

*The following is the text of the Complaint for Injunction and Other Equitable Relief against JewelWay, Inc. For comments from Jeffrey Babener you can return to [FTC vs JewelWay](#).*

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

**Tucson Division**

FEDERAL TRADE COMMISSION,  
Plaintiff,

V.

JEWELWAY INTERNATIONAL, INC., an Arizona Corporation,

BRUCE A. CARUTH, individually and as an officer of JewelWay  
International, Inc.,

ROBERT J. CHARETTE, JR., individually and as an officer of  
JewelWay International, Inc., and ROBERT J CHARETTE, JR. and  
ANGELA D. CHARETTE, Husband and Wife, and

CV-97-383 TUC JMR

COMPLAINT FOR  
INJUNCTION AND  
OTHER EQUITABLE RELIEF

DONILYN A. WALDEN, individually and as an officer of JewelWay International, Inc., and

GREG G. STEWART, an individual, and GREG G. STEWART AND BEVERLY STEWART, Husband and Wife,

Defendants

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Plaintiff, the Federal Trade Commission ("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 secure a permanent injunction, preliminary injunctive relief, restitution, disgorgement, appointment of a receiver, and other equitable relief for defendants' deceptive trade practices in violation of Section 5(a) of the FIC Act, 15 U.S.C. § 45(a).

#### **Jurisdiction and Venue**

2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and 53(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.
3. Venue in the District of Arizona is proper under 28 U.S.C. § 1391(b) and (c), and 15 U.S.C. § 53(b).

#### **Parties**

4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. 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 appropriate equitable relief in each case, including restitution and disgorgement. 15 U.S.C. § 53(b).
5. Defendant, JewelWay International, Inc. ("JewelWay"), is an Arizona corporation doing business at 5151 East Broadway Boulevard, Suite 500, Tucson, Arizona 8571 1 and. JewelWay also maintains offices in Calgary, Alberta, Canada; Sydney, Australia; and, Manchester, England. JewelWay solicits consumers to invest in its "binary lateral compensation" program (the "program") throughout the United States, and transacts business in the District of Arizona.
6. Defendant Bruce A. Caruth ("Caruth") founded JewelWay and is a 50% shareholder. In addition, Caruth is the President, Chief Executive Officer, Treasurer, and a director for JewelWay. Individually or in concert with others, Caruth formulates, directs, controls, or participates in the acts and practices of JewelWay alleged below, and has done so at all times pertinent to this action. He resides and transacts business in the District of Arizona.
7. Defendant Robert J. Charette, Jr. ("Charette") founded JewelWay and is a 25% shareholder. In addition, he is the Executive Vice-President and a director for JewelWay. Individually or in concert with others, Charette formulates, directs, controls, or participates in the acts and practices of JewelWay alleged below, and has done so at all times pertinent to this action. He resides and transacts business in the District of Arizona.

8. Defendant Angela D. Charette is named as wife of defendant Robert J. Charette, Jr. At all times Robert J. Charette, Jr. has acted on behalf of the marital community and Angela D. Charette is being named for community liability purposes.
9. Defendant Donilyn A. Walden ("Walden") founded JewelWay and is a 25% shareholder. In addition, she is the Secretary and a director for JewelWay. Individually or in concert with others, Walden formulates, directs, controls, or participates in the acts and practices of JewelWay alleged below, and has done so at all times pertinent to this action. She resides and transacts business in the District of Arizona.
10. Defendant Greg G. Stewart ("Stewart") is the Director of Corporate Training for JewelWay. Individually or in concert with others, Stewart formulates, directs, controls, or participates in the acts and practices of JewelWay alleged below, and has done so since at least June of 1993. He resides and transacts business in the District of Arizona.
11. Defendant Beverly Stewart is named as wife of defendant Greg G. Stewart. At all times Greg G. Stewart has acted on behalf of the marital community and Beverly Stewart is being named for community liability purposes.

### Commerce

12. 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.

### Course of Conduct

13. Since approximately 1991, defendants have operated an investment program commonly known as a "pyramid scheme." Pyramid schemes are characterized by the payment of money to the scheme's promoter in return for which participants receive the right to recruit new participants. Participants then receive payments based upon the number of individuals they recruit or who appear below them in their pyramid (commonly referred to as a "downline"). Earnings in a pyramid scheme are derived primarily from recruiting other participants into the program, not from the retail sale of products or services.
14. Pyramid schemes are inherently injurious to consumers because they must eventually collapse. Like chain letters, pyramid schemes may make money for those at the top of the chain or pyramid, but end up injuring the vast majority of participants at the bottom who can find few or no recruits.
15. Defendants primarily market and promote JewelWay through group presentations. Defendants also advertise JewelWay via the Internet, using an electronic home page on the World Wide Web. Telephones, faxes, and the mail are also used to distribute JewelWay promotional information, documents, and video and audio tapes.
16. Defendants represent that by becoming a participant in JewelWay's program, participants will receive the opportunity to earn substantial income (referred to as "sales and leadership bonuses") by recruiting others into the scheme, and to purchase jewelry.
17. Defendants' promotional presentations and materials represent that consumers who join JewelWay can earn substantial weekly income in bonuses if they: (1) sign a JewelWay Independent Representative Application and Agreement; (2) make a one time purchase of \$250 to \$2,750 or more of jewelry from JewelWay; and (3) recruit, or "sponsor", at least two other people who will follow this same three step procedure.
18. Defendants' promotional presentations and materials promise consumers that JewelWay will pay increasingly generous bonuses to JewelWay representatives as they attain higher levels in the program. For example, JewelWay's Sales Compensation Plan states that a high level "Platinum Executive" can receive up to \$2,250 per week. At the higher levels,

defendants also promise consumers that they can qualify to receive bonuses for the purchase of expensive homes, automobiles, and vacations.

19. While defendants' Independent Representative Application and Agreement, as well as certain other written materials, profess to require retail sales of jewelry to non-representatives (i.e., consumers who are not affiliated with JewelWay) in order to receive bonuses, in fact defendants' representatives acknowledge during promotional presentations that such retail sales are not required in order to receive bonuses.
20. Defendants' promotional presentations and materials attempt to distinguish their program from other plans by suggesting that the high profits are attributable to JewelWay's "binary lateral compensation" plan. In fact, the formula for distributing profits in any pyramid scheme has no effect on the end result that most participants lose money.
21. Defendants have induced thousands of consumers throughout the United States to pay JewelWay \$250 to \$2,750 or more to join their pyramid scheme. Defendants have also provided their promotional materials to others for use in recruiting new participants and inducing them to invest in the pyramid scheme.
22. Defendants, individually or in concert with others, have used the above representations, or other representations similar to those described above, to induce the purchase of investments in a pyramid scheme.

### **Defendants' Violations of the FTC Act**

#### **COUNT ONE**

23. In connection with the offering for sale or sale of investments in a pyramid scheme, defendants represent, expressly or by implication, that consumers who pay JewelWay \$250 to \$2,750 or more and recruit at least two JewelWay representatives are likely to receive substantial weekly income and other lavish benefits in return.
24. In truth and in fact, most consumers who pay JewelWay \$250 to \$2,750 or more and recruit at least two JewelWay representatives are not likely to receive substantial weekly income and other lavish benefits in return. Instead, most participants in the pyramid scheme will lose money.
25. Therefore, the representations set forth in 1 23 are false and misleading and constitute deceptive acts and practices in violation of Section 5(a) of the FIC Act, 15 U.S.C. § 45(a).

#### **COUNT TWO**

26. By providing participants in the JewelWay program with promotional materials that contain false and misleading representations, including but not limited to the false and misleading representations described in paragraph 23 above, to be used in recruiting new participants, defendants have provided these persons with the means and instrumentalities for the commission of deceptive acts and practices.
27. Defendants' practices, as described in 1 26, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **Injury**

28. Defendants' violations of Section 5 of the FIC Act, 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**

29. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to issue injunctive relief against defendants' violations of the FIC Act and, in the exercise of its equitable jurisdiction, grant such other relief as the Court may deem appropriate to halt and redress violations of the FIC Act, including restitution and disgorgement of unjust enrichment, and to order other ancillary equitable relief.

**Request for Relief**

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 the Commission all temporary and preliminary injunctive and ancillary relief that 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, including, but not limited to, temporary and preliminary injunctions, appointment of a receiver, immediate access to JewelWay's premises, and an order freezing each defendant's assets;
2. Permanently enjoin defendants from violating the FTC Act as alleged in this complaint;
3. Award all relief that the Court finds necessary to remedy the defendants' violations of Section 5(a) of the FIC Act, including, but not limited to, the refund of monies paid and the disgorgement of ill-gotten gains; 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 proper and just.

Dated this 24th day of June, 1997

Respectfully submitted,  
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JANICE L. CHARTER  
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ATTORNEYS FOR PLAINTIFF  
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*Jeffrey A. Babener, the principal attorney in the Portland, Oregon law firm of Babener & Associates, represents many of the leading direct selling companies in the United States and abroad.*

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