and bonuses they receive.

27. Distributors who either individually or in combination with their downlines produce a sales volume of \$5,000 in one month are designated Managers. Above the Manager level, increased monthly sales volume can lead to the status of Supervisor (\$10,000 in sales volume per month); Director (\$20,000 per month); Executive Director (\$100,000 per month); and International Marketing Director (\$500,000 per month). Distributors must also meet additional requirements to attain and retain these levels.

28. Equinox distributors place classified advertisements in various newspapers throughout



the country for the purpose of recruiting other persons to become distributors. These advertisements are placed in the “Help Wanted” section of the classified ads and imply that a salaried position is being offered. Persons who respond to the advertisements are invited to a job interview. When a person comes to the Equinox office, the person is not given a job interview, but rather attends an hour-long group sales presentation, the purpose of which is to get the person to participate in the Equinox marketing program by becoming a distributor.

29. Defendants inform potential distributors that they can join the Equinox marketing program by placing an order for products from Equinox. Defendants explain that there are two basic ways that an Equinox distributor can make money: (a) by selling the product at a retail price to consumers, and (b) by recruiting other people to become distributors. In this initial presentation, as well in other recruitment and training meetings, it is stressed that the real way that people make money in participating in the Equinox program is through recruiting and not retail sales.

30. Defendants encourage potential recruits to purchase \$5,000 worth of products from Equinox so that they can enter the program at the Manager level, the minimum level at which a person can receive compensation for recruiting other people into the program. People who agree to purchase \$5000 worth of product and become Managers are also encouraged to rent desk space in the local office for between \$300 and \$500 a month and to subscribe to a phone line so that they can begin recruiting other people to join the Equinox program. Distributors then begin attempting to recruit other people into the program by placing classified advertisements in local newspapers. The distributors pay for the advertisements that they place.

31. A central part of the Equinox program is distributors’ attendance at training seminars

conducted by AMS. AMS conducts seminars throughout the country for distributors. The seminars last from one to two days and cost from \$300 to more than \$1000 to attend. The stated purpose of the seminars is to train distributors how to succeed in the Equinox program- i.e., how to recruit other participants into the scheme. Defendants encourage distributors to attend as many seminars as they can, and many distributors spend thousands of dollars paying for travel, lodging and fees to attend the seminars.

32. A person who signs up to be a participant in the Equinox program often incurs a substantial front-end expense. Not only do they spend \$5000 to buy products from Equinox to become Managers so they can recruit people, they also often spend many thousands of dollars more renting desks, subscribing to phone lines, purchasing classified advertisements and attending training seminars. A very small percentage of distributors who become participants in the Equinox program actually make more money than they expend for front-end expenses.

33. Defendants represent, expressly and by implication, that many persons who become distributors in the Equinox program will make substantial amounts of money. They further represent that almost everyone will make some money. These representations are made orally and in writing at recruitment meetings and during training seminars, and include but are not limited to the following:

A. In written material, training seminars and training tapes, defendants use “testimonials” from Equinox distributors in which the distributors describe how successful they have become through participation in the Equinox program. The testimonials show persons standing in front of an expensive house, next to luxury automobiles. The distributors make statements such as:

- Since training with Advanced Marketing Seminars, I now live a life style only the rich and famous experience.
- I learned more in that two-day [AMS] training than in 16 years of school. I am now traveling across the country visiting training centers where my sales force works and earning more money in a month than I used to make in an entire year.
- After graduating from an Ivy League college with \$60,000 in debt, “[n]ow I am 100% debt-free and earning eight times my engineering income. Thanks to Equinox and Advanced Marketing Seminars, my life is now filled with total excitement for the future I always dreamed of!”

B. Equinox agents at recruitment meetings tell potential distributors that they can expect to make \$2000 to \$4000 a month to start and substantially more as they continue in the Equinox program. During these meetings Equinox agents refer to a survey Equinox conducted which showed that the average Manager makes \$600 a month, the average Supervisor makes \$1600 a month, and the average Director makes \$3800 a month. Equinox agents do not share copies of the survey with potential distributors, and do not mention that the majority of participants at every level do not achieve “qualified” status within the Equinox program and, as a result, receive substantially lower incomes from the Equinox program than those cited.

C. To illustrate how much money can be made in the Equinox program, presenters show very large checks made out from Equinox to distributors (\$20,000, \$30,000 or more) and say that these checks represent how much some distributors make in one month.

34. The vast majority of Equinox distributors discontinue their participation in the Equinox program with little or no financial success, or make very modest earnings. In making the foregoing representations, defendants do not disclose to prospective or actual distributors this or similar information concerning how much money distributors actually make.

35. The Equinox program stresses the financial rewards that can be achieved through recruitment rather than retail sales. All of the training conducted by Gould, AMS and top Equinox distributors stress that the real way that people make money in the Equinox system is through successive recruitment of others rather than selling products at retail.

36. Equinox purports to follow policies ostensibly designed to link compensation to retail sales. For example, Equinox publishes internal policies that: (a) require distributors to certify with each product order after the initial order that they sold or consumed at least 70% of the product they previously purchased; and (b) require distributors to provide six retail sales receipts per month.

37. These policies, which are ostensibly designed to link compensation to retail sales, are routinely disregarded and not adequately enforced by Equinox. Even if defendants did enforce these policies, they would not result in compensation being tied to retail sales or eliminate the fact that the only practical way that most Equinox distributors can receive the financial rewards promised in paragraph 33, above, is through continuous recruitment and not retail sales. For example, the requirement of providing six retail receipts can represent only a negligible proportion of the “sales” volume on which compensation is based.

38. The result of the structure and operation of the program is that financial gains to Equinox participants are primarily dependent upon the continued, successive recruitment of other participants and retail sales are not required as a condition precedent to realization of such financial gains.

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

(By Plaintiff Federal Trade Commission)

**COUNT 1**

39. In connection with the offering for sale of participation in the Equinox program, defendants represent, expressly or by implication, that consumers who become Equinox distributors will receive substantial financial gain.

40. In truth and in fact, in numerous instances, consumers who become Equinox distributors will not receive substantial financial gain.

41. Therefore, the representation set forth in paragraph 39 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 2**

42. In connection with the offering for sale of the participation in the Equinox program, defendants represent, expressly or by implication, that all consumers who participate in the Equinox program will receive financial gain.

43. In truth and in fact, not all consumers who participate in the Equinox program will receive financial gain.

44. Therefore, the representation set forth in paragraph 42 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 3**

45. By furnishing Equinox distributors with promotional materials to be used in recruiting

new participants that contain false and misleading representations, including but not limited to the false and misleading representations described in paragraphs 39 and 42, above, defendants have provided the means and instrumentalities for the commission of deceptive acts and practices.

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

#### **COUNT 4**

47. Defendants represent that everyone who participates in the program will receive substantial income.

48. Defendants fail to disclose that, in numerous instances, participants will not receive substantial income.

49. This additional information, described in paragraph 48, would be material to customers in deciding whether to participate in the Equinox program.

50. The defendants' failure to disclose the material information in paragraph 48, in light of the representations made in paragraph 47, constitute a deceptive act and practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT 5**

51. As alleged in paragraphs 1 through 38, the Equinox program is an inherently unlawful scheme whose essential element is the payment by participants of money to the company in return for which they receive (1) the right to sell a product, and (2) the right to receive in return for recruiting other participants into the program rewards which are unrelated to the sale of the product to the ultimate users.

52. This type of scheme, often referred to as a pyramid, is a deceptive act and practice in

violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

**VIOLATIONS OF HAWAII LAW**

(By Plaintiff State of Hawaii)

**COUNT 6**

53. Plaintiff State of Hawaii re-alleges paragraphs 1 through 38 of this complaint and incorporates them herein.

54. The above described program constitutes the offering for sale and/or selling of “securities” within the meaning of § 485-1(13), Hawaii Revised Statutes (“HRS”) and other applicable authority, and was required to be registered or appropriately exempted by the Office of the Commissioner of Securities, Department of Commerce and Consumer Affairs, State of Hawaii.

55. Said securities were neither registered with the Office of the Commissioner, nor were said securities appropriately exempted from registration in violation HRS § 485-8.

56. The aforesaid acts of offering for sale and/or selling the above-referenced securities constitute the transaction of business in the State of Hawaii.

57. The aforesaid acts of offering for sale and/or selling the above-referenced securities by defendants constitute the transaction of business in the State of Hawaii by unregistered securities dealers, salespersons, investment advisors, and/or investment adviser representatives in violation of HRS § 485-14.

58. Defendants’ acts and/or omission in connection with the foregoing securities constitute or appear to constitute securities fraud in violation of HRS § 485-25 in one or more of the following particulars:

A. Defendants employed devices, schemes and/or artifices to defraud, in violation of HRS § 485-25(a)(1);

B. Defendants made untrue statements of material facts or omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading, in violation of HRS § 485(a)(2);

C. Defendants engaged in acts, practices or courses of business which operate or would operate as fraud or deceit upon persons, in violation of HRS § 485-25(a)(3).

**VIOLATIONS OF MARYLAND LAW**

(By Plaintiff Maryland Securities Commissioner)

**COUNT 7**

**(Offer and Sale of Unregistered Securities)**

59. Plaintiff Maryland Securities Commissioner re-alleges paragraphs 1 through 39 of this complaint and incorporates them herein.

60. Defendants strictly control the recruitment of Equinox distributors by providing scripts to existing distributors, requiring existing distributors to attend recruitment meetings that follow a preordained script, and admonishing distributors not to explain the program on their own, but to leave that function to upper level managers.

61. The Equinox program constitutes an investment contract and is therefore a “security” as defined in § 11-101(r) of the Maryland Securities Act.

62. Defendants are soliciting funds, assisting in the solicitation of funds, and receiving funds from Maryland residents to purchase investment contracts in the form of the Equinox program.



63. By soliciting funds, assisting in the solicitation of funds, and receiving funds from Maryland residents to purchase investment contracts in the form of the Equinox program, defendants are offering and selling a security in Maryland.

64. Section 11-501 of the Maryland Securities Act makes it unlawful for any person to offer or sell any security in Maryland unless that security is registered, exempt from registration, or qualifies as a federal covered security.

65. Defendants have violated and are violating the Maryland Securities Act by offering and selling a security in Maryland in the form of the Equinox program when, with respect to the Equinox program, that securities offering is not registered with the Maryland Securities Division, is not exempt from registration, and does not qualify as a federal covered security.

### **COUNT 8**

#### **(Sale of Securities by Unregistered Broker-Dealer or Agent)**

66. Section 11-401 of the Maryland Securities Act makes it unlawful for any person to transact business in the offer or sale of securities in Maryland as a “broker-dealer” or “agent” unless that person is registered as such pursuant to the Maryland Securities Act.

67. Section 11-401(c) of the Maryland Securities Act defines “broker-dealer” to include a person engaged in the business of effecting transactions in securities for the account of others or for his own account.

68. Section 11-101(b) of the Maryland Securities Act defines “agent” to mean an individual other than a broker-dealer, including a partner, officer or director of an issuer, who represents a broker-dealer or issuer in effecting or attempting to effect the purchase or sale of securities.

69. Defendants are transacting business as broker-dealers or agents by offering and selling a security in Maryland in the form of the Equinox program.

70. At the times defendants have offered and sold a security in Maryland in the form of the Equinox program, no defendant has been registered with the Maryland Securities Division as a broker-dealer or agent pursuant to the Maryland Securities Act.

### **COUNT 9**

#### **(Fraud and Misrepresentation in Connection with the Offer or Sale of Securities)**

71. Section 11-301 of the Maryland Securities Act prohibits any person, in connection with the offer, sale, or purchase of any security, directly or indirectly to : (1) employ any device, scheme or artifice to defraud; (2) make any untrue statement of a material fact or omit to state a material fact necessary in order to make the statement made, in light of the circumstances under which it is made, not misleading; and (3) engage in any act, practice, or course of business which operates or would operate as a fraud or deceit on any person.

72. In connection with the offer and sale of a security in Maryland, in the form of the Equinox program, defendants are omitting and have omitted material facts, including:

- A. that the Equinox program is a pyramid promotional scheme;
- B. that, as a pyramid promotional scheme, the Equinox program is bound to collapse;
- C. that many, if not most, participants in the Equinox program will lose a substantial portion of their investment; and
- D. that establishing, operating, advertising or promoting a pyramid promotional scheme may be punishable by fine and/or imprisonment under Maryland law.

73. In connection with the offer and sale of a security, defendants are omitting and have

omitted material facts by failing to disclose that the Equinox program constitutes a “security” that it not registered with the Maryland Securities Division, not exempt from registration and does not qualify as a federal covered security under the Maryland Securities Act.

74. In connection with the offer and sale of a security, defendants are misrepresenting and have misrepresented material facts about the Equinox program by exaggerating the likelihood of Equinox distributors earning a substantial return on their investments.

75. In connection with the offer and sale of a security, defendants are engaged and have engaged in a course of business that operated as a fraud or deceit on Maryland participants by marketing the Equinox program as a legitimate form of network marketing opportunity when, in fact, the Equinox program is an inherently risky investment opportunity that is illegal under Maryland law.

### **VIOLATIONS OF NEVADA LAW**

(By Plaintiff State of Nevada)

#### **COUNT 10**

**(Deceptive Trade Practices)**

76. Plaintiff State of Nevada re-alleges paragraphs 1 through 38 of this complaint and incorporates them herein.

77. Defendants have violated, and continue to violate, the Nevada Deceptive Trade Practices Act, NRS § 598,0915(11) by advertising under the guise of offering employment positions when in fact their purpose is to sell goods or services to applicants for the employment positions. Defendants advertise in the “help wanted” classified ad sections of newspapers claiming to offer salaried positions. Defendants’ advertisements include, but are not limited to,

offering positions for “Bilingual Executive,” “Talent Agent,” “Management,” and “Sales.” Often the advertisements claim that only a few positions are available. When potential applicants respond to the advertisements, they are urged to go defendants’ offices for a personal interview. In truth and in fact, the purported interview is not personal in nature; rather, it is a group sales pitch in which Equinox representatives, including defendant Bill Gould via videotape presentation, solicit the individuals to purchase Equinox products and services.

### **COUNT 11**

#### **(Deceptive Trade Practices)**

78. Defendants have violated, and continue to violate, the Nevada Deceptive Trade Practices Act, NRS § 598.0923(2) by knowingly failing to disclose a material fact in connection with the sale of goods or services. Material facts that the defendants knowingly fail to disclose include, but are not limited the following:

- A. Offering salaried employment positions when in truth and in fact no such positions are available;
- B. Claiming that the offering company is “Impact International” when in truth and in fact the company is defendant Equinox;
- C. Implying, directly or by implication, that the vast majority of Equinox distributors will earn substantial sums of money when in truth and in fact the vast majority of Equinox distributors have little or no financial success or make very modest earnings from the Equinox program;
- D. Implying, directly or by implication, that training for the Equinox program is free when in truth and in fact the Equinox training seminars cost substantial sums of money;

E. Advertising that the availability of the positions is very limited when in truth and in fact anyone can become an Equinox distributor.

**COUNT 12**

**(Operation of a Pyramid Scheme)**

79. Defendants have violated and continue to violate, NRS § 598.110 by contriving, preparing, setting up, proposing, operating, advertising and promoting a pyramid promotional scheme or endless chain. Defendant Equinox is a pyramid promotional scheme pursuant to NRS § 598.100(3) because it is a program or plan for the distribution of property and merchandise by which a participant gives or pays valuable consideration for the opportunity or chance to receive any compensation or thing of value in return for procuring or obtaining one or more additional persons to participate in the program or plan, or for the opportunity to receive compensation of any kind when a person introduced to the program or plan by the participant procures or obtains a new participant in the program or plan.

**COUNT 13**

**(False Advertising)**

80. Defendants have violated and continue to violate, NRS § 207.171 by unlawfully using, publishing, disseminating, and/or displaying in a newspaper, magazine, publication, and/or on radio, television or other advertising medium statements which they know or should know to be false, deceptive or misleading, in order to induce any person to purchase, sell, lease, dispose of, utilize or acquire any title or interest in real or personal property or any personal or professional services or to enter into any obligation or transaction relating thereto.

**VIOLATIONS OF NORTH CAROLINA LAW**

(By Plaintiff State of North Carolina)

**COUNT 14**

81. Plaintiff State of North Carolina re-alleges paragraphs 1 through 38 of this complaint and incorporates them herein.

82. North Carolina General Statute §75-1.1(a) declares unlawful all unfair and deceptive acts or practices in or affecting commerce.

83. Defendants' acts and practices as alleged in paragraphs 1 through 38 were false, misleading, deceptive and unfair to citizens in North Carolina, and therefore violate the North Carolina Unfair and Deceptive Trade Practices Act.

84. Defendants have actual knowledge, or knowledge fairly implied on the basis of objective circumstances, that their acts, as described above, were unfair and deceptive.

**COUNT 15**

85. The North Carolina Pyramid and Chain Schemes Act, N.C. Gen. Stat. § 14-291.1, declares unlawful all pyramid schemes whereby a participant gives valuable consideration for the opportunity to receive compensation in return for inducing other persons to become participants in the program.

86. Defendants' acts and practices as alleged in paragraphs 1 through 38 constitute the operation of a pyramid scheme, and therefore violate the North Carolina Pyramid and Chain Schemes Act.

**VIOLATIONS OF PENNSYLVANIA LAW**

(By Plaintiff Commonwealth of Pennsylvania)

**COUNT 16**

87. Plaintiff Commonwealth of Pennsylvania re-alleges paragraphs 1 through 38 of this complaint and incorporates them herein.

88. Defendants' actions violate § 201-3 of the Pennsylvania Unfair Trade Practices and Consumer Protection Law.

89. More specifically, defendants' action in misrepresenting the nature of employment positions in "Help Wanted" advertisements, along with their misrepresentations as to likely income levels and expenses to participants and potential participants constitute violations of § 201-3 as defined in § 201-2(4) (i), (ii), (iii), (v), (ix), and (xxi).

90. Additionally, defendants' actions in operating a multi-level marketing scheme which stresses recruitment over retail sales constitutes a further violation of § 201-3, as defined by § 201-2(4)(xiii).

91. Defendants' actions were performed willfully, and, therefore, the imposition of civil penalties for each such violation of the Unfair Trade Practices and Consumer Protection Law is appropriate, in addition to other relief.

**VIOLATIONS OF SOUTH CAROLINA LAW**

(By Plaintiff State of South Carolina)

**COUNT 17**

92. Plaintiff State of South Carolina re-alleges paragraphs 1 through 38 of this complaint and incorporates them herein.

93. Defendants have violated the South Carolina Business Opportunity Act, S.C. Code Ann. §§ 39-57-10 et seq. by engaging in the following:

A. Engaging in the offer or sale of a business opportunity in the State of South Carolina without being properly registered pursuant to S.C. Code Ann. § 39-51-50;

B. Engaging in the offer or sale of a business opportunity in the State of South Carolina without filing the required disclosure documents with the office of the Secretary of State pursuant to S.C. Code Ann. § 39-57-30;

C. Making misrepresentations and misleading statements in connection with the offer or sale of a business opportunity in the State of South Carolina, including, but not limited to, misrepresentation concerning earnings claims, compensation and business practices.

#### **CONSUMER INJURY**

94. Defendants' violations of Section 5 of the FTC Act and the laws of various States, as set forth above, have caused and continue to cause substantial injury to consumers. Absent injunctive relief by this Court, defendants are likely to continue to injure consumers.

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

95. 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 provisions of law enforced by the Federal Trade Commission.

96. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the State of Hawaii, to enforce its state law claims under the Hawaii Uniform Securities Act, Chapter 485, Hawaii Revised Statutes, against defendants in this Court.



97. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the Maryland Securities Commissioner, to enforce its state law claims under the Maryland Securities Act, § 11-702 of the Maryland Securities Act against defendants in this Court.

98. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the State of Nevada, to enforce its state law claims under the Nevada Deceptive Trade Practices Act, False Advertising and Securities statutes, Nevada Revised Statutes (“NRS”) §§ 598.0963(3), 598.100, and 207.174, against defendants in this Court.

99. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the State of North Carolina, to enforce its state law claims under the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1 et seq., and under the North Carolina Pyramid and Chain Schemes Act, N.C. Gen. Stat. § 14-291.1, against defendants in this Court.

100. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the Commonwealth of Pennsylvania, to enforce its state law claims under the Pennsylvania Unfair Trade Practices and Consumer Protection Law, 73 P.S. § 201-1 et seq., as amended, against defendants in this Court.

101. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow plaintiff, the State of South Carolina, to enforce its state law claims under the South Carolina Business Opportunity Sales Act, South Carolina Business Opportunity Sales Act, S.C. Code Ann. §§ 39-57-10 et seq. (1976 & Supp. 1998), against defendants in this Court.

### **PRAYER FOR RELIEF**

WHEREFORE plaintiff Federal Trade Commission pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, plaintiff Maryland Securities Commissioner pursuant to the Maryland Securities Act and the Court's own equitable powers, plaintiff State of Nevada pursuant to its Deceptive Trade Practices Act, its false advertising statute, its securities statute and the Court's own equitable powers, plaintiff North Carolina pursuant to the North Carolina Unfair and Deceptive Trade Practices Act and the North Carolina Pyramid and Chain Schemes Act and the Court's own equitable powers, plaintiff Commonwealth of Pennsylvania pursuant to the Pennsylvania Unfair Trade Practices and Consumer Protection Law and the Court's own equitable powers, and plaintiff South Carolina pursuant to South Carolina Business Opportunity Act and the Court's own equitable powers, request that this Court:

1. Award plaintiffs 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. Permanently enjoin defendants from violating the FTC Act, the Hawaii Uniform Securities Act, the Maryland Securities Act, the Nevada Deceptive Trade Practices Act, the Nevada False Advertising statute, the North Carolina Unfair and Deceptive Trade Practices Act and the North Carolina Pyramid and Chain Schemes Act, the Pennsylvania Unfair Trade Practices and Consumer Protection Law, and the South Carolina Business Opportunity Sales Act, as alleged herein;
3. Award such relief as the Court finds necessary to redress injury to consumers resulting

from defendants' violations of the FTC Act, the Hawaii Uniform Securities Act, the Maryland Securities Act, the Nevada Deceptive Trade Practices Act, the Nevada False Advertising statute, the Nevada Securities statute, the North Carolina Unfair and Deceptive Trade Practices Act and the North Carolina Pyramid and Chain Schemes Act, the Pennsylvania Unfair Trade Practices and Consumer Protection Law, and the South Carolina Business Opportunity Sales Act, as alleged herein, including but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten monies.

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

5. Plaintiff State of Hawaii requests that this Court, pursuant to Hawaii Uniform Securities Act, HRS § 485-20.5, order defendants to pay the plaintiff State of Hawaii a civil penalty of up to \$100,000 (one hundred thousand dollars) for each violation found.

6. Plaintiff Maryland Securities Commissioner requests that this Court, pursuant to Maryland Securities Act, § 11-702 (b)(3), order defendants to pay the plaintiff Maryland Securities Commissioner a civil penalty of up to \$5,000 (five thousand dollars) for each violation found.

7. Plaintiff State of Nevada requests that this Court grant the following relief:

A. Order defendants to pay to plaintiff State of Nevada, pursuant to NRS § 598.0999(2), civil penalties for \$2,500 per violation and to impose an additional civil penalty of not more than \$10,000 per violation for each violation in which an elderly person was the victim of defendants' scheme, pursuant to NRS § 598.0933;

B. Dissolve the defendant corporations, pursuant to NRS § 598.0999;

C. Enjoin the defendants from violating NRS § 598.130(1);

D. Order defendants to pay to plaintiff State of Nevada, pursuant to NRS § 207.174, civil penalties not to exceed \$2,500 per violation and to enjoin permanently further violations, pursuant to NRS § 207.176; and

E. Order any further relief that the Court deems appropriate.

8. Plaintiff State of North Carolina requests that this Court, pursuant to N.C. Gen. Stat. § 75-15.2, order defendants to pay the plaintiff State of North Carolina a civil penalty of up to \$5,000 (five thousand dollars) for each violation found.

9. Plaintiff Commonwealth of Pennsylvania request this Court, pursuant to 73 P.S. § 201-8(b), to order defendants to pay to the plaintiff Commonwealth of Pennsylvania a civil penalty of up to one thousand dollars (\$1,000) for each violation found, as well as an enhanced civil penalty of up to three thousand dollars (\$3,000) for each violation found involving a victim over the age of sixty (60) years.

Respectfully submitted,

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*(Signatures continue--)*

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Dated: August \_\_\_\_\_, 1999