

Revised Synopsis

SYNOPSIS OF FEDERAL TRADE COMMISSION DECISIONS
CONCERNING BUSINESS OPPORTUNITIES ADVERTISING

The Federal Trade Commission has determined that the following practices used in the advertising or promotion of business opportunities are deceptive or unfair and are unlawful under Section 5(a) (1) of the Federal Trade Commission Act.

1. It is an unfair or deceptive trade practice to make false, misleading or deceptive representations concerning profits or earnings which may be anticipated by a prospective purchaser of a business opportunity. 1/

2. It is an unfair or deceptive trade practice to represent that a substantial number of distributors have made or can make the profits indicated in a representation,

1/ Opinions of Commission in National Dynamics Corp., Docket No. 8803, 82 FTC 488, 512-13, 543-44 (1973), adopting initial decision except as to order provisions, 82 FTC at 568, appeal denied in part and cause remanded in part, 492 F.2d 1333 (2d Cir. 1974), opinion of the Commission on remand, 85 FTC 391, modified, 85 FTC 1052 (1975), Universal Credit Acceptance Corporation, Docket No. 8821, 82 FTC 570, 591-600, 633 (1973), set aside in part sub. nom., Heater v. FTC, 503 F.2d 321 (9th Cir. 1974); Universal Electronics Corporation, Docket No. 8815, 78 FTC 265, 271-74, reconsideration den., 78 FTC 1576 (1971); Windsor Distributing Company, Docket No. 8873, 77 FTC 204, 212-17, 220 (1970), aff. and enforced, 437 F.2d 443 (3rd Cir. 1971); Waltham Watch Company, Docket No. 7997, 60 FTC 1692, 1710, 1724 (1962) aff., 318 F.2d 28 (7th Cir. 1963), cert. denied, 375 U.S. 944 (1963), rehearing den., 375 U.S. 998 (1964); Washington Mushroom Industries, Inc., Docket No. 6273, 53 FTC 368, 370, 376, 379-380 (1956); Von Schrader Manufacturing Company, Docket No. 3924, 33 FTC 58, 63-65 (1941).

when no more than a few distributors have made that high a profit, 2/ when the earnings represented far exceed the earnings normally received by distributors, 3/ or when the representation is made without knowledge, or with only limited knowledge, of the actual profits or earnings normally received by distributors. 4/ The Commission has determined that the following types of representations have the tendency and capacity to lead members of the public to believe that "a substantial number of distributors have made or can make the profits indicated in a representation", as that phrase is use in this Paragraph:

a. The representation of an earnings figure, not accompanied by specific limiting and explanatory language, has the capacity and tendency to lead members of the public to believe that a substantial number of distributors will regularly earn the figure indicated in the representation. 5/

b. The attribution of earnings figures to specific distributors, not accompanied by specific explanatory and cautionary language, has the capacity and tendency to lead members of the public to believe that a substantial number of distributors will regularly earn the amount attributed to the specific distributor(s) identified in the representation. 6/

2/ Opinion of Commission in National Dynamics Corp., supra, note 1, adopting initial decision, 82 FTC at 513, 564.

3/ Opinions of Commission in National Dynamics Corp., supra, note 1, 82 FTC at 565; Windsor Distributing Co., supra, note 1, adopting initial decision, 77 FTC at 214, 216; Von Schrader Manufacturing Co., supra, note 1, 33 FTC at 64-65.

4/ Opinion of Commission in Von Schrader Manufacturing Corp., supra, note 1, 33 FTC at 64.

5/ Opinion of Commission in National Dynamics Corp., supra, note 1, 82 FTC at 564-5, adopting initial decision, 82 FTC at 512, cf., opinion of Commission on remand, 85 FTC 391 (1975) (see n.1 for full cite).

6/ Opinion of Commission in National Dynamics Corp., supra, note 1, 82 FTC at 564, adopting initial decision, 82 FTC at 511-12, cf., opinion of Commission on remand, 85 FTC 391 (1975) (see n.1 for full cite).

3. It is an unfair or deceptive trade practice to make false, misleading or deceptive representations to purchasers regarding the business arrangements, operations and benefits of a business opportunity. 7/

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7/ Opinions of Commission in Universal Credit Acceptance Corporation, supra, note 1 at pp. 600-33; Universal Electronics Corporation, supra, note 1, at pp. 271-74; Windsor Distributing Company, supra, note 1, at pp. 212-17, 220; Waltham Watch Company, supra, note 1, at pp. 1703-16, 1724-25; Washington Mushroom Industries, Inc., supra, note 1; Von Schrader Manufacturing Company, supra, note 1, at pp. 64-65.