

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION

TEAM RESOURCES, INC.	§	Judge_____
Plaintiff,	§	
	§	
vs.	§	C. A. NO. _____
	§	
TED FISH, FISH ASSOCIATES, ANDY	§	
ANDREWS, ROBERT D. SMITH and	§	
FIRST IMAGE, INC.	§	JURY DEMANDED
Defendants.		

ORIGINAL COMPLAINT

TO THE HONORABLE U. S. DISTRICT JUDGE:

Plaintiff, TEAM Resources, Inc. brings this claim against Defendants, Ted Fish, individually and d/b/a Fish Associates, and both Andy Andrews and Robert D. Smith, individually and d/b/a First Image, Inc.

THE PARTIES

1. Plaintiff, TEAM Resources, Inc. is a corporation incorporated under the laws of the State of Nevada, registered and operating in the State of Texas as Real TEAM Resources. It was formed to provide an independent entity to train and motivate Amway distributors. For the remainder of the Complaint, TEAM Resources, Inc. will be referred to as "TEAM."

2. Defendant, Ted Fish, is a citizen of the state of Maine. Defendant, Ted Fish, can be served at 3 Brookside Drive, Falmouth, Cumberland County, Maine 04105. For the remainder of the Complaint, Ted Fish will be referred to as "Fish."

3. Defendant, Fish Associates, is a business established by Ted Fish, involved in the business of providing training and motivational materials to Amway distributors. Fish Associates can be served with process by serving its President, Ted Fish, at 3 Brookside Drive, Falmouth, Cumberland County, Maine 04105.

4. Defendant, Andy Andrews, is a citizen of the state of Tennessee. Defendant, Andy Andrews may be served with process at 2194 S. Berry's Chapel Road, Franklin, Williamson County, Tennessee 37069. For the remainder of the Complaint Andy Andrews will be referred to as "Andrews."

5. Defendant, Robert D. Smith, is a citizen of the state of Tennessee. Defendant, Robert D. Smith, may be served at 2194 S. Berry's Chapel Road, Franklin, Williamson County, Tennessee 37069. For the remainder of the Complaint, Defendant, Robert D. Smith will be referred to as "Smith."

6. Defendant, First Image, Inc., is a Tennessee business whose principal place of business is located at 2194 S. Berry's Chapel Road, Franklin, Williamson County, Tennessee 37069. Defendant, First Image, Inc., may be served with process by serving its President, Robert D. Smith, or by serving its Vice President, Andy Andrews, at 2194 S. Berry's Chapel Road, Franklin, Williamson County, Tennessee 37069. Defendant, First Image, Inc., is in the business of coordinating and scheduling Andy Andrew's performances, as well as promoting and selling his merchandise. For the remainder of the Complaint, First Image, Inc. will be referred to as First Image.

JURISDICTION AND VENUE

7. This Court has jurisdiction of the subject matter and the parties based on diversity of citizenship pursuant to 28 U.S.C. § 1332. The matter in

controversy exceeds \$75,000, exclusive of interest and costs.

8. Venue is proper under 28 U.S.C. § 1391(a)(2). A substantial portion of the omissions giving rise to the claims asserted by TEAM Resources occurred in this district.

STATEMENT OF CLAIMS

9. This is a breach of contract case that concerns the defendants failure to live up to their agreement to perform at an event sponsored by Plaintiff. As a result of Defendants breach, TEAM has been injured. Specifically, because of Defendants' breach, TEAM had to cancel the event at which Fish and Andrews were supposed to perform, causing TEAM to incur economic damages. Further, as a result of this breach, and as will be explained later, the breach has virtually destroyed TEAM's entire business.

10. As mentioned above, TEAM Resources is a corporation incorporated under the laws of the state of Nevada. It's shareholders, Joe Morrison, Randy Council, Ron Green, David Roberts, Kelly Robbins, Victor Brook, Donald May, John Neely, Tony Cutaia, Richard Powell, Richard Werner, Robert Schmanski, Robert Price, David Metcalf, Warren Bird, Tim Doucet, Larry Rogers, Herbert Hamilton and Dr. T.M. Hughes, are all Amway distributors. For the rest of this Complaint, these shareholders will be referred to as "shareholders."

11. To understand the issues surrounding this Complaint it is necessary to first briefly explain the Amway business. The Amway Corporation manufactures a wide variety of consumer household products which it sells along with the products of other manufacturers nationwide through hundreds of thousands of "independent" distributors, many of them in Texas. The Amway sales plan is a marketing scheme whereby any purchase or sale of Amway goods by a distributor financially benefits not only Amway, but also those Amway distributors who qualify and occupy levels of the Amway distributorship network higher than that of the selling distributor. In Amway parliaments, those persons who occupy positions below a distributor in each branch of the network are called the distributor's "downline." Those persons who occupy positions above a distributor in each branch of the network are called the distributor's "upline." In order to earn significant profits as an Amway distributor, one must develop a sizeable downline organization by recruiting and sponsoring other distributors into the Amway sales organization.

12. Dexter Yager occupies a position at the top of his own vast Amway distributorship network to which all of the shareholders of TEAM belong. These shareholders are, or were, some of the most successful distributors in the entire Amway organization. They have qualified at the Emerald and in one case, Diamond level. The Diamond level is the highest level of achievement, and therefore, largest organization headed by a single distributor, in the Amway organizational and marketing program.

13. Along with his vast Amway business, Dexter Yager also owns another company, InterNET Services Corporation. InterNET operates hand in hand with Yager's Amway business, and supplies what are known as "Business Support Materials" and "tools" to Amway distributors in his downline. Tools, as they are known in the Amway business, refer to tapes, books and literature, intended to be used by the downline distributors in furtherance of their Amway businesses. Business Support Materials, in Amway parliaments, is a broader term referring to not only tools, but also live functions that can be attended by the downline, in furtherance of their Amway businesses.

14. Yager's system of Business Support Materials is commonly referred to as the "Yager System." It not only purports to provide assistance to the downline distributors, but on information and belief, is also an extremely profitable business to Yager and others in his immediate downline. The Yager System serves hundreds of thousands of people in Yager's downline. It is taught by the upline in the Yager organization that strict adherence and loyalty to Dexter Yager, the upline and the system is essential to success in the Amway business. However, both Amway and InterNET maintain that the two businesses are completely separate.

15. For reasons that need not be detailed here, as the shareholders worked their way up the distribution chains in Amway, they became disgruntled with the Yager

system and the way it was operated. They believed that certain distributors in the Yager system undertook certain unethical and illegal practices that were not only tolerated, but sometimes promoted by the powers that be. The shareholders attempted to resolve these problems through both Amway and the Yager system itself. However, as time went on it became inevitable that there would be no amicable resolution through these channels.

16. On June 2, 1997, Don Wilson, a high-level Amway distributor and member of the Yager system, called a meeting in Houston for all of the distributors that were having problems with their upline, including the TEAM shareholders. At the meeting Wilson, purporting to speak on behalf of both Amway and InterNET, announced that there would be a split in the Yager system. One team would be made up of Kelly Robbins (a TEAM shareholder) and whoever wants to follow him, and the other team would remain under Dexter Yager. In other words, the group was told they must choose to be serviced by either the Yager system, or Kelly Robbins for their Business Support Materials. However, at the time, Kelly Robbins had no BSM or tool business.

17. As a result of the June 2, 1997 meeting, some of the distributors that had problems with the Yager system, including Kelly Robbins, formed TEAM Resources, Inc., the plaintiff. TEAM's mission was to provide an independent entity with which Amway distributors could freely choose to use in an effort to provide a broader means whereby they could "train, supply and motivate" those they sponsored in the Amway business. In essence, TEAM offered an alternative to those who did not want to be serviced by Yager for their Business Support Materials.

18. TEAM wanted to provide a support system that was legal, moral and ethical, one that was fair and without double standards, one that had quality information and products, one that had full disclosure and answered to a representative board of directors, one that was fiscally responsible and one that was a conduit to other servicing entities, companies, individuals, and the Amway Corporation itself.

19. After the above-mentioned June 2, 1997 meeting, Kelly Robbins and those who were aligned with him were, in their opinion, effectively cut off from the Yager system. TEAM was thus in the precarious position of having to quickly establish, without notice, a circuit of training seminars and motivational functions for over two thousand distributors. Providing successful speakers, especially Amway distributors who were Diamonds was very important, if not critical, to the overall success of TEAM in its mission.

20. In November of 1997, there were around 1200 people showing up to TEAM functions. Excitement and anticipation began to build for TEAM's "Dream Weekend" major function that was to be held in Tyler, Texas on February 13, 14 and 15, 1998. TEAM's shareholders had every reason to believe that Dream Weekend would draw more than 1200 distributors. After a function like this, major growth in many of the affiliated Amway businesses could be expected.

21. Again, one of the major keys to success for holding a successful function was to have well-known speakers who were preferably also high-level distributors in the Amway business. Consequently, TEAM was excited to have confirmed two excellent and well-known speakers who were also Diamonds in the Amway business, Ted Fish and Andy Andrews.

22. Ted Fish was not only a Diamond in the Amway business personally sponsored by Dexter Yager, but also a minister and speaker many of the TEAM shareholders knew and respected. He had a reputation for integrity and moral leadership. He knew many of the challenges the TEAM shareholders had with their upline, and was sympathetic and expressed agreement with them on many issues.

23. An agreement was reached between Fish and TEAM whereby Fish would speak at the Dream Weekend and be compensated by TEAM. Fish was to provide his own transportation to Tyler, and TEAM would pay for his hotel room, ground transportation and meals while in Tyler. In further compensation for Fish's services, TEAM agreed to donate a sum of money from the Sunday morning offering to Fish's ministry.

24. The second speaker was defendant Andy Andrews. He was a professional comedian and author before he became an Amway Diamond. His books were

well-known to Amway distributors. As such, he became the headliner of the Dream Weekend in Tyler.

25. Andrews agreed, through his agent and manager, Robert D. Smith, to perform and speak at the Dream Weekend in Tyler. Around January 8, 1998, TEAM received a confirmation of this in writing. The terms of the agreement such as compensation, location, copyright information and accommodations were all covered. Andrews even sent out a message by way of Amvox(1) to everyone in the group promoting Dream Weekend in Tyler. His appearance was one of the big reasons many distributors were eagerly anticipating Dream Weekend, and one of the reasons TEAM expected it to be a giant success.

26. Within a month or so of agreeing to perform at Dream Weekend, Andrews and Fish both pulled out from their obligation and refused to perform. Fish withdrew because he did not want to be seen as sympathizing with the TEAM shareholders, and therefore alienate himself from the Yager system. Similarly, on January 13, 1998, Robert D. Smith, acting as Andrews' agent, notified TEAM that he was withdrawing Andrews' availability due to "personal reasons," though these reasons were never elaborated upon.

27. The withdrawal of the defendants from their obligations to perform has effectively killed the spirit of TEAM Resources. They were forced to cancel the Tyler function which, at one time, had shown much promise. As a direct result, the numbers attending functions held thereafter sharply declined. There were five more monthly functions, the last having just 130 attendees. Many of the distributors that chose to be serviced by TEAM began to look elsewhere for upline service and Business Support materials. They went looking for organizations that could bring in the more popular, well-known Diamonds to perform at functions, such as Fish and Andrews. The attempt at producing tapes and other tools was negatively impacted as well.

28. In short, as a result of the Defendants breaching their contracts, the excitement for TEAM declined, support as everyone desired was unlikely, attrition continued and TEAM Resources, Inc. was devastated, as most distributors decided to go elsewhere.

COUNT 1: TEAM Resources is Entitled to Recover for Ted Fish's Breach of His Contractual Obligations

29. In December of 1997, Ted Fish doing business as Fish Associates orally contracted with Plaintiff TEAM Resources to perform at TEAM's "Dream Weekend" in Tyler, Texas. Dream Weekend was to take place on February 14, 15 and 15 of 1998. On December 19, 1997, TEAM sent Fish a letter documenting and confirming his commitment to perform. The letter acknowledged such details as when Fish would speak and how much he would be paid. Fish had airline reservations to DFW airport in Dallas, knowing that the Plaintiffs would take care of his ground transportation, as well as his lodging and meals. In short, there was a meeting of the minds as to the subject matter of the agreement and all of its essential terms. A valid contract for services was thus formed.

30. In January of 1998, Fish pulled out from his obligation to perform. His explanation was that he did not want to be seen as sympathizing with the TEAM shareholders and thereby jeopardize his business relationship with Dexter Yager and the Yager system. This constitutes a breach of the contract Fish and Fish Associates had with TEAM. As a result, TEAM had to cancel its function, resulting in a substantial loss of income.

31. Further, as a result of Fish's breach, TEAM's business has been almost completely destroyed. TEAM has lost all credibility by having such a well-known speaker and promoter of the Amway business cancel on them. This loss was reasonably in the contemplation of the parties at the time of contracting because of Fish's familiarity with the Amway business and of the Business Support Materials business that operated alongside of Amway.

32. Ted Fish individually and doing business as Fish Associates, is liable to TEAM Resources, Inc., for the losses TEAM incurred as a result of Fish breaching his contract with TEAM. Such losses include lost income from the cancelled function, as well as the lost future revenue TEAM would have received had it not been for Fish's breach.

COUNT 2: TEAM Resources is Entitled to Recover for Andy Andrews and Robert D. Smith's Breach of their Contractual Obligations

32. In January of 1998, Andy Andrews doing business as First Image, Inc., and through his agent, Robert D. Smith, orally contracted with Plaintiff TEAM Resources to perform at TEAM's "Dream Weekend" in Tyler, Texas. Dream Weekend was to take place on February 14, 15 and 15 of 1998. Andrews was to perform on February 13, 1998. On January 7, 1998 Smith sent a letter to TEAM confirming the verbal agreement and outlining the essential terms. There was a meeting of the minds as to the subject matter of the agreement and all of its essential terms. As such, a valid contract for services was formed.

33. On January 13 of 1998, Smith sent a letter to TEAM withdrawing Andrews' availability for the Tyler function "due to personal reasons." The personal reasons were never explained. This constitutes a breach of the contract Andrews, Smith and First Image, Inc. had with TEAM. As a result, TEAM had to cancel its function, resulting in a substantial loss of income. Further, as a result of the breach, TEAM's business has been almost completely destroyed. TEAM has lost all credibility by having such a well-known speaker and promoter of the Amway business cancel on them. This loss was reasonably in the contemplation of the parties at the time of contracting because of the Defendants familiarity with the Amway business and of the Business Support Materials business that operated alongside of Amway.

34. Robert D. Smith and Andy Andrews individually and doing business as First Image, Inc is liable to TEAM Resources, Inc., for the losses TEAM incurred as a result of their breaching their contract with TEAM. Such losses include lost income from the cancelled function, as well as the lost future income TEAM would have enjoyed had it not been for the Defendant's breach.

DAMAGES

35. Defendants conduct, as stated in this complaint, was a producing, proximate and direct cause of damages to TEAM Resources, Inc. Specifically, TEAM Resources lost income of at least \$50,000 when it had to cancel the function at which Defendants agreed to perform. Further, Defendants breach has effectively destroyed TEAM's business to the conservative tune of \$4,000,000.

PRAYER FOR RELIEF

TEAM Resources, Inc., doing business in the state of Texas as Real TEAM Resources, asks for a jury trial and an award of relief against Defendants as follows: actual damages that exceed the minimum jurisdictional limits of this court; pre and post judgment interest as allowed by law; attorney's fees (through trial and all appeals) and cost; and any and other relief, both special and general, to which TEAM Resources, Inc. may be justly entitled.

Respectfully Submitted,

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(1) Amvox is a voice messaging system made available by Amway through which Amway distributors can leave messages for each other. It is somewhat equivalent to an answering machine or answering service. It also allows distributors to pass messages along from one person to the next, as well as to send one message to multiple distributors.