

IN THE MATTER OF

SANDCASTLE CREATIONS, ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT

Docket C-3484. Complaint, Mar. 17, 1994--Decision, Mar. 17, 1994

This consent order prohibits, among other things, the Oregon-based respondents, who marketed potholders and mohair for use as doll's hair, from making any material misrepresentations regarding earnings or profits of participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for, which the respondents are offering a work opportunity. In addition, the order sets a \$536,000 redress payment, however, based upon financial statements submitted by the respondents, the order suspends all redress payments, except for a \$25,000 payment by the individual respondents in this matter.

Appearances

For the Commission: *Gerald E. Wright and Jeffrey Klurfeld.*

For the respondents: *James Brown, Enfield, Guimont & Brown,*
Salem, OR.

COMPLAINT

The Federal Trade Commission, having reason to believe that William E. Taylor and Susan L. Taylor, individually, and trading and doing business as Sandcastle Creations ("respondents"), have violated Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it would be in the public interest, alleges:

PARAGRAPH 1. Respondents William E. Taylor and Susan L. Taylor are individuals, trading and doing business as Sandcastle Creations, an unincorporated association, with its principal office and place of business located at 126 S.E. 1st Street, Newport, Oregon.

Respondent William E. Taylor is a co-owner of Sandcastle Creations. Individually or in concert with others, he formulates, directs and controls the policies, acts and practices of Sandcastle Creations and his address is the same as that of Sandcastle Creations.

Respondent Susan L. Taylor is a co-owner of Sandcastle Creations. Individually or in concert with others, she formulates, directs and controls the policies, acts and practices of Sandcastle Creations and her address is the same as that of Sandcastle Creations.

PAR. 2. Respondents have disseminated advertising seeking individuals to assemble craft items and clean goat hair at home, and have offered for sale and sold introductory kits to individuals who accept their offers to engage in such work.

PAR. 3. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

PAR. 4. Respondents have disseminated, and have caused to be disseminated advertisements, promotional literature, and agreements relating to their income opportunities, including but not necessarily limited to the attached Exhibits A to C. These materials contain the following statements:

\$345.50 WEEKLY POSSIBLE! Make kitchen potholders at home! Turn your skills into dollars! Start immediately. Send \$1.00 + SASE ...

MAKE POTHOLDERS AT HOME

WE PAY UP TO \$277.50 WEEKLY!!

Work at Home! Make Money! Have Fun!
Start Immediately!

CLEAN MOHAIR FOR DOLL HAIR!

WE PAY UP TO \$360.00 WEEKLY!

This is our Best Money Making Home Business!

If you are serious about working at home for yourself and you want to make extra money, this can be an excellent home business!

PAR. 5. Through the use of the statements contained in the materials referred to in paragraph four, including but not necessarily limited to the materials attached as Exhibits A to C, respondents have represented, directly or by implication, that the stated dollar amounts constitute the weekly earnings regularly realized over a substantial period of time by an appreciable number of independent assemblers of respondents' products.

PAR. 6. In truth and in fact, independent assemblers of respondents' products have not regularly realized over a substantial period of time the weekly earnings represented. Only a small percentage of persons who assembled products for respondents have regularly derived earnings from their work, and none has achieved over a substantial period of time the weekly earnings represented. Therefore, the representations set forth in paragraph five were, and are, false and misleading.

PAR. 7. The acts and practices of respondents as alleged in this complaint, constitute unfair and deceptive acts or practices in or affecting commerce in violation of Section 5(a)(1) of the Federal Trade Commission Act.

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EXHIBIT A

**MAKE POTHOLDERS
AT HOME**

WE PAY UP TO \$277.50 WEEKLY!!

***Work at Home! Make Money! Have Fun!
Start Immediately!***

Sandcastle Creations purchases from independent people like you all over America who make crafts for fun and money. This is not a 'get rich quick' scheme. While we are happy to purchase the maximum amount from you, we find that the majority of producers do not work at this full time. Rather, this project typically appeals to people who are looking to produce a craft item that earns them extra money in their spare time. The craft items we currently buy are beautifully handcrafted kitchen potholders. The design is "Max, the Country Cat," a machine sewn padded mitten with simple embroidery for the outline facial features of a cat. The design is original, and many of our producers say they are fun and easy to sew!

Turn Your Skills into Dollars!

Sandcastle Creations will pay you \$92.50 for each unit of (29) potholders we buy. We will buy up to 3 units weekly, for which we will pay you \$277.50. You can send one or more units at a time. As an independent contractor you are your own boss. You work at your own pace. Honest effort is the key to business success. The amount of money you make will depend on your skills, organization and the amount of time you wish to spend, and whether you have help, or work by yourself.

There is no selling required. All you need to do is produce potholders. If you are serious about making money, and want to work at home, in your own business, Sandcastle Creations will buy from you starting immediately!

Sandcastle Creations Pays Shipping!

Shipping is a hidden cost that would cut into your profits. For each unit we buy, we pay you an extra \$5.00! to cover your shipping expenses. (UPS shipping in the U.S. should be less than \$5.00.) Therefore, you will receive a check from us for a total of \$97.50, (\$92.50 plus \$5.00 shipping) for each unit we buy.

How To Get Started:

Fill out the application on the back and send it in for your "start up package". The "start up package" includes: 1) a sample potholder for your inspection and guidance, 2) all supplies and materials needed to make one practice potholder, 3) a pattern with complete specifications, plus 4) our signed written guarantee to purchase your successfully completed units. This package will get you started into business!

The price of our "start up package" is only \$31.95, which is refundable (see other side). This helps defray the cost of advertising, printing, processing, accounting, supplies and management of your file. You will find that your investment more than pays for itself once we purchase your first unit of potholders.

Questions.....? Call (503) 265-2499, 10:00 a.m. to 1:30 p.m., Pacific time, weekdays.

EXHIBIT A

Agreement (Please Type or Print Clearly)			OFFICE USE ONLY
Name _____	_____	_____	Date Rec'd. _____
Address _____	_____	_____	Date Shipped _____
City _____	State _____	Zip _____	Insp. Date _____
Soc. Sec.# _____	Phone () _____	_____	Units Rec'd. _____
Signature _____	Date _____	_____	_____

Sandcastle Creations agrees to buy and pay you \$62.50 for each unit of (29) potholders, that are completed according to the written specifications. We are willing to buy from you a maximum of 3 units per week for a total of \$277.50 weekly, plus shipping. For every unit we buy we will promptly pay you \$62.50 (\$67.50 for production and \$5.00 for supplies) plus an additional \$5.00 to cover shipping expenses, for a total of \$67.50. You may produce and ship us one or more units at a time, up to 3 units per week.

Please send your first shipment of at least one unit within 75 days from the date that the "start up package" was mailed to you. From then on send us at least one unit every 60 days from the date of our last payment to you to keep this agreement valid. Sandcastle Creations reserves the right to refuse unsatisfactory work, which we will return to you. We do not accept partial units.

Since you are a self-employed independent contractor, you make your own business decisions and keep your own business records. You buy your supplies from, or sell your potholders to whoever you choose. While the choice is yours, we guarantee payment under the terms described above.

We will furnish payment records to you and the IRS, at the end of each year, when our payments to you exceed \$600.00 as required by law. Keep in mind we do not withhold income taxes, pay social security, unemployment insurance or provide employment benefits of any kind. These are your responsibilities as an independent contractor.

To receive your "start up package", simply fill out the agreement, sign it, and send either a money order or a personal check in the amount of \$31.95 plus \$4.95 shipping and handling to Sandcastle Creations at the address listed below. Your "start up package" will include all the necessary specifications, pattern, quality check list, and a completed potholder for you to use as a sample. In addition we will include all supplies necessary for you to make one practice potholder. Most importantly we will include our written guarantee to purchase potholders from you as outlined in this agreement. If not completely satisfied with our "start up package", simply return it unused, and in reusable form, within 15 days for a full refund (\$31.95). Acceptance of any refund will void this agreement.

TO ORDER "Start Up Package":

- ☐ Enclose \$31.95 plus \$4.95 shipping & handling (\$36.90 total)
 ___ Money Order (allow 2 weeks)
 ___ Personal Check (allow 4 weeks)
- ☐ (optional) Special Handling "\$2.95 Extra (\$39.85 total)
 Next day shipment, MONEY ORDERS ONLY (non-refundable)
- ☐ (optional) Potholder ONLY (non-refundable)
 Enclose \$7.75 plus \$1.25 shipping & handling (\$9.00 total)
 (without "start up package")

RETURN THIS FORM TO:

Sandcastle Creations
 Potholder Shipping Dept.
 P.O. Box 563
 Newport, OR 97365
 (503) 265-2499

Make checks or money order payable to: Sandcastle Creations
 (U.S. Funds ONLY)

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EXHIBIT B

**CLEAN MOHAIR
FOR DOLL HAIR****WE PAY UP TO \$360.00 WEEKLY!**

*Work at Home, No Expensive Equipment! Start Immediately!
This is Our Best Money Making Home Business!*

Mohair is a soft, silky natural fiber that is sheared from Angora goats. We sell it to craft stores and doll makers. Before they buy the mohair it must be cleaned. The cleaning is done by soaking the mohair in hot soapy water. After drying any remaining particles of dirt are removed with a comb. That's all there is to it. We call it processing. If you are serious about working at home for yourself and you want to make extra money, this can be an excellent home business!

HOW YOU MAKE MONEY!

Sandcastle Creations will pay you (\$60.06 for processing plus \$29.95 for supply cost) plus \$5.00* for your shipping cost. A total of \$95.00 for each 29 oz. unit we buy from you. We will inspect your processed mohair when we receive it, and then promptly send you a check for \$95.00 for each unit you have completed. To control our inventory we must limit our purchases to a maximum of four units per week, which totals \$380.00 per week (plus shipping). The amount of money you make will depend on the time you spend, your processing speed, whether you have help or do all the work yourself.

* We pay the shipping. So you make a full profit! We pay \$5.00 extra for every unit we buy. This will cover your shipping cost in the U.S.A. (see above)

HOW TO GET STARTED

Sandcastle Creations will send you a beginner's practice package. Each package includes helpful suggestions from successful processors, complete information on obtaining supplies, raw mohair and supplies to practice with, plus clean mohair to use as a sample. The purpose of this package is for you to practice processing, so that you will learn to process quickly and easily.

The price of your practice package is \$31.95, which is fully refundable (see other side). You will find your investment more than paid for with the successful completion of your first units.

QUESTIONS? • WE INVITE YOUR CALL • (503) 285-2499

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EXHIBIT B

Agreement

(Please Type or Print Clearly)

-OFFICE USE ONLY-

Name _____
First Last
 Address _____
 City _____ State _____ Zip _____
 Soc. Sec./ _____ Phone () _____
 Signature _____ Date _____

Date Rec'd. _____
 Date Shipped _____
 Insp. Date _____
 Units Rec'd. _____

Sandcastle Creations will buy, and send you a check for \$90.00 plus shipping of \$5.00 (\$95.00 total) for each 29 oz. unit of processed mohair that you complete according to the written specifications. We are willing to purchase a maximum of four units per week, for a total of \$380.00 per week, plus shipping (\$5.00 per unit).

Work at your own speed, just send your first shipment of at least one unit within 60 days from the date that the practice package was mailed to you. Then send us at least one unit every 60 days from the date of our last purchase to keep this agreement valid. We will not pay for partially completed units, and reserve the right to refuse unsatisfactory work, which we will return to you C.O.D.

Since you are self-employed you make your own decisions. You may buy raw mohair from our referral source of supply or from any other source, sell processed mohair to others if you choose, and must keep your own tax records. We will not withhold income taxes, nor do we pay unemployment benefits, or employee benefits of any kind, because you are an independent contractor with all of these responsibilities. As required by law, we will furnish payment records to you and the I.R.S. at the end of the year when our payments to you exceed \$600.00.

To receive your practice package, simply fill out the agreement, sign it, and send your payment of \$36.90 (\$31.95 plus \$4.95 for postage and handling) to Sandcastle Creations at the address listed below. If not completely satisfied with your practice package, simply return it unused, in its package unopened, within 18 days for a full refund (\$31.95). Acceptance of any payment will void this agreement.

QUESTIONS? • WE INVITE YOUR CALL • (503) 285-2488

MONEY ORDER \$36.90 Allow 2 weeks for delivery ☐ See also: Special Handling Box!

PERSONAL CHECK \$36.90 Allow 4 weeks for delivery ☐

- OPTIONAL - SPECIAL HANDLING \$2.95 Immediate Shipment when Money Order enclosed (\$39.85 Total) ☐
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Make checks or money order payable to:
 Then send with completed form to:

U.S. Funds Only

Sandcastle Creations
 Mohair Shipping Dept.
 P.O. Box 563
 Newport, OR 97365

This order is only
 available in
 The United States
 of America

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EXHIBIT C

HOMEWORK!
weekly part time
Cumberland. N
MAKING BABY
Sand SAGE. Am

STAND BY FOR THE NEW 1991! Simple, it's better.
1345 50 WEEKLY POSSIBLE! Make kitchen polholders at
home! Turn your skills into dollars! Start immediately! Sand
\$1.00 + SAGE: Sandcastle Creations-B. Box 563, Newport,
OR 97365.
/ WWW.WE.CAN.MAKE.IT.WORK : WWW.WE.CAN.MAKE.IT.WORK

CRAFTS magazine, March, 1991, p. 103

DECISION AND ORDER

The Federal Trade Commission having initiated an investigation of certain acts and practices of the respondents named in the caption hereof, and the respondents having been furnished thereafter with a copy of a draft of complaint which the San Francisco Regional Office proposed to present to the Commission for its consideration and which, if issued by the Commission would charge respondents with violation of the Federal Trade Commission Act; and

The respondents, their attorney, and counsel for the Commission having thereafter executed an agreement containing a consent order, an admission by the respondents of all the jurisdictional facts set forth in the aforesaid draft of complaint, a statement that the signing of said agreement is for settlement purposes only and does not constitute an admission by respondents that the law has been violated as alleged in such complaint, and waivers and other provisions as required by the Commission's rules; and

The Commission having thereafter considered the matter and having determined that it had reason to believe that the respondents have violated the said Act, and that complaint should issue stating its charges in that respect, and having thereupon accepted the executed consent agreement and placed such agreement on the public record for a period of sixty (60) days, and no comments having been filed thereafter by interested parties pursuant to Section 2.34 of its Rules, now in further conformity with the procedure prescribed in Section 2.34 of its Rules, the Commission hereby makes the following jurisdictional findings and enters the following order:

1. Respondents William E. Taylor and Susan L. Taylor are individuals, trading and doing business as Sandcastle Creations, an unincorporated association, with its principal office and place of business located at 126 S.E. 1st Street, Newport, Oregon.

Respondent William E. Taylor is a co-owner of Sandcastle Creations. Individually or in concert with others, he formulates, directs and controls the policies, acts and practices of Sandcastle Creations and his address is the same as that of Sandcastle Creations.

Respondent Susan L. Taylor is a co-owner of Sandcastle Creations. Individually or in concert with others, she formulates, directs and controls the policies, acts and practices of Sandcastle Creations and her address is the same as that of Sandcastle Creations.

2. The acts and practices of respondents alleged in this complaint have been in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act.

3. The Federal Trade Commission has jurisdiction of the subject matter of this proceeding and of the respondents, and the proceeding is in the public interest.

ORDER

For purposes of this order, the following definition shall apply:

"*Work Opportunity*" means any offer to a person to earn income by producing goods or providing services, where (1) the offeree must pay to the offeror, or a person identified by the offeror, any amount of money, whether in the form of a registration, application or other fee, a payment for initial inventory or supplies, or in any other form, as a condition of participating; and (2) the offeror represents that the offeree will or could be compensated in any manner by the offeror or by a person identified by the offeror.

"*Participant*" means any person who pays the offeror of a work opportunity, or a person identified by such offeror, any amount of money, whether in the form of a registration, application or other fee, a payment for initial inventory or supplies, or in any other form, as a condition of participating in a work opportunity.

"*Net Earnings or Profits*" means the compensation paid to a participant in a work opportunity, less the costs to a participant of materials, supplies and shipping.

I.

It is ordered, That respondents William E. Taylor and Susan L. Taylor, individually and trading and doing business as Sandcastle Creations, an unincorporated association, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the marketing, advertising, promotion, offering, or sale of any work opportunity, in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from:

A. Making any material misrepresentation, including but not limited to:

1. Misrepresenting the past, present or potential future earnings or profits of participants in any work opportunity; or
2. Misrepresenting the marketplace demand for any product or service for which respondents are offering a work opportunity.

B. Making any earnings-related or profit-related claim which uses the phrase "up to" or words of similar import or which states any dollar amount, unless the stated level of earnings or profits constitutes the net earnings or profits which can be achieved by an appreciable number of participants; and further, in any instances where consumers could not reasonably foresee the major factors or conditions affecting the ability to achieve the stated level of earnings or profits, cease and desist from failing to disclose clearly and prominently the class of consumers who can achieve the stated level.

II.

It is further ordered, That for three (3) years after the last date of dissemination of any representation covered by this order, respondents shall maintain and upon request make available to the Federal Trade Commission for inspection and copying:

A. Specimen copies of all materials disseminated which contain such representation;

B. All materials that were relied upon as substantiation in disseminating such representation;

C. The names, addresses and telephone numbers of all work opportunity participants who paid any money to respondents within the previous three years; and

D. The names, addresses and telephone numbers of all work opportunity participants who earned any income or profits from respondents during the previous three years, and for each such participant: all written agreements between respondents and each participant during the previous three years; and the dates and amounts of all payments paid to each participant for work completed pursuant to the work opportunity during the previous three years.

III.

It is further ordered:

A. That respondents shall jointly and severally pay to the FTC as consumer redress the sum of five hundred and thirty-six thousand dollars (\$536,000); provided, however, that this liability will be suspended, subject to the provisions of subparts B and D below, upon the payment of twenty-five thousand dollars (\$25,000) no later than fifteen (15) days after the date of service of this order. Such payment shall be made by cashier's check or certified check payable to the Federal Trade Commission and shall be delivered to the Federal Trade Commission, San Francisco Regional Office, 901 Market Street, Suite 570, San Francisco, CA.

B. That, in the event of respondents' default on the \$25,000 payment set forth in subpart A above, the amount of five hundred and thirty-six thousand dollars (\$536,000), less the sum of any payments made pursuant to subpart A above, shall become immediately due and payable without any notice required to be given to the respondents, and interest computed at the rate prescribed under 28 U.S.C. 1961, as amended, shall immediately begin to accrue on the unpaid balance.

C. That any funds paid by respondents pursuant to subparts A and B above shall be paid into a redress fund administered by the Federal Trade Commission and shall be used to provide direct redress to those purchasers of respondents' introductory kits (as described in the complaint) who have not previously been reimbursed by respondents for the cost of the kit through a refund or through the purchase of finished product. If the Federal Trade Commission determines, in its sole discretion, that the redress to purchasers (as defined above) is wholly or partially impracticable, any funds not so used shall be paid to the United States Treasury. Respondents shall be notified as to how the funds are disbursed, but shall have no right to contest the manner of distribution chosen by the Commission. No portion of the payment as herein described shall be deemed a payment of any fine, penalty, or punitive assessment.

D. That the Commission's acceptance of this order is expressly premised upon the financial statements and related documents previously provided by respondents to the FTC, signed and dated July 27, 1992. After service upon respondents of an order to show

cause, the FTC may reopen this proceeding to make a determination whether there are any material misrepresentations or omissions in said financial statements and related documents. Respondents shall be given an opportunity to present evidence on this issue. If, upon consideration of respondents' evidence and other information before it, the FTC determines that there are any material misrepresentations or omissions in the financial statements and related documents, that determination shall cause the entire amount of monetary liability of five hundred and thirty-six thousand dollars (\$536,000), less the sum of any payments made under subpart A above, to become immediately due and payable to the Federal Trade Commission, and interest computed at the rate prescribed in 28 U.S.C. 1961, as amended, shall immediately begin to accrue on the unpaid balance. Proceedings initiated under part III are in addition to, and not in lieu of, any other civil or criminal remedies as may be provided by law, including any proceedings the Federal Trade Commission may initiate to enforce this order.

IV.

It is further ordered, That the individual respondents shall promptly notify the Commission of the discontinuance of their present business or employment and, for a period of five (5) years after the date of service of this order, shall promptly notify the Commission of each affiliation with a new business or employment.

V.

It is further ordered, That respondents shall, within sixty (60) days after service of this order on them, and on the first through the fifth anniversaries of the effective date of this order, file with the Commission a report in writing, setting forth in detail the manner and form in which they have complied with this order.

Complaint

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IN THE MATTER OF

NEW MEXICO CUSTOM DESIGNS, INC., ET AL.

CONSENT ORDER, ETC., IN REGARD TO ALLEGED VIOLATION OF
SEC. 5 OF THE FEDERAL TRADE COMMISSION ACT*Docket C-3485. Complaint, Mar. 17, 1994--Decision, Mar. 17, 1994*

This consent order prohibits, among other things, the New Mexico-based corporation and its officer, who claimed to sell beaded earrings, from making any material misrepresentations regarding earnings or profits of participants in any work opportunity and from making misrepresentations about the marketplace demand for any product or service for which the respondents are offering a work opportunity. In addition, the order sets a redress payment, however, based upon financial statements submitted by the respondents, the redress payments have been suspended.

*Appearances*For the Commission: *Gerald E. Wright* and *Jeffrey Klurfeld*.For the respondents: *Garry Harrell*, Albuquerque, N.M.

COMPLAINT

The Federal Trade Commission, having reason to believe that New Mexico Custom Designs, Inc., a corporation, and Anthony L. Ingram, individually and as an officer of said corporation ("respondents"), have violated Section 5 of the Federal Trade Commission Act, and it appearing to the Commission that a proceeding by it would be in the public interest, alleges:

PARAGRAPH 1. Respondent New Mexico Custom Designs, Inc. is a New Mexico corporation, with its principal office or place of business at 8415 Washington Place, N.E., Suite D, Albuquerque, New Mexico.

Respondent Anthony L. Ingram is an officer of the corporate respondent. Individually or in concert with others, he formulates, directs and controls the acts and practices of the corporate respondent, including the acts and practices alleged in this complaint.