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UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION

In the Matter of

Kalvin P. Schmidt, individually, and doing business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com.

DOCKET NO. C-3834

COMPLAINT

The Federal Trade Commission, having reason to believe that Calvin P. Schmidt, individually, and doing business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com ("Respondent"), has violated the provisions of the Federal Trade Commission Act, and it appearing to the Commission that this proceeding is in the public interest, alleges:

1. Respondent Calvin P. Schmidt is a Minnesota resident who does business as DKS Enterprises, DS Productions, DES Enterprises, www.mkt-america.com, and www.mkt-usa.com. He conducts his business activities out of his home, 911 3rd Street, N.W., Waseca, Minnesota 56093.
2. At all times relevant to this complaint, respondent has promoted, offered for sale, sold, and distributed via the Internet and U.S. Mail, computer software, and computer disks containing the software, designed to perpetuate chain or pyramid marketing programs, such as Mega\$Nets and MegaResource.
3. The acts and practices of respondent alleged in this complaint have been in or affecting commerce, as "commerce" is defined in Section 4 of the Federal Trade Commission Act.

MEGA\$NETS and MEGARESOURCE

4. Since July 1997 or earlier, respondent has induced consumers to participate in Mega\$Nets and MegaResource, two chain or pyramid marketing programs. Respondent promises consumers that by participating in these programs they can earn substantial profits. Respondent promotes the Mega\$Nets and MegaResource programs on web sites, such as

www.mkt-america.com, and in unsolicited electronic mail he sends or causes to be sent via the Internet.

5. Consumers who visit one of respondent's web sites can download copies of software programs that form the basis of the Mega\$Nets and MegaResource chain or pyramid marketing programs. Contained within the Mega\$Nets software program is a list of five (5) names and addresses. The software program and web sites direct a consumer to send twenty dollars to each of five people listed in the software in order for the consumer to get his or her name placed at the top of the list of names. According to the respondent, upon receiving the money, the five people on the list will send "access codes" to the consumer. These "access codes" then allow the consumer to "unlock" the software, delete the last name on the list, and insert his or her name on the top of the list.

6. The Mega\$Nets software program and the respondent's promotional materials instruct the consumer who follows this procedure to perpetuate the scheme by providing the software to others for free. To help the consumer provide the software to others for free, respondent, in his materials, urges the consumer to duplicate the software containing the consumer's name onto disks and then to distribute these disks through the mails. Respondent also urges the consumer to make the software available at a web site that the respondent creates and hosts for the consumer, and that is almost identical to the respondent's own web site. Moreover, respondent encourages the consumer to send unsolicited electronic mail to other persons, referring these persons to the consumer's Mega\$Nets web site.

7. MegaResource operates similarly to Mega\$Nets. Consumers can download a copy of the MegaResource software from one of the respondent's web sites. When a consumer sends twenty dollars to each of six persons on the list contained in the MegaResource software, the consumer receives "access codes" which "unlock" information contained in the software. The software purportedly contains information relating to marketing, such as lists of newspapers in which to advertise. Once all the information in the software is "unlocked," a consumer can place his or her name on the list contained in the MegaResource software and duplicate the software for distribution.

8. Respondent leases computer server space from a third party and "hosts" the Mega\$Nets and MegaResource web sites he creates for others on this server space -- *i.e.*, the computer files for the web sites are physically located on the computer hard drive of the third party from whom the respondent leases the space.

9. Respondent also composed and sent or caused to be sent hundreds of thousands of unsolicited electronic mail messages via the Internet to consumers directing them to web sites promoting the Mega\$Nets and MegaResource programs. These web sites promoting Mega\$Nets and MegaResource contained the statements alleged in Paragraph 10, below.

10. Respondent has disseminated or has caused to be disseminated advertisements for the Mega\$Nets and MegaResource programs, including, but not necessarily limited to, the attached Exhibits A-C. The respondent's web sites contain the following representations:

A. "Mega\$Nets is an easy to use yet sophisticated software program to help the average person get in on the fabulous profits being made in the computer networking age. . . . The potential for you to receive a tremendous income within a remarkably short period of time is to [sic] good to refuse!" (Exhibit A).

B. "The potential earnings so far could total \$15,000!" (Exhibit B)

C.
"The Multiplier Effect

HERE IT BECOMES AWESOME! Your next payment in the 4th position could be \$20 times 3125 which is \$62,500. Add that to your previous \$15,000, and the grand total is \$77,500. When the fifth and final position is reached, your name disappears from future duplicated disks. By then your TOTAL INCOME COULD BE \$312,500!!" (Exhibit B)

D. "We know people who are making money with MegaResource. Imagine what you can do wirth [sic] an extra \$20 or \$200 or \$2,000 per month -- everyone can use extra money!!" (Exhibit C)

11. Respondent has also created, designed, and disseminated World Wide Web sites for others to promote Mega\$Nets and MegaResource. These sites contain the Mega\$Nets and MegaResource software programs. A Mega\$Nets web site designed by the respondent states:

FREE!! FREE!! FREE!! Get a **FREE** webpage just like this one. Just be one of the first 25 people to take advantage of our **MEGA\$NETS** program. We will personalize a site for you.... for **FREE!!** (Exhibit A)

A MegaResource web site designed by the respondent states:

"Thanks for visiting the MEGARESOURCE webpage. We are making money -- the EASY WAY!! If you have any questions Please contact me ASAP - We are listed as your agent on your disk you can download for FREE HERE

Email us [HERE](#) to reserve your FREE webpage, like this one, and the ability to give out FREE webpages to anyone you want to." (Exhibit C)

FALSE AND UNSUBSTANTIATED EARNINGS CLAIMS

12. Through the means described in Paragraphs 4-11, respondents have represented, expressly or by implication, that all or virtually all consumers who participate in the Mega\$Nets and MegaResource programs earn substantial amounts of money.

13. In truth and in fact, most consumers who participate in the Mega\$Nets and MegaResource programs do not earn substantial amounts of money. Therefore, the representation set forth in Paragraph 12 was, and is, false or misleading.

14. Through the means described in Paragraphs 4-11, respondent has represented, expressly or by implication, that he possessed and relied upon a reasonable basis that substantiated the representation set forth in Paragraph 12, at the time the representation was made.

15. In truth and in fact, respondent did not possess and rely upon a reasonable basis that substantiated the representation set forth in Paragraph 12, at the time the representation was made. Therefore, the representation set forth in Paragraph 14 was, and is, false or misleading.

MEANS AND INSTRUMENTALITIES

16. By creating and designing for others web sites containing copies of the Mega\$Nets and MegaResource software programs, hosting these web sites on the server he leases, and composing and sending unsolicited electronic mail messages to consumers directing them to these web sites promoting Mega\$Nets and MegaResource, respondent provided the means and instrumentalities to others, and thereby acted in concert with others or knowingly and substantially assisted others, to engage in the deceptive acts or practices alleged in Paragraphs 4-14, above, in violation of Section 5(a) of the Federal Trade Commission Act.

17. The acts and practices of respondents as alleged in this complaint constitute unfair or deceptive acts or practices in or affecting commerce in violation of Section 5(a) of the Federal Trade Commission Act.

THEREFORE, the Federal Trade Commission this third day of November, 1998, has issued this complaint against respondent.

By the Commission.

Donald S. Clark
Secretary

SEAL: