

STATE OF MAINE
KENNEBUNK, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No.: CV-97-

STATE OF MAINE,
Plaintiff

v.

CLUB ATLANTA TRAVEL,
a Georgia Corporation
Defendant

COMPLAINT
(Unfair Trade Practices Act
5 M.R.S.A. §§206 - 216
Preliminary and Permanent Injunction)

INTRODUCTION

1. This is an action under the Maine Unfair Trade Practices, 5 M.R.S.A. §§ 206 - 216 (1989 and Supp. 1996) and the Maine Multi-Level Distributorships and Pyramid Clubs statute, 17 M.R.S.A. 2305 (1983), to obtain declaratory relief, a preliminary and permanent injunction prohibiting the Defendant from engaging in unfair and deceptive conduct, civil penalties, restitution, costs and attorney fees.

JURISDICTION AND PARTIES

2. Plaintiff State of Maine, a sovereign state, by and through the Attorney General, commences this action under 5 M.R.S.A. §§ 206 - 216, commonly known as the Unfair Trade Practices Act (hereinafter referred to as the "UTPA"), to protect the public by preventing and restraining Defendants from engaging in unfair and deceptive trade practices.

3. Defendant Club Atlanta Travel ("CAT") is a Georgia corporation, duly constituted under the laws of that jurisdiction. Defendant CAT has its principle headquarters in

Marietta, GA. CAT does business in several states including Maine.

4. Venue is properly located in Kennebunk County pursuant to 5 M.R.S.A. § 209.

STATUTORY BACKGROUND

Unfair Trade Practices Act

5. The operative provision of the Unfair Trade Practices Act ("UTPA"), 5 M.R.S.A. §207, renders it unlawful to engage in any unfair or deceptive acts or practices in the conduct of any trade or commerce. Intentional violations of the UTPA are subject to a penalty of up to \$10,000.00 per violation.

Multi-level Distributorships, Pyramid Clubs

6. 17 M.R.S.A. §2305 prohibits pyramid schemes. This statute prohibits pyramids which have the following characteristics:

- A. An arrangement which is a multi-level distributorship;
- B. Members are required to pay fees or dues to participate;
- C. A portion of payments by new members is paid or given to the members who recruited them;
- D. A chain process in which new members secure other new members and thereby advance their position for receiving a portion of the payments of the new members.

7. Such pyramid arrangements are declared to be both a Class E crime and a violation of the Maine Unfair Trade and Practices Act, 5 M.R.S.A. §207.

Transient Sales Act

8. The Maine Transient Sales Act, 32 M.R.S.A. §§4681-4690, prohibits the sale of goods or services by transient sellers who do not have a permanent place of business

in this state, unless the seller is registered with the Maine Department of Professional and Financial Regulation and has paid a registration fee and security deposit.

FACTUAL BACKGROUND

9. From August 1996 until the present the defendants have actively marketed a pyramid program in Maine based on the purchase of "Travel Marketing Centers" and travel vouchers called "CAT Passes".
10. A major component of this program is a multi-level recruitment plan whereby participants pay consideration to enter the program, after which they earn commissions by bringing other paying participants into the program.
11. The Defendant solicits participation in this program primarily through word of mouth, telephone recordings, printed materials and group meetings.
12. To become a CAT representative and owner of a Travel Marketing Center an individual can purchase from the Defendant at least one CAT Pass travel voucher, valued at \$1,000.00, by paying \$500.00 down. The representative must also pay the Defendant \$99.00 in order to receive processing of his application, a sales kit, and a newsletter.
13. To then "activate" this CAT Pass, the representative is required to sell two CAT Passes to two new recruits. Upon the recruitment of the two new participants the Defendant then credits the representative with the remaining \$500.00 of the CAT Pass purchase price.
14. These new participants become the representative's "down line", and their sales and recruitment efforts provide commissions back to the sponsoring representative

through Defendant's "binary" compensation plan.

15. The Defendant represents that the weekly earning potential for a CAT representative with one Travel Marketing Center can be as much as \$2,500.00. The Defendant also represents that a CAT representative can operate a total of seven Travel Marketing Centers, with a weekly earning potential of \$17,500.00

16. The Defendant does not have a permanent place of business in Maine.

CAUSES OF ACTION

COUNT ONE

(Violation of Multi-Level Distributorship Statute)

17. Plaintiff repeats, realleges and incorporates herein by reference paragraphs (1) to (16) of this Complaint.

18. The Defendant's conduct, as described in paragraphs (1) to (16) of this Complaint, constitutes a multi-level distributorship arrangement violation of 17 M.R.S.A. § 2305.

19. The Defendant's conduct constitutes an unfair and deceptive conduct in violation of violation of the Maine Unfair Trade Practices Act, 5 M.R.S.A. §207.

20. The Defendant's actions as described herein are intentional.

COUNT TWO

(Violation of Maine Transient Sales Act)

21. Plaintiff repeats, realleges, and incorporates here and by reference paragraphs (1) through (20) of this Complaint.

22. The Defendant has failed to register with the State as a Transient Seller, in violation of 32 M.R.S.A. §§4681-90.

23. Pursuant to 32 M.R.S.A. §4668, the Defendant's failure to register as a transient

seller constitutes a violation of the Maine Unfair Trade Practices Act, 5 M.R.S.A. §207.

24. The Defendant's unlawful conduct as described herein was intentional.

RELIEF REQUESTED

1. Declare that the Defendant has violated the Maine Multi-Level Distributorships statute, 17 M.R.S.A. § 2305.

2. Declare that the Defendant has engaged in unfair and deceptive acts or practices in violation of the Maine Unfair Trade Practices Act, 5 M.R.S.A. §§ 206 - 216.

3. Declare the Defendant has violated the Maine Transient Sales Act, 32 M.R.S.A. §4668.

4. Preliminarily and permanently enjoin the Defendant, their Agents, Assigns, Independent Contractors, or any person acting for Defendant or under their control from:

A. Promoting or engaging in any way in a multi-level distributorship which is in violation of 17 M.R.S.A. § 2305;

B. Engaging in any other unfair or deceptive acts or practices in violation of the Maine U.T.P.A., 5 M.R.S.A. §207.

C. Doing business in Maine without registering with the State as a Transient Seller.


5. Pursuant to 5 M.R.S.A. §209, order the Defendant to pay a civil penalty of up to \$10,000.00 per violation of the UTPA

6. Order the Defendant to pay restitution to persons injured by Defendant's unfair and deceptive conduct.

7. Order Defendant to pay to the Department of Attorney General its attorney fees and costs of investigation and suit.
8. Order the Defendant to contact all Maine residents who purchased a CAT Pass in order to participate in its multi-level distributorship program and inform them that CAT is no longer operating in Maine due to it's violation of Maine's Multi-Level Distributorship law, the Maine Unfair Trade and Practices Act, and the Maine Transient Sales Act.
9. Order such other and further relief as may be necessary to remedy the effects of the Defendants' unfair and deceptive practices.

ANDREW KETTERER
Attorney General

DATED: 5/5/97


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STATE OF MAINE
KENNEBEC, SS

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-97-101

STATE OF MAINE,)

Plaintiff)

v.)

CLUB ATLANTA TRAVEL,)
a Georgia Corporation)

Defendant)

CONSENT DECREE
(UNFAIR TRADE PRACTICES
ACT, 5 M.R.S.A §206-216)

Plaintiff, State of Maine, having filed a Complaint in the above-referenced matter, and Plaintiff and Defendant Club Atlanta Travel (C.A.T.) having consented to the entry of this Consent Decree, for purposes of settlement only, and without this Decree constituting evidence against or an admission of any party, and without trial of any issue of fact or law now, therefore, upon consent of the parties hereto, IT IS HEREBY ORDERED, as follows:

1. Defendant C.A.T., its agents, subsidiaries, assigns, independent contractors, or any person acting for C.A.T. or under its control is permanently enjoined from engaging in any of the following acts or practices in the State of Maine:

- A. Paying commissions to members of the C.A.T. multi-level organization, unless those commissions are based entirely on the sale of C.A.T. travel products.
- B. Paying commissions of any sort for the recruitment of new members of the C.A.T. multi-level marketing program.
- C. Requiring a person to purchase a C.A.T. travel product in order to become a member of the C.A.T. multi-level marketing program.



D. Misrepresenting to potential members of the C.A.T. multi-level marketing program the basis on which commissions are earned.

2. C.A.T. is ordered to register with the State as a Transient Seller, in full compliance with the requirements of 32 M.R.S.A. §4681-90, no later than two weeks after the date of this Consent Decree.

3. C.A.T. is ordered to make refunds to Maine members of its multi-level marketing program. This obligation shall be satisfied by C.A.T.'s compliance in full with the refund provisions set forth in the Consent Order and Judgment entered into by C.A.T. and the United States Securities and Exchange Commission. If for any reason C.A.T. is not required by an agreement with the United States Securities and Exchange Commission or by court order to make such refunds, the Maine Department of the Attorney General may apply to this Court for an appropriate refund order.

4. The Defendant shall pay to the Department of the Attorney General, pursuant to 5 M.R.S.A., §209, Unfair Trade Practices Act, civil penalties in the amount of \$5,000.00.

5. The Defendant shall pay to the Attorney General attorney's fees of \$1,375.00, (11 hours x \$125.00). The total monies required by paragraphs four and five - \$6,375.00- must be paid by C.A.T. by certified or bank cheque, payable to the Maine Department of the Attorney General, no later than May 19, 1997.

6. Jurisdiction is retained by this Court for the purposes of enabling any party of this Consent Decree to apply to this Court at any time for such further orders as may be necessary for the construction, modification, or enforcement of any other provision of this Decree and injunction, and for punishment pursuant to 5

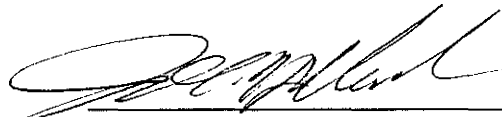


M.R.S.A., §209, including additional civil penalties, for any future violation of the provisions of this Consent Decree.

7. The undersigned acknowledge the terms of this Consent Decree and the entry of this Decree.

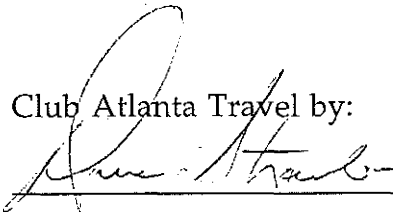
The Clerk is directed to incorporate this Order in the docket by reference pursuant to M.R. Civ. P. 79(a).

Dated: 5-14-97


Justice, Maine Superior Court


FOR THE DEFENDANT:

Dated: 4/28/97

Club Atlanta Travel by:


FOR THE PLAINTIFF:

Dated: 5/1/97


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