

STATE OF MAINE
KENNEBEC, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-01-

STATE OF MAINE,)
)
 Plaintiff)
)
 v.)
)
 JOHN L. NEDDEAU,)
)
 Defendant)

**COMPLAINT FOR
INJUNCTIVE AND OTHER RELIEF**

Plaintiff, the State of Maine, by its Attorney General, brings this action against Defendant, John L. Neddeau, d/b/a NASCAR Racing Gifting Club, and states as follows:

JURISDICTION AND VENUE

1. This action is brought for and on behalf of the State of Maine, by G. Steven Rowe, its Attorney General, pursuant to the provisions of the Unfair Trade Practices Act, (“UTPA”) 5 M.R.S.A. § 207, and his common law authority as Attorney General to represent the People of the State of Maine.

2. Venue for this action properly lies in Kennebec County, Maine, pursuant to 5 M.R.S.A. § 209.

PARTIES

3. The Attorney General of the State of Maine, is charged, *inter alia*, with the enforcement of the Unfair Trade Practices Act, 5 M.R.S.A. § 205-A *et seq.*

4. Defendant John L. Neddeau (hereafter referred to as “Neddeau”), an individual doing business as NASCAR Racing Gifting Club, resides at the address of 95

Summit Street, Baileyville, Maine and has a mailing address of P.O. Box 1062, Woodland, Maine 04694.

COMMERCE

5. Subsection 1 of the Unfair Trade Practices Act defines “trade” and “commerce” as follows:

“Trade” and “commerce” shall include the advertising, offering for sale, sale or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity or thing of value wherever situate, and shall include any trade or commerce directly or indirectly affecting the people of this State.

6. The Defendant was at all times relevant hereto engaged in trade and commerce in the State of Maine by advertising, promoting, offering for sale, selling and distributing intangible property, specifically, the right to invest or participate in the NASCAR Racing Gifting Club.

DEFENDANT’S COURSE OF CONDUCT

A. Defendant’s Gifting Program

7. During the Spring of 2001, Defendant was engaged in an unincorporated business in the State of Maine which he refers to as the “NASCAR Racing Gifting Club”.

8. Defendant actively solicited and sold the opportunity to participate in the NASCAR Racing Gifting Club from a barn in Eastport, Maine and from a garage in Woodland, Maine.

9. Defendant garnered participation in the gifting club by soliciting individuals to pay \$5,000 and receive a position as a “racing fan” on a “board”. Typically, there are fifteen positions on a board and as an individual moves up the board, he would become a

“driver”. Upon reaching “driver” status, a participant is supposed to receive a return of \$40,000.

10. Participants are paid from the proceeds paid by newly recruited members. Defendant enticed participants to join this gifting club by promising returns of \$40,000. Defendant’s gifting scheme relies on the recruitment of additional persons to participate, and the plan requires an infinite number of new members to succeed.

11. Defendant occasionally hosted and/or encouraged others to host gifting club meetings.

12. In his efforts to advance the marketing and sale of his pyramid scheme, Defendant represented to potential investors that the NASCAR Racing Gifting Club was a legal method of investing and receiving income without paying any income taxes.

13. Defendant also routinely represented to potential investors that the NASCAR Racing Gifting Club was not an illegal pyramid scheme and that attorneys had reviewed it and determined that it was legal.

14. The NASCAR Racing Gifting Club is in actuality a pyramid scheme that is an illegal lottery under Maine law.

15. NASCAR is an acronym for National Association for Stock Car Auto Racing. It is a for-profit corporation which has not consented to the use of its trade name for purposes of promoting the Defendant’s pyramid scheme.

B. Specific Illustrations of Defendant Neddeau’s Conduct

16. Defendant Neddeau’s acts and practices complained of above are ongoing. In one illustrative, nonexclusive example, in approximately mid-March 2001, a Woodland, Maine participant was informed about a local club named NASCAR Racing Gifting Club.

After learning of this opportunity, he went to a meeting at a big barn in Eastport.

Approximately 300 men attended the meeting. At the meeting this participant was told that the scheme was legal and that he would make money. Relying on this information, he gave \$5,000 to John Neddeau.

17. Another Woodland, Maine participant went with four or five friends to the meeting in the barn in Eastport in mid-March of this year. The following week he attended a meeting hosted by John Neddeau at Ranier's Garage in Woodland. This participant and those accompanying him all handed John Neddeau \$5,000 to join the NASCAR Racing Gifting Club at the meeting in Woodland. This participant paid \$5,000 with the expectation of receiving a return of \$40,000.

18. These participants have asked John Neddeau to return their money and he has refused.

APPLICABLE STATUTES

19. Pursuant to the UTPA, 5 M.R.S.A. § 207:

Unfair methods of competition and unfair or deceptive acts or practices in the conduct of any trade or commerce are declared unlawful.

20. Pursuant to 10 M.R.S.A. § 1212(1)(B):

A person engages in a deceptive trade practice when, in the course of his business, vocation or occupation, he [c]auses likelihood of confusion or of misunderstanding as to the source, sponsorship, approval or certification of goods or services.

21. Pursuant to 17 M.R.S.A. § 2305:

The organization of any multi-level distributorship arrangement, pyramid club or other group, organized or brought together under any plan or device whereby fees or dues or anything of material value to be paid or given by

members thereof are to be paid or given to any other member thereof who has been required to pay or give anything of material value for the right to receive such sums, with the exception of payments based exclusively on sales of goods or services to persons who are not participants in the plan and who are not purchasing in order to participate in the plan, which plan or device includes any provision for the increase in such membership through a chain process of new members securing other new members and thereby advancing themselves in the group to a position where such members in turn receive fees, dues or things of material value from other members, is declared to be a lottery, and whoever shall organize or participate in any such lottery by organizing or inducing membership in any such group or organization shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$5,000 or by imprisonment for not more than 11 months, or by both.

A violation of this section shall constitute a violation of Title 5, chapter 10, Unfair Trade Practices Act.

VIOLATIONS

COUNT I

(Violation of the Unfair Trade Practices Act – Deceptive Conduct)

22. The Plaintiff repeats the preceding paragraphs of the Complaint.

23. Defendant, in conjunction with his conduct set forth herein above, has engaged in a course of trade or commerce which constitutes unfair and deceptive conduct declared unlawful under 5 M.R.S.A. § 207, by representing to Maine participants that the NASCAR Racing Gifting Club was not illegal when in fact it is a pyramid scheme that is an illegal lottery in Maine, by falsely representing that the NASCAR Racing Gifting Club is a tax free way to earn income, and by using the trade name “NASCAR” without permission, falsely implying that the organization was sponsored by or associated with that entity.

24. The Defendant's conduct as described in this Count constitutes deceptive acts or practices and intentional violations of 5 M.R.S.A. § 207.

COUNT II

(Violations of the Unfair Trade Practices Act – Unlawful Pyramid)

25. The Plaintiff repeats the preceding paragraphs of the Complaint.

26. Defendant, in conjunction with his conduct set forth herein above, has engaged in a course of trade or commerce declared unlawful under 17 M.R.S.A. § 2305, by selling, offering to sell and attempting to offer to sell the right to participate in a pyramid sales scheme, namely the NASCAR Racing Gifting Club.

27. The Defendant's conduct described in this Count constitutes intentional violations of 5 M.R.S.A. § 207.

REMEDIES

28. 5 M.R.S.A. § 209 provides:

Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by section 207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the court may make such other orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice.

29. 5 M.R.S.A. § 209 also provides that each intentional violation of section 207 in which the Attorney General establishes that the conduct giving rise to the violation is

either unfair or deceptive is a violation for which a civil penalty of not more than \$10,000 shall be adjudged.

30. 5 M.R.S.A. § 209 provides that in any action under this section where a permanent injunction is issued, the court may order the person against whom the permanent injunction has been issued to pay the State the costs of the investigation of that person by the Attorney General and the costs of the suit.

PRAAYER FOR RELIEF

WHEREFORE, the Plaintiff requests this honorable Court enter an order:

A. Finding that the Defendant has violated 5 M.R.S.A. § 207, the Maine Unfair Trade Practices Act, by making misrepresentations to consumers regarding the NASCAR Racing Gifting Club;

B. Finding that the Defendant has violated 17 M.R.S.A. § 2305 by selling an illegal pyramid;

C. Permanently enjoining Defendant from engaging in the business of advertising, marketing, distributing, selling and offering to sell a right to participate in a pyramid sales scheme in the State of Maine in violation of the Unfair Trade Practices Act;

D. Declaring that all contracts entered into between Defendant and Maine consumers by the use of methods and practices declared unlawful are rescinded and requiring Defendant to disgorge all funds received through the NASCAR Racing Gifting Club;

E. Assessing a civil penalty in the amount of Ten Thousand Dollars (\$10,000) per intentional violation of the Unfair Trade Practices Act;

F. Requiring Defendant to pay all costs and attorneys fees for the prosecution and investigation of this action, as provided by 5 M.R.S.A. § 207 of the Unfair Trade Practices Act; and

G. Providing such other and further equitable relief as justice and equity may require, including an accounting of all moneys collected and expended by Defendant in connection with the NASCAR Racing Gifting Club.

G. STEVEN ROWE
Attorney General of Maine

FRANCIS ACKERMAN
Chief, Public Protection Division

Dated: September 4, 2001



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