

UNITED STATES BANKRUPTCY COURT DISTRICT OF MASSACHUSETTS

To the Honorable Melvin S. Hoffman, United States Bankruptcy Judge:

MOTION NOTICE BY FABIO WANZELER

I, Fabio Wanzeler respectfully file this Motion Notice and objection to the case/s filed by The Trustee (Chapter 11) and his professional Advisors regarding TELEXFREE, LLC (Case No. 14-40987-MSH TELEXFREE, INC.; Case No. 14-40988-MSH TELEXFREE FINANCIAL, INC.; and Case No. 14-40989-MSH).

As results to Telephonic hearing held on the date 09/01/2020: For the reasons set forth on the record, Fabio Wanzeler objection to The Trustee and his professionals compensation having been overruled, and a separate order shall enter to the Motion Notice to the Cases Docket: #s 3456, 3461, 3460 involving Fabio Wanzeler name, to request that the following points be addressed:

1. That the instances in which the Trustee and his professional advisors incorrectly put Fabio Wanzeler's name in comments and allegations be acknowledged and removed. Such comments and allegations are objected to on the grounds that the information in the allegations and the allegations themselves are false.
2. That the Trustee and his professional Advisors know and knew that the Motion and Notice of Objection filed by Fabio Wanzeler on the date 02/06/2019 was regarding the addendum pages that were added into the settlement agreement without Fabio Wanzeler's knowledge, and that said motion and notice of objection had nothing to do with Fabio Wanzeler trying to buy time to vacate his San Mellina Drive property as was stated on the M&K Motion. Court Docket: # 3456. Such information, comments and accusations are objected on the grounds that they are false.
3. That the information contained in the court documents provided by the Chapter 11 Trustee, and his Professional Advisors regarding TelexFree's records, business, and any related affairs, should be subject to audit or independent review at this time.
4. That the Chapter 11 Trustee and his respective professional advisors should promptly release in full the Disclosure Statement as 6 (six) years have already passed since Telexfree filed for Chapter 11.
5. That the Trustee and his professional advisors provide details about the products and services sold through the affiliates, including the number of voip plans sold directly to consumers and total minutes used. See section below entitled TELEXFREE PRODUCTS AND SERVICES for details.
6. That the Trustee and the legal team should re-evaluate the terms of the settlements and how they are being applied to Telexfree cases because such settlements are adversely affecting many people who, if precedent is followed fairly, should not be being adversely affected.
7. That Cases involving companies that had the same type of legal problems with the law in the United States have been handled differently, and the United States and their legal professionals should settle the Telexfree cases as Deceptive Compensation cases based on the precedent set by such previous cases, instead of as a Pyramid/Ponzi scheme. See sections below entitled TELEXFREE SETTLEMENTS vs SIMILAR CASES SETTLED DIFFERENTLY and also OTHER MULTI-LEVEL MARKETING SETTLEMENTS: CASE EXAMPLES.



8. That settled cases like SEC v. Herbalife, FTC v. Herbalife, FTC v. Vemma settlements should be evaluated for precedence in the Telexfree Settlements.
9. That the Trustee and his professional advisors should request that the Brazilian Government provide the statements of the assets available for distribution in Brazil, and that these funds should be released to compensate the Claims. (The Net Losers). See section below entitled TELEXFREE IN BRAZIL (Ympactus Assets).
10. That the Telexfree Brazil funds (Ympactus funds in Brazil) be added into the PAYMENT PLAN for distribution before closing this case.
11. That approved and unapproved claims be re-evaluated by the Trustee and his respective professional advisors in order to be paid correctly.

It is requested by Fabio Wanzeler that this Motion not be cause to interrupt any payment distribution payable toward any Participant Claim/s considering that many are currently suffering adverse economic consequences due to COVID-19.

Fabio Wanzeler: BACKGROUND

WHEREAS; Fabio Wanzeler became an investor in the Telexfree States by purchasing many Telexfree Ad-Family package plans.

WHEREAS; Fabio Wanzeler promoted Telexfree the same was as many others involved in the business (1,000,000 participants according to court records),

WHEREAS; on the date 12/31/2012, Fabio Wanzeler made a deposit payment in the amount of \$46,000 in one of Telexfree's bank accounts at the BT Bank Branch, located at 3600 N Federal Hwy, Lighthouse Point Florida 33064.

This deposit was made to purchase Ad-Family packages offered by Telexfree. After the payment was satisfied in the Telexfree bank account, a Manual Credit in the amount of \$46,000 was added to the USER account (almeiga2) as a credit. After the deposit was made, such credit was used to purchase the wholesale VOIP packages and to satisfy User Invoice Accounts.

WHEREAS; Fabio Wanzeler did not offer the Telexfree opportunity to many people and did not participate in the Telexfree meetings, events, or online presence. (Unfortunately) Fabio Wanzeler became a net winner like thousands other net winners.

WHEREAS; According to court documents, TELEXFREE (the COMPANY) generated billions of dollars in a short period of time, with over 1,000,000 representatives (participants) worldwide.

Additionally, the COMPANY had one of the Best MLM lawyers showing on its main Webpage, which made it hard for any participant to think that the company was running an illegal and unlawful business.

WHEREAS; According to the TELEXFREE founders, the company was completing a powerful ecommerce platform that would have thousands of products and services available to be promoted, sold and used by the participants on a daily basis, as an ecommerce project called TELEXCOMMERCE that could generate billions of dollars in sales through the 1,000,000 participants in its chain.

WHEREAS; Fabio Wanzeler had no knowledge of the inside transactions of the Company or that the company was using (investors') money to compensate people for additional VOIP accounts that was earned for the advertising campaign made.

WHEREAS; According to www.alexa.com records the company WEBSITE www.telexfree.com was one of the most popular worldwide, with rank # 38 in Brazil alone and 998 worldwide.

WHEREAS; The United States, The Trustee, and Fabio Wanzeler entered into a settlement agreement regarding the two properties listed on the (Case No. 14-40028 TSH) and the adversary proceeding that was filed in the Telexfree Bankruptcy Court, cases No. 16-4006, and No 16-4032, and upon satisfaction of the obligations set out in that settlement agreement, these cases became completed and final.

WHEREAS; all parties acknowledged that the settlement agreement did not constitute an admission by (Fabio) or his wife of any facts or liability or wrongdoing, and that (Fabio) or his wife are innocent owners of, or bona fide purchasers for value of, the San Mellina Property and the Cape Delabra property.)

WHEREAS; The United States filed a restraining order modification in United State District court to approve the settlement agreement

WHEREAS; The settlement agreement was approved in the United States District court on the date 11-02-2018

WHEREAS; In order for the settlement agreement become 100% approved, The Trustee Chapter 11 had to file the settlement agreement with the Bankruptcy Court as well.

WHEREAS; Fabio Wanzeler, in need of a new loan for the Cape Delabra Property per terms of settlement Agreement, and in order to speed the process of applying for said new loan, agreed to the United States District Court settlement approval, and Fabio Wanzeler then started the process of getting a loan for the Cape Delabra Ct property, per the terms of the settlement Agreement.

WHEREAS; Fabio Wanzeler was approved by a private lender. Days before the closing date of the Loan, Fabio Wanzeler was notified by the lender that lender would not go forward with the loan due to filings that had recently been added on pacer.gov

WHEREAS; During the same week, Fabio Wanzeler was notified that www.behindmlm.com, a WEBSITE blog, applied information and comments that were not part of the signed settlement agreement.

WHEREAS; Fabio Wanzeler contacted behindmlm.com and asked the blogger about said material added into their blog. During this conversation, the blogger mentioned that the Trustee applied said comments into the Settlement Agreement and if Fabio Wanzeler needed to file any complaint that would that be directly with the Trustee Chapter 11.

WHEREAS; After Fabio Wanzeler read over the bankruptcy court filings filed by the Trustee Chapter 11 at the Bankruptcy Court, Fabio Wanzeler learned that the Trustee applied an addendum of 26 pages in the Bankruptcy Court filings after the settlement has been signed. This addendum was added into the settlement agreement without Fabio Wanzeler's knowledge or consent.

WHEREAS; Fabio Wanzeler contacted his attorney to advise attorney regarding addendum situation, that addendum had been added without knowledge or consent and that said addendum was causing harm (In that loan was pulled based on material in addendum)

WHEREAS; Because Fabio Wanzeler's attorney was not admitted in Bankruptcy Court, the attorney could not help or answer in any way.

Every request made by the United States Attorney to Fabio Wanzeler was complied with by Fabio Wanzeler with integrity and in a timely way, and The terms of the settlement were very clear

(WHEREAS; All parties Acknowledge that the settlement agreement does not constitute an admission by (Fabio) and/or his wife of any facts or liability or wrongdoing, and that (Fabio) and/or his wife are innocent owners of, or bona fide purchasers for value of, the San Mellina Drive Property and the Cape Delabra property.)

WHEREAS; Fabio Wanzeler advised he was not disputing paying back any amount earned to the Telexfree States,

WHEREAS; Fabio Wanzeler agreed that he became a Net winner in the Telexfree State and that was his responsibility to return those funds back to the Telexfree States to pay back the Net Losers, in the Telexfree Case.

WHEREAS; The letter was a objection to the addendum added to the original signed Settlement Agreement without Fabio Wanzeler's knowledge or consent and it is also an objection to the filing of the agreement with said added portions (26 pages) that were added without knowledge or consent of Fabio Wanzeler, one of the signers of the original signed Settlement Agreement.

WHEREAS; Fabio Wanzeler filed the Motion and Notice of Objection to Trustee's Motion to Approve Stipulation of Settlement (Re: [1039] Motion filed by Trustee Stephen Darr and his professionals.

WHEREAS; The Approved Stipulation of Settlement Among United States of America, Chapter 11 Trustee and Fabio Wanzeler and the [1137] Endorsed Order dated 12/17/2018) (Pro Se) #1205 Response of Chapter 11 Trustee (A. Lizotte) Decision the set forth more fully as followed in the Hearing held. For the reasons set forth in court, the Motion to Approve Stipulation of Settlement was removed from the public docket on the date 03/05/2019.

WHEREAS; The Trustee and his Professional advisors continue with comments, allegations against Mr Fabio Wanzeler, court Doc: # 3456.

WHEREAS; The comments, allegations against Mr. Fabio Wanzeler that was stated on The Court Docket: # 3456 are objected to on the grounds that they are false.

The Court Docket: #1205 has evidence showing that the Trustee and his professionals know that the Motion and Notice of Objection filed by Fabio Wanzeler on the date 02/06/2019 was about the addendum pages that were added into the settlement agreement without Fabio Wanzeler's knowledge and that the aforementioned motion and notice of objection had nothing to do with Fabio Wanzeler trying to buy time to vacate his San Mellina Drive property as was stated on the M&K Motion, Court Docket: #3456

WHEREAS; That the instances in which the Trustee and his professional advisors incorrectly put Fabio Wanzeler's name in comments, allegations be acknowledged and removed. Such comments and allegations are objected to on the grounds that the information in the allegations and the allegations themselves are false. Case Docket: #s 3456, 3461,3460

TELEXFREE PRODUCTS AND SERVICES

Telexfree was a telecommunications services and advertising services provider. VOIP products were offered at wholesale and retail prices through the Multi-Level Marketing business model.

WHEREAS; Telexfree offered two different international calling plans (VOIP packages) at wholesale price.

WHEREAS; Telexfree offered the "Multi-Level Marketing Business Opportunity" in connection with the company's VOIP and advertising services.

WHEREAS; In order to purchase the international calling plans (VOIP packages) at the wholesale price, each affiliate had to pay a \$50 Fee and could then select promotional wholesale packages.

WHEREAS; After paying the \$50 Fee, the affiliate could earn 10% commission on the products sold through the website and would have access to the back office management portal.

WHEREAS; The affiliate had the option to purchase the following WHOLESAL VOIP packages:

Package A: Ad-Central with 10 VOIP plans at wholesale price of \$289 with retail value of \$499.

Package B: Ad-Family with 50 VOIP plans at wholesale price of \$1,375 with retail value of \$2,495.

WHEREAS; Each VOIP plan had a wholesale value of \$27.50 each and a retail value of \$49.90 each.

WHEREAS; The Trustee and his Professional Advisors should fix/correct comments in the Telexfree case stating that the Telexfree Wholesale Voip Plans sold thru (Ad-central and Ad-Family packages) are MEMBERSHIPS. Such information are false.

WHEREAS. The Trustee and his professional advisors are failing to provide details about the products and services sold through the affiliates (The Company).

WHEREAS; The number of voip plans sold directly to consumers, Including total minutes used by each account, should be reported and recorded in this case.

WHEREAS; Each VOIP plan that was sold had and still has 3000 minutes available to call more than 100 countries on Landlines and/or cell phones lines, with unlimited VOIP-to-VOIP worldwide calls within the TELEXFREE network, and a powerful software product with many features.

WHEREAS; Telexfree compensated the affiliates for many different activities, and one of these was for promoting the company by placing online marketing campaign ads.

WHEREAS; The Ad-Central Package gave the affiliate the option to promote the company by placing online ads. Through promoting 1 (one) daily ad for a period of 7 (seven) days during a given week, the affiliate would get 1 (one) additional VOIP Plan for the ads places that week.

WHEREAS; The Ad-Family Package gave the affiliate the option to promote the company online ads, and by promoting 5 daily ads for a period of 7 days during a given week, the affiliate would get 5 (five) additional VOIP Plans for the ads placed that week.

WHEREAS; Each VOIP account had a retail value of \$49.90, if the affiliate sold the additional VOIP plan/s (earned by placing ads) to retail customers, the affiliate would get 90% commission (\$44.91), or the affiliate could resell back the plan/s back to the company for \$20 credit each.

WHEREAS; The affiliate could redeem the credit for cash or could use the credit to purchase more Ad-Central or Ad-Family VOIP plans (wholesale packages) directly or indirectly.

WHEREAS; As Fabio Wanzeler stated before, he became a Telexfree affiliate by investing in the Telexfree business opportunity. He purchased many Ad-Family VOIP plans at wholesale price.

WHEREAS; Fabio Wanzeler purchased more than 1,600 VOIP plans, worth thousands of dollars, Voip plans available to be sold to consumers inside Telexfree Servers. These VOIP products were purchased with funds that did not come from Telexfree proceeds and have/had nothing to do with any additional VOIP credits that he received by promoting Telexfree through online campaigns.

TELEXFREE SETTLEMENTS vs SIMILAR CASES

Telexfree and the founder settlements are being settled differently than similar cases involving companies that had the same type of legal problems with the law in the United States this past decade. On what grounds?

Herbalife, Vemma, Nu skin, AdvoCare, Arbonne, and many other companies were categorized as pyramid schemes due to a majority (99%) of the participants being net losers per the FTC documents below.

Chapter 7: MLM's ABYSMAL NUMBERS 7-1 The Case (for and) against Multi-level Marketing By Jon M. Taylor, MBA, Ph.D., Consumer Awareness Institute Chapter 7: MLM's ABYSMAL NUMBERS Chapter summary Is MLM a profitable business.

https://www.ftc.gov/sites/default/files/documents/public_comments/trade-regulation-rule-disclosure-requirements-and-prohibitions-concerning-business-opportunities-ftc-1511993-00008%C2%A0/00008-57281.pdf

WHEREAS; The United States Government and US agencies have penalized Multi-Level Marketing companies for many years and forced them to modify their compensation plans. Afterwards, when the terms of the settlements of those cases were categorized as settled as using deceptive compensation instead of being called Pyramid or Ponzi schemes. This is different from the Telexfree Settlements. Why?

WHEREAS; Such settlements set the precedent and should be followed in Telexfree Cases.

WHEREAS; The United States and their legal professionals should settle Telexfree cases as deceptive compensation instead of as a Pyramid/Ponzi scheme. The failure to follow precedent by calling this a Pyramid/Ponzi scheme rather than a case of deceptive compensation is affecting the more than 70,000 affiliates who became net winners (more than 15,000 Inside United States according to court documents). Net winners are being accused of fraudulent activities, and Mr. Fabio Wanzeler is in this category.

WHEREAS; As a result of the Trustee and his respective professional advisors' failure to follow precedent and recognize TelexFree as partaking in deceptive compensation rather than in a Pyramid/Ponzi Scheme, these TelexFree cases are being settled unfairly. This is currently affecting Fabio Wanzeler, and can well affect thousands of net winners directly and/or indirectly until it is rectified.

OTHER MULTI-LEVEL MARKETING SETTLEMENTS: CASE EXAMPLES

The settled cases involving companies like Herbalife and Vemma should be the precedent in Telexfree settlements.

WHEREAS; The Trustee and the legal team should evaluate the terms of the settlements that were applied and are being applied to Telexfree cases, as such settlements are currently adversely affecting many people who would not be adversely affected if precedent were being followed.

Most MLM companies charge an annual fee and then force the participants to purchase their promotional packages (Wholesale Products) in order to participate in the multi-level compensation plan.

WHEREAS; Settled cases like SEC v. Herbalife, FTC v. Herbalife, FTC v. Vemma settlements should be evaluated for the benefit of Telexfree Settlements.

SEC LITIGATION v. HERBALIFE

<https://www.sec.gov/litigation/admin/2019/33-10703.pdf>

FEDERAL TRADE COMMISSION V. HERBALIFE INTERNATIONAL OF AMERICA

<https://www.ftc.gov/system/files/documents/cases/160715herbalifecmpt.pdf>

STIPULATED ORDER FOR PERMANENT INJUNCTION AND MONETARY JUDGMENT

<https://www.ftc.gov/system/files/documents/cases/160725herbalifeorder.pdf>

Herbalife pyramid scheme documentary:

<https://www.youtube.com/watch?v=qtc9Up2zF7w>

Herbalife Pyramid scheme allegations, Settlements History

In order to view the complete article below in full please visit: https://en.wikipedia.org/wiki/Herbalife_Nutrition

Partial of the article are available below:

Herbalife agreed to "fundamentally restructure" its business and pay a \$200 million fine as part of a 2016 settlement with the U.S. Federal Trade Commission (FTC) following accusations of it being a pyramid scheme.^[1] In November 2017, Ackman's hedge fund closed out its short position in Herbalife.^[12]

Critics of the company's structure have contended that it has operated as a pyramid scheme.^{[13][14]} The same critics have also argued that the company does not make enough effort to curb abuses by individual distributors, though Herbalife Nutrition has consistently denied the allegations.^[15]

A 2004 settlement resolved a class action suit on behalf of 8,700 former and current distributors who accused the company and distributors of "essentially running a pyramid scheme." A total of \$6 million was to be paid out, with defendants not admitting guilt. In November 2011, the Commercial Court in Brussels, Belgium ruled that Herbalife was an illegal pyramid scheme.^[16] The company filed an appeal on March 8, 2012.^[17] On December 3, 2013, a Belgian appeals court found for Herbalife, reversing the lower court's finding.^[18]

On May 1, 2012, a well-known short seller David Einhorn asked pointed questions about the company's business and sales models during the Q1 earnings call, setting off suspicions that Einhorn had a short position.^{[19][20]} These suspicions were proved correct in January 2013 when at an investor meeting Einhorn revealed that he had profited through a short position against the company. Einhorn said the short had been closed before the end of 2012.^[21]

FTC investigation Based on information from a Freedom of Information Act (FOIA) request, the New York Post reported on February 4, 2013, that Herbalife was subject to a pending probe from the Federal Trade Commission (FTC). The FTC released 729 pages containing 192 complaints received over a 7-year period in regards to the New York Post's FOIA request.^[22] The FTC stated that

the wording it used in its response to the FOIA request was incorrect; the FTC could not confirm or deny an investigation into Herbalife.¹²³⁴

In March 2014, the FTC opened an investigation into Herbalife in response to calls from consumer groups and members in both houses of Congress. Herbalife responded to the probe by saying it "welcomes the inquiry given the tremendous amount of misinformation in the marketplace, and will cooperate fully with the FTC. We are confident that Herbalife is in compliance with all applicable laws and regulations."¹²³⁴⁵⁶⁷⁸⁹

In July 2016, Herbalife agreed to change its business model and pay \$200 million in a settlement with the FTC.¹²³⁴⁵⁶⁷⁸⁹ Partial refund checks were mailed to roughly 350,000 Herbalife distributors in January 2017. The FTC said in a press release about the settlement "it's virtually impossible to make money selling Herbalife products."¹²³⁴⁵⁶⁷⁸⁹

The lawsuit alleged that Herbalife deceived consumers into believing they could earn substantial income from the business opportunity or big money from the retail sale of the company's products. In addition, the complaint charged that one of the fundamental principles of Herbalife's business model—incentivizing distributors to buy products and to recruit others to join and buy products so they could advance in the company's marketing program, rather than in response to actual consumer demand—is an unfair practice in violation of the FTC Act.¹²³⁴

The company remains under investigation as of early 2019 both by the United States Department of Justice and the U.S. Securities and Exchange Commission (SEC) for corruption in China.¹²³⁴

On September 27, 2019, the SEC announced that Herbalife has agreed to pay \$20 million to settle charges of making false and misleading statements about its business model and operations in China between 2012 and 2018. The company did not admit or deny the charges but agreed to the settlement terms.¹²³⁴⁵⁶⁷⁸⁹

U.S. Justice Department investigation of bribery in China

In 2019, the U.S. Justice Department charged two of Herbalife's employees with conspiracy in violation of the Foreign Corrupt Practices Act (FCPA). They were accused of bribing Chinese officials in order to procure sales permits and to influence an investigation into Herbalife. They were also accused of offering bribes to China Economic Net in order to influence their media coverage.¹²³⁴ In response, Herbalife committed \$40 million to resolve the issues, and began negotiations with both the US Justice Department and SEC.¹²³⁴

WHEREAS; Is Important to take notice that LITIGATIONS against HERBALIFE started in the 1990s according to online documents.

Vemma Litigations, Settlements History

In order to view the complete article below in full please visit: <https://en.wikipedia.org/wiki/Vemma>

Partial of the article are available below:

Federal Trade Commission V. Vemma Nutrition Company, et al.

https://www.ftc.gov/system/files/documents/cases/161215_proposed_vemma_bk_stipulated_final.pdf

Vemma (/ˈvɪmə/) Nutrition Company was a privately held multi-level marketing¹²³⁴⁵⁶⁷⁸⁹ company that sold dietary supplements.¹²³⁴ The company was shut down in 2015 by the FTC for engaging in deceptive practices and pyramid scheming.¹²³⁴

The company, based in Tempe, Arizona, was founded in 2004 by Benson K., Lauren, and Karen Boreyko.¹²³⁴ In 2013, the company reported US\$221 million in revenue.¹²³⁴ Most distributors were in

their twenties. The company had frequently been accused of being a pyramid scheme by U.S. media, business analysts, and former distributors, and was fined by the Italian government.^{(b)(3)(b)(7)(D)}

History

Starting in the 1990s, the Boreyko family have been incorporating dozens of companies under the family's control sharing the same address. In 1994, the family founded New Vision International, a nutritional supplement company. The family also owns a limited liability corporation which has purchased commercial real estate, including property rented back to other Boreyko-controlled companies. Vemma Nutrition Company was incorporated in 2004, and by 2011, New Vision had been entirely folded into Vemma.^{(b)(3)(b)(7)(D)}

Vemma sold its products through its website, and also through independent distributors (referred to internally as affiliates)^{(b)(3)(b)(7)(D)} who could potentially earn a share of the revenue from their own product sales as well as those from the network of distributors they build.^{(b)(3)(b)(7)(D)}

In 2013, Vemma started describing itself as an affiliate marketing company,^{(b)(3)(b)(7)(D)} although Benson K. Boreyko has said that the compensation plan is the same.^{(b)(3)(b)(7)(D)} Vemma is a member of the U.S. Direct Selling Association.^{(b)(3)(b)(7)(D)}

In April 2014, the company announced that it was modifying its compensation plan by removing sign-up fees and the \$150 minimum monthly product purchase to qualify for commission, among other things. Boreyko stated that the changes were intended to avoid the fallout from the Federal Trade Commission that has happened to other multi-level marketing companies, such as Herbalife.^{(b)(3)(b)(7)(D)} An analysis by advertising watchdog group Truth in Advertising has described this as a red herring, as the company has never required sign-up fees. The group's report also says that minimum monthly purchases are still required for full eligibility, which Boreyko has said is false.^{(b)(3)(b)(7)(D)}

In August 2015, the U.S. Federal Trade Commission filed a lawsuit against Vemma, accusing the company of operating an illegal pyramid scheme.^{(b)(3)(b)(7)(D)} The company was placed under an injunction which restricts certain marketing activity and compensation methods, and a monitor was appointed by the court to assure compliance with these restrictions.^{(b)(3)(b)(7)(D)} In December 2016, Vemma reached a \$238 million settlement with the FTC, which also banned the company, its CEO, and top distributors from recruitment-focused business ventures, deceptive income claims, and unsubstantiated health claims.^{(b)(3)(b)(7)(D)}

Business model

Vemma was a multi-level marketing (MLM) company.^{(b)(3)(b)(7)(D)}

Government investigations

New Vision International

Vemma was preceded by New Vision International, a Tempe, Arizona-based dietary supplement company founded by Benson Boreyko and his family in 1994. In 1999, New Vision International was ordered by the FTC to stop making claims that one of its products ("God's Recipe") was a cure or treatment for attention deficit hyperactivity disorder (ADD/ADHD).^{(b)(3)(b)(7)(D)} New Vision was accused in the FTC complaint of "unfair or deceptive acts or practices, and the making of false advertisements" about the health benefits of some of their products. In the Decision & Order,^{(b)(3)(b)(7)(D)} the FTC ordered New Vision to stop making various claims; specifically they were ordered (1) to stop saying that one of their product recipes was effective in treating ADD or ADHD, or useful as an alternative to Ritalin; (2) that they not indicate or imply that any testimonial or endorsement of any of their products is typical or ordinary; and (3), that they make no claims about safety or effectiveness in reducing the risk of developing any disease or disorder; and that they communicate all this to their team members in mailings.^{(b)(3)(b)(7)(D)} According to the FTC, that was the first time they had investigated a case involving ADD/ADHD. New Vision settled with the FTC, but did not admit to any wrongdoing.^{(b)(3)(b)(7)(D)}

Italian pyramid scheme accusations

In March 2014, the Italian consumer protection agency, Autorità Garante della Concorrenza e del Mercato (AGCM), fined Vemma Italia (Vemma's Italian branch) €100,000. The AGCM found that Vemma was acting as a pyramid scheme by encouraging recruitment as the primary means of profit, rather than product sales.¹³¹¹ Vemma issued a statement that it does not believe it was in violation of the law, and that the company has made a number of changes in response to the government's concerns.¹³¹² An analysis by Truth in Advertising determined that Vemma's new compensation plan is not significantly different from the one that the Italian regulators found to be a pyramid scheme.¹³¹³

Investigations in Austria and Switzerland

In April 2015 Truth in Advertising announced that two countries were pursuing legal action against Vemma. The State Secretariat for Economic Affairs (SECO) of Switzerland's Federal Department of Economic Affairs reported Vemma to a prosecutor to pursue criminal charges for running a pyramid scheme. The charges were filed due to multiple complaints, the nature of which are not public until a judgement has been reached.¹³¹⁴

In Austria, the Vorarlberg Chamber of Labor's Consumer Protection Division said that it would pursue criminal proceedings against the company for being a pyramid scheme. In August 2014, the agency had issued a statement warning consumers against becoming involved with the company.¹³¹⁵

Shutdown by FTC

On August 21, 2015, the U.S. Federal Trade Commission filed a lawsuit against Vemma, freezing the company's assets and seeking injunctive relief for consumer redress.¹³¹⁶ The FTC alleges that Vemma is a pyramid scheme; that Vemma has misrepresented participants' earning potential; and that the Boreyko family has inappropriately incorporated dozens of companies with the same staff, facilities, and commingled funding.¹³¹⁷ The restraining order was set to expire fourteen days later unless extended.¹³¹⁸ The company itself, CEO Benson Boreyko, and distributor Tom Alkazin were named as defendants.¹³¹⁹

On September 18, 2015, the judge ruled that Vemma had been operating as a pyramid scheme and that their marketing material had been "deceptive and misleading". Accordingly, the judge appointed a monitor to oversee their business, and barred them from resuming normal operations.¹³²⁰

Penalty

In a September 2016 judgement, Vemma reached a settlement agreement with the FTC, wherein Vemma Nutrition Company, Vemma's CEO Benson Boreyko, as well as Tom Alkazin and Alkazin's wife, Bethany, agreed to a permanent injunction and monetary penalties.¹³²¹

Vemma Nutrition Company was ordered to pay a US\$238 million fine as a company, restructure its compensation plan, and forfeit certain company assets.¹³²² The Alkazins, on the other hand, were fined US\$6.7 million as individuals.

As part of the settlement the defendants were banned "from involvement in any pyramid, Ponzi, or chain marketing schemes."¹³²³

WHEREAS; Worst of all, the multi-level marketing system continues to be unregulated by LAW and thousands perhaps even millions of people every year lose money by investing their savings in MLM operations, and this situation will continue until the government (The LAW) creates some type of terms and conditions for Multi-Level Marketing companies to comply.

TELEXFREE IN BRAZIL (Ympactus Assets)

Last year (2019) Carlos Wanzeler formally stated (in a letter he wrote) that Telexfree in Brazil (Ympactus) has over R\$1.4 Billion available in the BANK BRANCH (Banco do Brasil) in the state of ACRE, RIO BRANCO.

WHEREAS; These funds are currently frozen by the State of Acre, Rio Branco Government in Brazil.

WHEREAS; In his letter, Carlos Wanzeler stated that one of the government members in the state of Acre tried to use the money before paying back the affiliates in 2015.

WHEREAS; In June 2020, The Brazilian government filed a request in court to use the money available in Brazil to benefit their members and the States. This news was shared via the following online site. <https://cointelegraph.com.br/news/justice-decides-that-money-from-the-telexfree-pyramid-remains-for-the-government-the-same-can-happen-with-unick-forex>

WHEREAS; Carlos Wanzeler stated that he has no interest in any money that came from TELEXFREE proceeds and according to his motion, he only wants to be able to pay back the affiliates who lost money (The Net Losers) and to be able to prove his innocence. After paying the claims, any remaining available funds should (only) then be used to improve the states, such as schools projects and other state projects.

WHEREAS; The Trustee and his professional advisors should request the Brazilian Government to provide the statements of the assets available for distribution in Brazil, this funds should be released to compensate the Claims. (The Net Losers).

WHEREAS; The Telexfree Brazil funds (Ympactus funds in Brazil) be added into the PAYMENT PLAN for distribution before closing this case.

WHEREAS; This case should be compiled based on true, correct, and complete information; however, at this point the case has not met this standard. Further it should be noted that this case involves the lives and reputations of thousands of people, and presenting a false or incomplete case can potentially hurt thousands of innocent people.

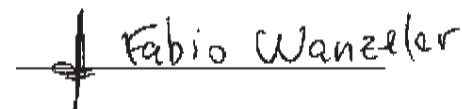
WHEREAS; In none of the cases has Fabio Wanzeler ever received class counsel nor has he retained any counsel for the present Motion.

WHEREFORE, Fabio Wanzeler prays that this court:

1. Approve this Motion for the reasons set forth; so the lives and finances of thousands of net losers that are in need may receive the greatest possible amount of their money back.
2. Approve this Motion for the reasons set forth; as they involve Mr Fabio Wanzeler's name, his reputation, and the lives of thousands of net winners and their reputations.
3. Grant such other relief as is just and proper.

Sincerely,

Fabio Wanzeler
954-670-7051



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Dated: September 14, 2020