

*mo*

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No. 01-1000 Civ. 01-1000

**FEDERAL TRADE COMMISSION,**

Plaintiff,

v.

**STREAMLINE INTERNATIONAL, INC.,**

a Utah Corporation;

**J. R. JACKSON,**

individually, as an officer of the corporation,  
and doing business as Action Enterprises; and

**ROBERT "BOB" WAIKUS,**

individually, as an officer of the corporation, and  
doing business as WorldWide Opportunities Network.

Defendants.

**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

*1/1*

redress injury to consumers and the public interest resulting from 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 Florida, Ft. Lauderdale Division, is proper under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

### **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 Streamline International, Inc. ("Streamline") is a Utah corporation with its principal office or place of business at 119 S. 700 East, American Fork, Utah, 84003. Defendant Streamline transacts or has transacted business in this district.

6. Defendant J.R. Jackson is an officer of defendant Streamline and also does business as Action Enterprises. Individually or in concert with others, he formulates, directs, controls, or participates in the acts or practices set forth in this complaint. Defendant Jackson transacts or has transacted business in this district.

7. Defendant Robert "Bob" Waitkus is an officer of defendant Streamline and also does business as WorldWide Opportunities Network. Individually or in concert with others, he formulates, directs, controls, or participates in the acts or practices set forth in this complaint. Defendant Waitkus transacts or has transacted business in this district.

### **COMMERCE**

8. At all times relevant to this complaint, the 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**

9. Since at least November 1996, defendants have operated what purports to be a multi-level or network marketing business involving health-care products and dietary supplements (hereinafter referred to as "the Streamline program"). Defendants promote the Streamline program on several websites including, but not limited to, [www.streamline.net](http://www.streamline.net) and [www.mainstreamteam.com](http://www.mainstreamteam.com). Defendants attract visitors to the Streamline website through other websites located at [www.cyber-action.com](http://www.cyber-action.com), [www.dailyhotsite.com](http://www.dailyhotsite.com), [www.rags2riches.com](http://www.rags2riches.com), [www.preventionnews.com](http://www.preventionnews.com) and [www.liveadream.com](http://www.liveadream.com). In addition to Internet solicitations, defendants also promote the Streamline program through radio, direct mail and print advertisements. Defendants have solicited consumers nationwide, including consumers who reside in this district.

10. Consumers are invited to join the Streamline program by buying health-care products and dietary supplements through a multi-level marketing plan. Defendants require participants to make minimum monthly purchases in order to be eligible to earn commissions

from the minimum monthly purchases of their “downline,” individuals beneath them in the organization. Defendants promise to create a downline for participants through a device called the “Online Recruiter.” Defendants also promise monetary rewards for participants to personally recruit other individuals into their downline.

11. In their marketing materials and on their websites defendants have represented, expressly or by implication, that participants will receive substantial income by participating in the Streamline program, including, but not limited to, the following representations:

- A. YES, YOU CAN MAKE \$500-\$2,000 PER MONTH FOREVER!!! HOW WOULD YOUR LIFESTYLE CHANGE IF YOU EARNED \$500-\$2,000 PER MONTH?;
- B. NO MORE WORKING FOR THE NEXT 10, 20, 30 OR 40 YEARS. WORK PART-TIME THIS YEAR AND RETIRE NEXT YEAR; and
- C. The average pay-out [for Executive 2 participants] if no one sponsors anyone personally is \$13,965 per month. Imagine if you have (as you will) distributors who do not want to personally sponsor someone, your income can only go up.

12. In their marketing materials, defendants have also featured “testimonials” from participants in the Streamline program. In these testimonials, the individuals describe how successful they have become through participation in the Streamline program. Individuals giving testimonials are quoted with statements such as:

- A. We’ve been involved for only 21-months and our business was over \$40,000 last month,
- B. [M]y commission check for November [1997] was for \$930 with over 300 IME’s [Independent Marketing Executives] in my downline! Two weeks later I received a commission check for \$1,385.00 with now over 400 IME’s in my downline . . . ;

- C. I'm a single working mom and my last month's check was \$522.43. I've been involved for 1-year and only get to spend maybe 3 or 4 hours per MONTH on my business, thanks Streamline!; and
- D. I averaged over **\$20,000 per month** last year because of this work-from-home opportunity. (Statement of J.R. Jackson. Emphasis in original.)

13. In reality, the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings.

14. Defendants operate what is commonly known as a "pyramid scheme" that enriches the defendants at the expense of the majority of the participants in their scheme. In pyramid schemes, each participant pays money to the scheme's promoter in exchange for the right to recruit new participants. Participants then receive benefits for each individual they recruit or who appears below them in their 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.

15. The structure of a pyramid scheme places severe limitations upon the success of its participants. Participants can only make money if there are a greater number of participants in levels below them. Eventually, pyramid schemes break down due to exhaustion of the pool of possible recruits. Those at the bottom of the pyramid, the majority of participants, lose money because there is no one left to recruit into positions below them in the pyramid.

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

17. In making the earnings representations set forth in paragraphs 11 and 12, and other similar representations, defendants do not disclose to prospective or actual participants that the vast majority of participants in the Streamline program achieve little or no financial success, or make very modest earnings.

18. Defendants have provided participants in the Streamline program with websites and other marketing materials that include the foregoing representations for use in recruiting new participants and inducing them to participate in the Streamline program.

19. Defendants have induced thousands of consumers throughout the United States, including numerous consumers from this district, to participate in the Streamline program.

20. In promoting the health-care products consumers must purchase in order to take part in the Streamline program, defendants have disseminated or have caused to be disseminated advertisements and websites, including but not limited to the website at [www.herbalmall.com](http://www.herbalmall.com), for dietary supplements that contain the following statement:

**Are your products FDA approved?**

The FDA does not approve or disapprove of any dietary supplement. The FDA is only concerned with products that contain ingredients that are not recognized as safe. Our products contain only those ingredients that appear on the Government's list of generally recognized as safe.

21. In reality, a number of dietary supplements sold by the defendants contain the herbal ingredient comfrey, which is not included on the Food and Drug Administration's list of products generally recognized as safe. In fact, comfrey is known to pose a significant risk to humans, including liver damage, when used internally or externally on open wounds.

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

22. 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**

23. In numerous instances, defendants represent, expressly or by implication, that consumers who become participants in the Streamline program are likely to receive substantial income.

24. In truth and in fact, in numerous instances, consumers who become participants in the Streamline program are not likely to receive substantial income.

25. Therefore, the representation set forth in paragraph 23 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**

26. As alleged in paragraphs 9 through 19, the defendants' Streamline program is characterized by the payment of money by a participant to defendants in return for which the participant obtains the right to receive income for recruiting others into the Streamline program which are unrelated to the sale of a product or service to an ultimate consumer.

27. This type of scheme, often referred to as a pyramid, is a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT THREE**

28. In numerous instances, defendants represent, expressly or by implication, that participants in the Streamline program are likely to receive substantial income.

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

30. This additional information, described in paragraph 29, would be material to consumers in deciding whether to participate in the Streamline program.

31. The defendants' failure to disclose the material information in paragraph 29, in light of the representations made in paragraph 28, constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT FOUR**

32. Defendants provide participants in the Streamline program with websites and other 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 23 and 28 above.

33. By providing participants with the promotional materials described in paragraph 32 above, defendants have provided the means and instrumentalities for the commission of deceptive acts and practices.

34. Therefore, defendants' practices, as described in paragraphs 32, constitute deceptive acts and practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

#### **COUNT FIVE**

35. In connection with the offering for sale or sale of dietary supplements to participants in the Streamline program, defendants represent, expressly or by implication, that their products only contain ingredients that the Food and Drug Administration recognizes as safe.



36. In truth and in fact, the dietary supplements offered for sale or sold by the defendants contain ingredients that the Food and Drug Administration does not recognize as safe.

37. Therefore, the representation set forth in Paragraph 35 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**

38. Defendants' violations of Section 5 of the FTC Act, 15 U.S.C. § 45(a), 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 and harm the public interest.

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

39. 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**

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. Permanently enjoin the defendants from violating Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), as alleged in this complaint;

2. Award such preliminary injunctive and ancillary relief as the Court finds necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief resulting from the defendants' violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), including, but not limited to, rescission of contracts, restitution, the refund of monies paid, and the disgorgement of ill gotten monies; and

3. 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.

Date:

Respectfully submitted,

John Graubert  
Acting General Counsel



David M. Torok  
James Davis  
Attorneys for Plaintiff Federal Trade Commission  
600 Pennsylvania Avenue, N.W., Room H-238  
Washington, D C 20580  
Telephone: 202-326-3075 (Torok)  
202-326-2837 (Davis)  
Facsimile: 202-326-3395  
Email: DTOROK@FTC.GOV (Torok)  
JDAVIS@FTC.GOV (Davis)

JS 44 (Rev. 3/99)

**CIVIL COVER SHEET**

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

Federal Trade Commission

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
David Torok and James Davis  
Federal Trade Commission  
600 Pennsylvania Avenue NW, Room 238  
Washington, D.C. 20580  
(202) 326-3075/(202) 326-2837

**DEFENDANTS**

Streamline International, Inc., J.R. Jackson & Robert Johnson

County of Residence of First Listed Defendant Utah County  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)  
James Dean, Esq.  
140 West 900 South, Suite 5  
Sandy, UT 84070  
(801) 256-3316

MAGISTRATE JUDGE  
JOHNSON

DATE FILED  
MAY 24 2001  
CLERK OF DISTRICT COURT  
MIDvale

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff
- 2 U.S. Government Defendant
- 3 Federal Question (U.S. Government Not a Party)
- 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF		PTF	DEF
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury  <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability  <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other  <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157  <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark  <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))  <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input checked="" type="checkbox"/> 950 Constitutionality of State Statutes <input checked="" type="checkbox"/> 890 Other Statutory Actions

**V. ORIGIN**

(PLACE AN "X" IN ONE BOX ONLY)

- 1 Original Proceeding
- 2 Removed from State Court
- 3 Remanded from Appellate Court
- 4 Reinstated or Reopened
- 5 Transferred from another district (specify)
- 6 Multidistrict Litigation
- 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

15 U.S.C. § 45(a)(1) - Deceptive acts or practices in or affecting commerce - promotion of an unlawful pyramid scheme

**VII. REQUESTED IN COMPLAINT:**

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$ \_\_\_\_\_

CHECK YES only if demanded in complaint:

JURY DEMAND:  Yes  No

**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

DATE 5/23/01  
FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OR PARTY \_\_\_\_\_