

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
Civil Action
Docket No. _____

THE STATE OF MAINE)	
)	
<u>Plaintiff</u>)	
)	
Vs.)	
)	Complaint For
KOSCOT INTERPLANETARY, INC., a)	Violation of
foreign corporation authorized)	Injunction
to do business under and by)	
virtue of the laws of the State)	
of Maine, having a place of)	
business in South Windham, in)	
the County of Cumberland, in)	
said State,)	
)	
<u>Defendant</u>)	

Now comes the State of Maine, by John E. Quinn, Assistant Attorney General, acting pursuant to the provisions of Title 5, M.R.S.A. §209, as amended and would respectfully show that:

1. Plaintiff was the moving party in a complaint for injunctive relief, as authorized under 5 M.R.S.A. 206-212, against Defendant which resulted in a Consent Judgment between the parties to that action. Said Judgment was effective from January 29th, 1971. Defendant, represented by its counsel, John N. Kelly, agreed to and approved the terms of the Permanent Injunction.

2. The Judgment read in part:

"ORDERED and ADJUDGED that the above named defendant advise any and all distributors that if such person can demonstrate that he purchased such distributorship relying on misrepresentations or material omissions of the defendant, its agents, employees, distributors, or subdistributors and as a

result of such reliance, has suffered damage, that the defendant will make restitution to such person of their full damages up to the amount paid for their distributorship plus interest in the amount of 6% from the date of notice to the defendant by a distributor of his desire for restitution; ...

ORDERED and ADJUDGED that the above named defendant make restitution to any and all persons thus entitled;".

Since the date of the Consent Judgment approximately eighty (80) Maine residents have filed claims for restitution, under the terms of the Judgment, amounting to more than two hundred and fifty thousand dollars (\$250,000.). Throughout the seven month period following the issuance of the Judgment, Defendant Koscot Interplanetary, Inc., has subverted the intent of the Judgment through its refusal to comply with either the letter or the spirit of those areas of the Judgment relating to restitution.

3. The Judgment further reads in part:

"The number of distributors (it is understood that this term shall include, but not be limited to, anyone who has been required to pay money to defendant or its agents or representatives for the privilege of selling the product and/or distributorships) in the State of Maine (this phrase shall be meant to include any resident of the State of Maine who purchases a distributorship regardless of where the distributorship is purchased as well as any non-resident who has purchased a distributorship in, from or for the State of Maine) shall not exceed 110. The number of distributors may be modified in writing by mutual agreement of the Attorney General and defendant.

Koscot Interplanetary, Inc., subject to approval by this Court.

ORDERED and ADJUDGED that the above named defendant be and are herewith permanently enjoined and ordered to cease and desist from representing:

(a) that purchasers of Koscot Interplanetary, Inc., can and do readily realize annual incomes of \$15,000. to as much as \$100,000. per year and can and do earn \$50,000. a year solely by selling cosmetics or other representations as to amount of earnings, without fully indicating the number of persons, their names and addresses, if any, in the State of Maine or elsewhere earning such sums, what proportion of these sums were earned from the sale of cosmetics, what proportion from the sale of distributorships, the position of the individual in the company at the time of these earnings (supervisor, director, state director, etc.) what average earnings are here in the State of Maine, as well as elsewhere, and other material facts relating to earnings from the sale of distributorships and products, including but not limited to, expenses of operation, investment, competition and territorial restrictions; ...

(f) that it is relatively easy for distributors to recruit and retain sales personnel without also disclosing the inherent difficulties in recruiting and retaining such sales personnel;...

ORDERED and ADJUDGED that pending such advisement to all distributors as stated above and the completion of restitution settlements, or pending further order of this Court, the above named defendant be enjoined and restrained from offering or

selling any distributorships within, from or for this State; ..."
Defendants, in violation of the above cited sections of the
Judgment, have attempted to sell additional distributorships in
the State of Maine and have further sought to bring about the
sale of these distributorships through the use of numerous
misrepresentations as well as the continuing failure to disclose
material facts to prospective purchasers in the State of Maine
since the date of the Consent Judgment.

4. It is further alleged that Defendant, Koscot, and
its agents have violated the intent of the Consent Judgment
through the use of misrepresentations calculated to induce
distributors in the State of Maine to forgo their right to
restitution under the terms of the Consent Judgment.

WHEREFORE, Plaintiff respectfully requests:

that this Court issue an order requiring Defendant,
Koscot Interplanetary, Inc., to appear before this Court to
show cause why:

(a) it should not forfeit and pay to the State
a civil penalty of upto \$10,000. for each violation of the
above described injunction;

(b) it should not tender to this Court the sum
of two hundred thousand dollars (\$200,000.) to be held as a
guarantee of compliance by the Defendant with the reasonable
and justifiable demands for restitution as decreed by the
Consent Judgment.

VERIFICATION

STATE OF MAINE

KENNEBEC, SS.

AUGUST 12, 1971

Personally appeared before me, John E. Quinn, Assistant Attorney General, representing the Plaintiff, who being under oath, did swear and affirm as follows:

That all of the statements, allegations and other matters set forth in the foregoing complaint are true and correct to his own knowledge, information or belief, and that as to such information and belief, he believes the information to be true.

Before me,

Jane A. Watson
Justice of the Peace

Issued at Augusta, Maine, this 12th day of August, 1971.

Respectfully submitted
State of Maine

by: John E. Quinn

JOHN E. QUINN
Assistant Attorney General
State House
Augusta, Maine 04330

1-29-71
THE STATE OF MAINE,

Plaintiff

vs.

KOSCOT INTERPLANETARY, INC., a
foreign corporation authorized
to do business under and by
virtue of the laws of the State
of Maine, having a place of
business in South Windham, in
the County of Cumberland, in
said State,

CONSENT JUDGMENT

Defendant

This matter having been presented to this Court by a
Complaint for Injunction and Counsel for the Plaintiff, James S.
Erwin, appearing by and through his representative, John E. Quinn
and the Defendant, Koscot Interplanetary, Inc., appearing by and
through its attorney, John M. Kelly; and it appearing that the
parties in this matter have mutually agreed and approved the
terms of the following Permanent Injunction:

FINDINGS

I.

Plaintiff complains of defendant, Koscot Interplanetary, Inc.
that it has been guilty of certain misrepresentations and material
omissions in the conduct of its business in the State of Maine.
While it consents to the entry of the Order, Defendant neverthe-
less denies the allegations of the complaint petition and asserts
that they do not countenance practices of the type alleged in said
papers.

II.

This Court has and shall retain jurisdiction of this suit
for the purpose of enforcing the provisions of this Decree.

shall include, but not be limited to, anyone who has been required to pay money to defendant or its agents or representatives for the privilege of selling the product and/or distributorships) in the State of Maine (this phrase shall be meant to include any resident of the State of Maine who purchases a distributorship regardless of where the distributorship is purchased as well as any non-resident who has purchased a distributorship in, from or for the State of Maine) shall not exceed 110. The number of distributors may be modified in writing by mutual agreement of the Attorney General and defendant, Koscot Interplanetary, Inc., subject to approval by this Court.] Accordingly, it is

ORDERED and ADJUDGED that the above named defendant (it is understood that said phrase shall include defendant's officers, agents, servants, employees and all persons in active concert or participation with them) be enjoined and restrained, and ordered to cease and desist, from conducting their business using any fraudulent or deceptive acts and practices, and from any and all acts in aid or furtherance thereof; and due deliberation having been had, it is

ORDERED and ADJUDGED that the above named defendant be and herewith are permanently enjoined and ordered to cease and desist from selling distributorships in, from or for the State of Maine through deceptive or fraudulent acts and practices, and from any and all acts in aid or furtherance thereof; and it is further

ORDERED and ADJUDGED that the above named defendant be ordered and directed to affirmatively disclose all relevant material facts to potential distributorship purchasers if representations are made as to some material facts; and it is further

of request thereof, by the Attorney General, any and all information and records pertaining to defendant's operations and sales in the State of Maine that might in any way affect the enforcement of this Decree and further that such information shall be held in strict confidence by the Attorney General unless directed otherwise by written order of this Court; and it is further

ORDERED and ADJUDGED that the above named defendant shall appoint, direct and supervise a competent and experienced individual or individuals who shall hold themselves available to render the types of assistance which may be reasonably expected of a director by his supervisor as described in Defendant's training manual, including but not limited to the training and assistance necessary to operate a profitable retail sales operation, for those supervisors who can reasonably demonstrate that such assistance has not been forthcoming from their directors; and it is further,

ORDERED and ADJUDGED that the above named defendant deliver a copy of this Consent Decree, within 20 days of the entering of said Decree along with a complete listing of all Maine residents their addresses, date of entry and relative position, at that time, within the framework of defendant who have purchased distributorships either here in Maine or elsewhere together with the names, addresses, date of purchase and relative position at that time within the framework of said defendant of any and all individuals who have purchased distributorships within, from or for the State of Maine, to any and all individuals on said list it is further

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[ORDERED and ADJUDGED that the above named defendant be and are herewith permanently enjoined and ordered to cease and desist from representing

to readily realize annual incomes of \$15,000. to as much as \$100,000. per year and can and do earn \$50,000. a year solely by selling cosmetics or other representations as to amount of earnings, without fully indicating the number of persons, their names and addresses, if any, in the State of Maine or elsewhere earning such sums, what proportion of these sums were earned from the sale of cosmetics, what proportion from the sale of distributorships, the position of the individual in the company at the time of these earnings (supervisor, director, state director, etc) what average earnings are here in the State of Maine, as well as elsewhere, and other material facts relating to earnings from the sale of distributorships and products, including but not limited to, expenses of operation, investment, competition and territorial restrictions;

(b) that the office of the Attorney General has ever granted approval to any aspect of defendant's operation;

(c) that defendant returns its corporate profit from the sale of "Flame of Hope" perfume to the Joseph P. Kennedy, Jr., Foundation or that defendant is the sole distributor for said perfume;

(d) that defendant will make available stock in defendant's company at reduced rates to distributors unless and until such plan, if any, is approved in accordance with both state and federal securities regulations or that profits are guaranteed if such stock;

(e) that employment is being offered through "want ads" when in fact such ads are being utilized to seek out potential investors;

(f) that it is relatively easy for distributors to recruit and retain sales personnel without also disclosing the inherent difficulties in recruiting and retaining such sales personnel;

It is further

any and all distributors that if such person can demonstrate that he purchased such distributorship relying on misrepresentations or material omissions of the defendant, its agents, employees, distributors, or subdistributors and as a result of such reliance has suffered damage, that the defendant will make restitution to such person of their full damages up to the amount paid for their distributorship plus interest in the amount of 6% from the date of notice to the defendant by a distributor of his desire for restitution; and it is further

ORDERED and ADJUDGED that pending such advisement to all distributors as stated above and the completion of restitution settlements, or pending further order of this Court, the above named defendant be enjoined and restrained from offering or selling any distributorships within, from or for this State; and it is further

ORDERED and ADJUDGED that the above named defendant shall forward, to the office of the Attorney General of the State of Maine within 15 days of receipt thereof, the names and addresses of any person who seeks restitution or settlement under the terms of this Judgment; and it is further

ORDERED and ADJUDGED that the above named defendant make restitution to any and all persons thus entitled; and it is further

ORDERED and ADJUDGED that the above named defendant be and are herewith permanently enjoined from otherwise violating the provisions of Maine Revised Statutes Annotated, Title 5, Section 206-212 (Unfair Trade Practices Act); and it is further

ORDERED and ADJUDGED that the Attorney General of the State of Maine may make such further application under the provisions of this Permanent Injunction, or maintain any action for such other and further relief as plaintiff may be advised is proper and necessary for the enforcement of this Permanent Injunction,

Sections 205-212 (Unfair Trade Practices Act) and all other provisions of law applicable thereto; and it is further

ORDERED and ADJUDGED that the above named defendant supervise and exercise reasonable control over the representations, acts and practices utilized by defendant's employees, agents and distributors to insure that no fraudulent or deceptive representations, acts or practices are utilized in violation of this judgment; and it is further

ORDERED and ADJUDGED that the above named defendant pay to the plaintiff the sum of eight hundred (\$800.00) dollars as cost of its suit herein.

Dated at Portland, Maine this 29th day of January, 1971.

Sidney W. Wernick

Sidney Wernick, Justice
Supreme Judicial Court

A True Copy.

Edward L. Bernstein

Clerk of Courts

ATTEST

STATE OF MAINE
CUMBERLAND, ss.

SUPERIOR COURT
Civil Action
Docket No. 70-1038

STATE OF MAINE,)
)
Plaintiff,)
)
vs.)
)
KOSCOT INTERPLANETARY, INC., a)
foreign corporation authorized to)
do business under and by virtue)
of the laws of the State of Maine,)
having a place of business in)
South Windham, County of Cumberland,)
State of Maine,)
)
Defendant.)
)

ORDER

Upon the motion of the Attorney General on behalf of the State of Maine charging the Defendant with contempt of the Consent Judgment entered by this Court and to carry out the restitution provisions agreed upon by the parties herein, it is,

ORDERED and ADJUDGED, that the Thirty Thousand (\$30,000) Dollars paid over by way of forfeiture to the State by the Defendant pursuant to 5 M.R.S.A. §209 and by order of this Court shall be utilized to carry out the restitution provisions of said Consent Judgment entered by the Court in this matter on January 29, 1971.

FURTHER, that those persons eligible to have their claims for restitution heard in accordance with orders issued in this proceeding shall be heard in accordance with the following procedures:

1. Claims for restitution pursuant to this Order shall be heard by a Referee appointed by this Court. Findings of the Referee shall be final and conclusive upon approval of this Court. There shall be no appeal from decisions of the Referee herein approved by this Court.

2. Only persons present at the hearing on this matter on October 1, 1971, and whose names appear in Exhibit "A" attached hereto and made a part hereof, shall be eligible to present their claims before the Referee. Claims shall be filed with the Cumberland County Superior Court Clerk no later than forty-five (45) days from the date of this Order, and shall be filed by the Attorney General of the State of Maine as attorney for the person making the claims, unless said person prefers an attorney of his own choice in which event it shall be filed by said attorney.

3. Persons who have, prior to said hearing, made claims for restitution pursuant to the Consent Judgment and whose names do not appear on Exhibit "A" may have their claims heard by said Referee only upon a showing of good cause to this Court why they were not present at said hearing having received notice thereof.

4. The existence of a remedy hereunder shall not preclude the right of any person to pursue any other remedy afforded by law. However, the commencement of the presentation of evidence before the Referee at a hearing called specifically as to any claim filed hereunder shall constitute a waiver of said claimant's right to any other remedy against the Defendant, KOSCOT INTER-PLANETARY, INC.,--except that any judgment relating to said claim rendered by any Court of competent jurisdiction and which has become final prior to the time of the commencement of the presentation of evidence before the Referee, as described aforesaid, shall be conclusive evidence of the rights of the parties involved in said claim and shall be so treated by the Referee.

5. Notice of this Order shall be sent by the Attorney General by certified mail, postage prepaid (said expenditure to be considered a cost incident to the proceedings) to all persons listed on Exhibit "A" hereof.

6. No claim shall be considered as validly filed pursuant to this Order unless it expressly acknowledges that notice of this Order has been received by the claimant and that the claimant agrees to be bound by all of the applicable provisions of this Order, including all of its special conditions and requirements.

Dated at Portland, Maine this day of October, 1971.

/s/ Sidney W. Wernick
SIDNEY W. WERNICK, Justice,
Supreme Judicial Court
Sitting in Superior Court