

## **EXHIBIT J**

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12

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14

15 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA  
16 FOR THE COUNTY OF LOS ANGELES  
17

18 PEOPLE OF THE STATE OF CALIFORNIA,  
19

20 Plaintiffs,  
21  
22 v.  
23  
24  
25  
26  
27

28 FORTUNE HI-TECH MARKETING, INC. aka  
29 FHTM.NET, a Kentucky Corporation, Paul C. Orbersen,  
30 an individual, Thomas Mills, an individual, Ruel Morton,  
31 an individual, Todd Rowland, an individual Chris Doyle,  
32 an individual, Mike Misenheimer, an individual and  
33 DOES 1-1000,  
34  
35 Defendants.  
36  
37

EXEMPT FROM FILING FEES PURSUANT  
TO GOVERNMENT CODE § 6103

Case No.:  
COMPLAINT FOR PERMANENT  
INJUNCTION, CIVIL PENALTIES,  
RESTITUTION AND OTHER  
EQUITABLE RELIEF.

VERIFIED ANSWER REQUIRED  
PURSUANT TO CALIFORNIA  
CODE OF CIVIL PROCEDURE  
SECTION 446 INCLUSIVE

1 The People of the State of California allege on information and belief as follows:

2  
3 **INTRODUCTION**

4  
5 1. Defendants operate an unlawful endless chain scheme (pyramid scheme) that  
6 relies on untrue and misleading representations and unlawful, unfair, and fraudulent business  
7 practices that include violations of laws regulating the sale of seller assisted marketing plans,  
8 franchises, and travel discount plans.

9  
10 2. While Defendants purport to be in the business of selling name brand services,  
11 including, but not limited to wireless, satellite television, home security, vitamins, nutritional  
12 products and travel services, their real business is the operation of a pyramid scheme that relies  
13 on the sale of essentially worthless websites they refer to as "office assistant" and "Trot Hop".  
14 For the opportunity to own and operate an online business, consumers pay Defendants over  
15 \$1,000 per year.

16  
17 3. To entice consumers to participate in their scheme, Defendants make untrue or  
18 misleading claims with respect to their partnerships with Fortune 100 companies such as Verizon  
19 Wireless, GE Security, Dish Networks and Travelocity amongst others and that consumers can  
20 become millionaires in three to five years. However, in 2009, consumers paid over \$200 million  
21 to Defendants for fees and websites, but made only \$10 million in residual commissions in a  
22 business Defendants advertised as the "easiest way to make money" and earn "serious residual  
23 income" without any selling. Of the more than 100,000 consumers who purchased the right to  
24 market defendants products and/services or maintained Defendants' websites during 2009, 82%  
25 failed to earn a single residual commission of over \$20.00 -- not even on their own personal  
26 purchases. The typical participant made little or no money on the sale of defendant's products  
27 and services. Furthermore, the typical annual residual commission earned was less than the cost  
28 of just one month for a consumer to maintain his or her website. Even among those California  
29 residents who participated in Defendants' program for at least one year from April 1, 2008 to  
30 March 31, 2009, and who paid Defendants at least \$500, 75 percent did not sell any services to  
31 customers outside of themselves and 81 percent made less residual income on the sale of  
32 products than the cost of one month's use of their website and tools.

33  
34 4. While the vast majority of consumers made nothing selling services, Defendants  
35 generated 85.5% of their net revenue of over \$500 million dollars from the sale of websites and  
36 annual fees. Another 10% was generated through the sale to consumers of training and marketing  
37 materials. Only 4.5% of Defendants' net revenue was generated from the sale of products and  
38 services. In short, Defendants sell an illegal pyramid scheme that uses the minor, incidental sale  
39 of products as a front for their scheme.

40  
41 **JURISDICTION AND VENUE**

42  
43 5. The People are represented by Edmund G. Brown Jr., the Attorney General of the  
44 State of California, who is authorized to bring this unfair competition and untrue or misleading  
45 advertising action in this court by Business and Professions Code sections 17206 and 17536.

1         6.         Venue in this court is proper pursuant to Code of Civil Procedure section 393  
 2 because the alleged violations occurred in Los Angeles County and throughout the State of  
 3 California.

4  
 5                          DEFENDANTS  
 6

7         7.         Defendant Fortune Hi-Tech Marketing, Inc. (FHTM) sells business opportunities  
 8 via a multilevel marketing commission structure. FHTM collects and pays sales and travel  
 9 commissions. Defendant Paul C. Orberson is the Founder of Fortune Hi-Tech Marketing, Inc.  
 10 Defendant Thomas Mills is a founder of the corporate defendants and the chief executive officer  
 11 of FHTM. Defendant Ruel Morton is the top money earner of the corporate defendants and one  
 12 of its 7 Presidential Ambassadors. Defendant Todd Rowland is the number two money earner of  
 13 the corporate defendants, one of its 7 Presidential Ambassadors as well as President of Todd &  
 14 Ashley, Inc., Mike Misenheimer is a top money earner of the corporate defendants and one of its  
 15 7 Presidential Ambassadors and Chris Doyle is a top money earner of the corporate defendants  
 16 and one of its 7 Presidential Ambassadors.

17  
 18         8.         Plaintiff is unaware of the true names and capacities of the all the defendants sued  
 19 herein as DOES 1 through 1000, inclusive, and therefore, pursuant to section 474 of the Code of  
 20 Civil Procedure, sues these defendants by such fictitious names. Defendants DOES 1 through  
 21 1000 are responsible in some manner for the activities alleged herein and each was acting as an  
 22 agent for the others. The People will amend this Complaint to add the true names of DOES 1  
 23 through 1000 once they are ascertained. Whenever reference is made to Defendants, such  
 24 reference shall include all defendants including DOES 1 through 1000.

25  
 26         9.         At all relevant times, each of the Defendants acted as a principal, agent,  
 27 representative, or employee of each of the other Defendants and acted within the course and  
 28 scope of said agency or representation or employment, and with the permission and ratification  
 29 of the Defendants.

30  
 31         10.         At all relevant times, each Defendant knew or realized that the other Defendants  
 32 were engaging in or planned to engage in the violations of law alleged in this complaint.  
 33 Knowing or realizing that other Defendants were engaging in such unlawful conduct, each  
 34 Defendant nevertheless facilitated the commission of those unlawful acts. Each Defendant  
 35 intended to, and did, encourage, facilitate, or assist in the commission of the unlawful acts, and  
 36 thereby aided and abetted the other Defendants in the unlawful conduct.

37  
 38         11.         Defendants have also engaged in a conspiracy, common enterprise, and common  
 39 course of conduct, the purpose of which is and was to engage in the violations of law alleged in  
 40 this complaint. The conspiracy, common enterprise, and common course of conduct continue to  
 41 the present.

1    **FIRST CAUSE OF ACTION**  
2

3    **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**  
4    (Unfair Competition)

5  
6    12. Plaintiff re-alleges and incorporates herein by this reference paragraphs 1 through  
7    11, inclusive, as set forth here in full.

8  
9    13. Defendants have engaged in unlawful, fraudulent, or unfair acts or practices in the  
10    conduct of a business, which acts or practices constitute unfair competition within the meaning  
11    of Section 17200 of the Business and Professions Code. Defendants' acts or practices include,  
12    but are not limited to:

13  
14    a. Defendants operate an illegal endless chain scheme in violation of  
15    California Penal Code section 327 in that consumers pay Defendants hundreds and/or thousands  
16    of dollars each for online travel agencies and related materials for the chance to receive  
17    commissions and bonuses from Defendants as a result of consumers' recruitment of new  
18    participants to purchase and sell such online services<sup>1</sup> and additional persons into participation in  
19    the scheme or for the chance to receive compensation when a person introduced by the  
20    participant introduces a new participant.

21  
22    b. Defendants engage in violations of the Seller Assisted Marketing Plan  
23    (SAMP) Act<sup>2</sup>, Civil Code section 1812.200 *et seq.*, as set forth below:

24  
25    (1) Defendants charge consumers a total initial payment exceeding  
26    \$500 but less than \$50,000, for their own "online business opportunity" and  
27    represent,

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<sup>1</sup> 1. California Penal Code section 327 defines an "endless chain" as:

"[A]ny scheme for the disposal or distribution of property whereby a participant pays a valuable consideration for the chance to receive compensation for introducing one or more of each of the other Defendants."

2. California Civil Code section 1812.201(a), in pertinent part, defines a SAMP as:

"[A]ny sale or lease or offer to sell or lease any product, equipment, supplies, or services that requires a total initial payment exceeding five hundred dollars (\$500), but requires an initial cash payment of less than fifty thousand dollars (\$50,000), that will aid a purchaser or will be used by or on behalf of the purchaser in connection with or incidental to beginning, maintaining, or operating a business when the seller assisted marketing plan seller has advertised or in any other manner solicited the purchase or lease of the seller assisted marketing plan and done any of the following acts:

"(1) Represented that the purchaser will earn, is likely to earn, or can earn an amount in excess of the initial payment paid by the purchaser for participation in the seller assisted marketing plan.

"(2) Represented that there is a market for the product, equipment, supplies, or services . . . sold or leased or offered for sale or lease to the purchaser by the seller assisted marketing plan seller...."

3. Corporations Code section 3.1005 defines a "Franchise" as a contract or agreement by which:

"(1) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor;

"(2) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logo-type, advertising or other commercial symbol designating the franchisor or its affiliate; and

"(3) The franchisee is required to pay, directly or indirectly, a franchise fee.

1 explicitly and implicitly, that consumers can earn well in excess of the amount  
2 charged by Defendants, and that there is a significant market for the purchase of  
3 travel through these online travel agencies.  
4

5 (2) Defendants, in violation of Civil Code section 1812.203(a), have  
6 solicited and sold their SAMP to California residents, and advertised and made  
7 representations about Defendants' SAMP without first having obtained a "Notice  
8 of Filing" from the Attorney General.  
9

10 (3) Defendants, in violation of Civil Code sections 1812.205 and  
11 1812.206, have failed to provide required disclosures for SAMPs.  
12

13 (4) Defendants' contracts, in violation of Civil Code section 1812.207,  
14 provide that Kentucky law, not California law, governs Defendants' SAMP sold  
15 to California residents.  
16

17 (5) Defendants, in violation of Civil Code section 1812.209  
18 subsections (a), (c), (d), (e), (h), and (i), fail to include required terms in their  
19 contract.  
20

21 c. Defendants, in violation of Corporations Code Section 31110, sell an  
22 online franchise without having registered the offering with the Department of Corporations.  
23

24 d. Defendants operate a "business mill" to permit and encourage consumers  
25 to hold themselves out as sellers of wireless, television, security systems and travel through the  
26 use of credentials purporting to identify them as authorized agents of fortune 100 companies and  
27 are thus eligible for discounts, upgrades, or other courtesies.  
28

29 e. Defendants, in violation of Business and Professions Code section  
30 17550.26, sell a Discount Business Program to consumers ineligible to join and without making  
31 required disclosures.  
32

33 f. Defendants, in violation of California Business and Professions Code  
34 section 17550.27, sell a Business Program that illegally requires an annual charge in excess of  
35 \$150 and that fails to provide purchasers their right of cancellation.  
36

37 g. Defendants, in violation of California Business and Professions Code section  
38 17500 *et seq.*, make untrue or misleading representations and fail to make material disclosures.  
39

40  
41 **SECOND CAUSE OF ACTION**  
42 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**  
43 **(Untrue or False Advertising)**  
44

45 14. Plaintiff re-alleges and incorporates herein by this reference paragraphs 1 through  
46 13, inclusive, as though set forth here in full.  
47

1        15. Defendants, with the intent to induce members of the public to purchase their  
2 products and services, have made and caused to be made representations concerning the products  
3 and services and concerning circumstances and matters of fact connected with the proposed  
4 performance or disposition thereof, which Defendants knew, or by the exercise of reasonable  
5 care should have known, were untrue or misleading at the time they were made. Such  
6 misrepresentations include, but are not limited to, the following:

7              a. Purchasers of Defendants' business opportunity will easily make hundreds  
8 or thousands of dollars in residual commissions with little or no selling, when in fact only a tiny  
9 fraction of their consumers actually earn enough money to offset the required fees;

10             b. Sale of Defendants products/services to friends and family alone will earn  
11 consumers residual commissions of hundreds or thousands of dollars, when in fact the median  
12 annual residual commission actually earned is less than \$100;

13             c. Minimal effort by the consumer will earn thousands of dollars in residual  
14 commissions and increased effort by the consumer can earn \$5,000 to \$10,000 in travel when in  
15 fact almost no consumers manage to earn such amounts through the sale of travel;

16             d. Using examples of large residual sales commissions and earnings to  
17 induce consumers to believe they can earn significant income through the sale of Defendant's  
18 products and services including travel, when in fact the typical consumer sells little or no  
19 services outside of his/her household in a 12-month period and earns virtually nothing from the  
20 sale of the defendants products and services;

21             e. The financial benefits of Defendants' business opportunity will easily  
22 offset the cost of the fees consumers pay, when in fact the vast majority of consumers lose  
23 money;

24             f. Defendants operate a legitimate business, when in fact it is an illegal  
25 pyramid scheme; and

26             g. Consumers are guaranteed substantial earnings if they purchase certain  
27 marketing materials from Defendants, when in fact few consumers earn a profit and the vast  
28 majority lose money to Defendants.

29             h. Defendants' business has experienced "spectacular" growth and will  
30 continue to grow, when in fact the attrition rate of participants is extraordinarily high, and as  
31 with all pyramid schemes, the advertised growth is unsustainable.

32             i. Defendants have sold millions of dollars of wireless, satellite television  
33 services, security systems, nutritional products and travel services, when in fact much of their  
34 sales is their own participants' purchases of products and services sold to other participants in  
35 their endless chain scheme.

## PRAYER FOR RELIEF

WHEREFORE, the People pray for judgment as follows:

1. Pursuant to Business and Professions Code sections 17203 and 17535, that all Defendants, their successors, agents, representatives, employees, and all persons who act in concert with them be permanently enjoined from making any untrue or misleading statements or committing any acts of unfair competition;

2. Pursuant to Business and Professions Code sections 17205 and 17536, that the Court assess a civil penalty of \$2,500 against each Defendant for each violation of Business and Professions Code sections 17200 and 17500 alleged in the Complaint, in an amount of at least \$50,000,000;

3. Pursuant to Business and Professions Code sections 17203 and 17535, that Defendants be ordered to give full restitution to all California consumers who purchased their SAMP or franchise in a total amount of at least \$25,000,000;

4. For such other and further relief the Court deems just and proper; and

5. That the People recover their costs of suit.

DATED: March 27, 2010

EDMUND G. BROWN, JR.

**Attorney General**

ALBERT NORMAN SHELDEN

**Senior Assistant Attorney General**

## SANFORD FELDMAN

**Supervising Dept.**

# LORT FORCUTTI

## JAMES M. TOMA

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**Deputy Attorney General**

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The People of the State of California