

Robb Evans
Temporary Receiver of Equinox International Corp.,
Advanced Marketing Seminars, Inc.
and BG Enterprises, Inc.

REPORT OF RECEIVER'S ACTIVITIES
SEPTEMBER 11, 1999 THROUGH OCTOBER 25, 1999

Ongoing Business Operations

Following the September 14, 1999 Order of this Court, I have directed my activities and those of my staff, to meeting the specific requirements of the Order and implementing the listed procedures contained in my Report of Receiver's Activities through September 10, 1999. These procedures were designed to carry out or fulfill the specific directives of the Court's Order.

I believe our activities have met the Court's directive to conserve and preserve assets and to ensure that funds are available to provide restitution, in the event the Court so orders. We have also taken steps to ensure that the defendants comply with the provisions of the Order.

Conservation and Preservation of Assets

Management has maintained periodic contact with us to discuss specific requests or extraordinary business transactions or events. My Las Vegas based representative has visited the company headquarters each week. During these visits, he has reviewed company disbursements under \$50,000, reviewed company disbursements over \$50,000 that were to purchase inventory under the guidelines of the Order, and obtained our concurrence to approve other expenditures over \$50,000.

Although company management has complied with our efforts to conserve and preserve assets, the Equinox companies now have limited cash balances and are undertaking several steps to address this problem. Additional details follow.

Defendants' Compliance with Provisions of the Order

My staff and I have also directed our activities to confirm that the defendants are complying with the specific provisions of the September 14th Order that were detailed on pages 15 and 16. There has been correspondence and conversation between my office

and the company's management to discuss the company's progress toward implementing the provisions of the Order. Furthermore, two of my associates met at the Las Vegas headquarters with management of the defendant companies on October 1st.

During that meeting, my representatives reviewed outstanding compliance issues, presented the Receiver's interpretation of several elements of compliance, and heard the company's different interpretation of some of the issues.

Representations as to Income Levels, Recruitment Compensation, Likelihood of Success in Selling Equinox Products, and Disclosures about Expenses and Distributors

During our meeting on October 1st, the company management discussed the steps it had taken to comply with all parts of the Order. The discussion covered the parts of the Order that direct it to cease certain income and success representations, to make certain disclosures about the monetary commitment required to run an Equinox distributorship and to disclose the number of active Equinox distributors and the percentage qualified to receive rebates and bonuses.

The company has caused some of its printed materials, which are more fully discussed later, to contain direct disclaimers about the likelihood of income levels, any guaranteed earnings, any earnings from recruiting, and prohibiting any representations of a high likelihood of success in selling Equinox's products. These materials also contain the disclosures about monetary commitment and other information about the distributors, which are more fully analyzed in the following text.

During our meeting on October 1st, the company discussed its plans to have Mr. Gould travel to and participate extensively in training seminars and to create additional satellite broadcast presentations. Management stated that the goal of this plan was two-fold: to re-energize and re-motivate the existing and new distributors and to publicize the Court's restrictions in its Order related to income levels, recruitment compensation and the likelihood of success.

We have reviewed and will continue to review videotapes of satellite broadcasts. We have not yet reviewed videotapes of any 2 1/2-day weekend seminars, which reportedly include more than forty videotape cassettes. We plan to set aside time to review excerpts of seminars in the near future.

A satellite broadcast on September 9, 1999, intended for viewing by all Equinox representatives at independent training centers, was about 60 minutes in length. It showed Mr. Bill Gould discussing changes in Equinox policy brought about by "The Judge's Order." There was no mention of the action filed by the Federal Trade Commission. Mr. Gould instructed the viewers and those in the audience, to use approved advertising, to not make any specific statements about income levels or potential income and to emphasize that the company is set up to sell retail products.

Several times in the presentation, Mr. Bill Gould stated, "I am not making any representations" about income levels or sales success. However, while seeming to carefully comply with the technical requirements of the Order, the presentation included a lengthy discussion about the benefits of recruiting and training distributors to sell products and reach different volume levels. Mr. Gould's discussion of the benefits were supplemented with his diagrams on a white board and he emphasized personal continuing cash flow and the resulting reduced requirement for personal sales volume.

My staff and I remain uncomfortable with the text and the resulting theme of this presentation, even though it includes disclaimers and warnings that are sprinkled throughout the discussions. We have not concluded that this broadcast violated the Court's Order. Nevertheless, we will continue to review satellite broadcasts and seminars to continuously evaluate whether or not the company is complying with the several directives within the Court's Order.

Advertising and Other Written Communications

Previously, my office approved a list of short classified advertisements that representatives could retrieve from the company's website or fax-on-demand program and publish in local newspapers. Management has posted the approved ads with a requirement that "representatives may use only these advertisements." We discussed an instance where we had noted that a representative had changed some of the text of an approved ad. However, the company had already noticed the change and reprimanded the representative.

During our meeting on October 1st, we advised management that the Receiver's office continues to study the Court Order, along with the transcript of the September 3rd hearing, and may have further revisions or exclusions to the list of approved ads. Since the meeting, the Receiver's office notified management that it no longer approved seven of the ads. Under Tab 1 is a list of the classified ads approved by the Receiver's office and recent correspondence detailing those ads no longer approved.

During our meeting on October 1st, we advised management that the Receiver's office believed each approved classified ad should appear in a newspaper's advertising section for "commissioned sales" or "sales representatives wanted", and not appear in the general "help wanted" section unless the newspaper did not have such discreet categories. Management agreed with our conclusion. However, we have since refined our conclusion to include that this condition should be posted with the approved ads. Under Tab 2 is our recent correspondence requesting management to insert this condition on the list of approved ads.

During our meeting on October 1st, we advised management that the Receiver's office believed each approved classified ad should end with a description "Commission Sales – MLM." Management disagreed with our conclusion because it believed that the term "MLM" presents a negative image and no other direct sales company is required or has elected to include the phrase "MLM" in their recruitment advertising. Based on the

transcript of the Court's September 3rd hearing (Tab 3), the Receiver's office continues to believe such a description is appropriate but has agreed to let the parties submit their comments and recommendations about this description to the Court, and wait for the Court's direction.

Management submitted proposed revisions to the Terms and Conditions and Supplemental Terms and Conditions attached to Equinox's Representative Application and Agreement. During our meeting on October 1st, we proposed further clarification and provisions which management accepted. The Supplemental Terms and Conditions does disclose a representative's substantial commitment generated by associating with a cooperative training center, including monthly desk rental, telephone costs, and other business expenses such as gasoline and stationery. The document also discusses the costs of voluntary attendance at training seminars.

The Supplemental Terms and Conditions also disclose the number of Active Equinox Distributors (those that have made purchases in the last twelve months) and the percentage of Active Equinox Distributors that are presently qualified to receive rebates and bonuses from Equinox. The Order requires that this disclosure describe the distributors' geographic area. The company has made the disclosure for the entire United States because, it claims, the information is not currently or readily available by state and would take "many weeks" to produce manually.

However, since our meeting with management, we have continued to study the Court's Order, the transcript of the September 3rd hearing, and have continued to evaluate whether the revisions to the Terms and Conditions and Supplemental Terms and Conditions fully comply with the Court's Order. We have now determined that the disclosures directed by the Court's Order should be contained in a separate document.

We believe the Court's Order is unambiguous where it states that the required disclosures be made "...in a clear and conspicuous manner, before accepting a representative application..." The disclosures, which we believe are factually responsive except for the description by the geographic area, are now found as items 14 and 15 on the Supplemental Terms and Conditions. This document is an attachment to Equinox's Representative Application and Agreement, and is presented to and initialed by a new representative.

Under Tab 4 is our recent correspondence requesting management to prepare a new document titled "DISCLOSURE REQUIRED BEFORE ACCEPTING A REPRESENTATIVE APPLICATION and AGREEMENT" that is intended to be signed by a prospective representative. That correspondence also requests management to disclose not only the percentage of those qualified for rebates and bonuses, but also for clarification purposes, to also disclose the actual number that relates to the percentage. This proposed document would incorporate the text of Term and Condition #'s 14 and 15. We have also asked management to replace Term and Condition #4 with #16.

Management has created a document titled "Attention All Representatives!," which is posted on the representative section on the company's website. The document lists actions and representations that are forbidden by the Court's September 14, 1998 Preliminary Injunction. The listed prohibitions are clear and complete and the document further states that the eight detailed provisions shall supersede any conflicting provisions in the current Equinox General Policies.

The Receiver's office believes that the eight detailed provisions included in the text of this document meet the requirements of the Court's Order. However, we believe part of the introductory text is inappropriate and may be misleading. The introductory text contains the statement that the FTC and several states "inquired into the business and marketing practices of Equinox International." "Inquired" does not accurately describe the scope or extent of the Complaint filed by the FTC and others. We believe the company should more appropriately and precisely disclose that a Complaint was filed by the FTC and others seeking significant changes to the company's representations and business practices.

We acknowledge that the company has the right to state it is vigorously contesting the claims of the plaintiffs. To make company representatives and others aware of the FTC action, and the company's stated defenses, we believe there should be a prominent notice posted on the homepage of the company's website to notify Equinox distributors about this document. Presently, the homepage of the website does not refer to this document, and if representatives or potential representatives do not enter the representatives' section of the website (which requires a password), they may not become aware of it. We also believe the document should be available through the company's fax-on-demand feature, and included in its index. Under Tab 5 is a copy of the document titled "Attention All Representatives!" and our recent correspondence requesting management to include a reference to this document on the company's homepage of its website and the fax-on-demand index, and to make it available from fax-on-demand. We have also included our request to correct the introductory text in the document.

Revised Refund Policy

The revised Supplemental Terms and Conditions, the revised Representative Refund Letter and the website announcement "Attention All Representatives!" all describe changes to the Refund Policy. Distributors terminating their Equinox distributorship are now entitled to a 100% refund based on the product being returned for all undamaged products and sales aids purchased within the preceding 12-month period. The Receiver's office believes that the revised Refund Policy, including the availability of a toll-free telephone number for the purpose of arranging and processing distributor refunds, now meets the requirements of the Court's Order.

Equinox's Financial Condition as of September 30, 1999

During our meeting on October 1st, the company management said that sales in September were dramatically lower than in previous months. They further reported that

the company was experiencing a very tight cash condition. The cash condition was further hampered by Imperial Bank's holding approximately \$1,000,000 of credit card proceeds. Management stated that it was reducing expenses wherever possible and Mr. Gould was liquidating personal assets and loaning the proceeds to the company. At the company's request, I asked Imperial Bank to hold a reasonable reserve for possible credit card returns and chargebacks and release the excess over a 30-day period. I was successful in getting \$200,000 released to the company. However, Imperial Bank has not agreed to release any further amounts and the company is considering legal action against the bank.

We received Equinox's financial report as of September 30, 1999 on October 22, 1999, but have not yet evaluated the report.

Approvals Requested

The Court is respectfully requested to:

1. Direct the Receiver to either require approved advertising to contain the statement "Commission Sales – MLM" or to allow existing approved recruiting advertising to continue.
2. Confirm or reverse the Receiver's direction to Equinox to create and use the additional pre-application disclosure.
3. Direct the Receiver to either allow all required disclosures be made for the United States, or require they be made for the distributors' geographic area.
4. Confirm or reverse the Receiver's direction to Equinox to create an additional notice on the company's homepage of its website and its fax-on-demand index describing the document "Attention All Representatives!"
5. Confirm or reverse the Receiver's direction to Equinox to correct the introductory text in the document "Attention All Representatives!"
6. Confirm or reverse the Receiver's conclusion that the Company's Revised Refund Policy satisfactorily meets the Court's directives in its Order. If the Court reverses the Receiver's conclusion, the Receiver respectfully requests additional instruction and direction to carry out the Court's Order.
7. Provide any additional direction or instruction to the Receiver that the Court deems necessary.

Respectfully submitted,

Robb Evans
Receiver