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CENTRAL DISTRICT OF CALIFORNIA
DEPUTY

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9 UNITED STATES DISTRICT COURT
10 CENTRAL DISTRICT OF CALIFORNIA
11 WESTERN DIVISION

12 FEDERAL TRADE COMMISSION,)
13 Plaintiff,)
14 v.)
15 TREK ALLIANCE, INC., et al.,)
16 Defendants.)

17 Case No. **02-9270** ISL (AJWx)
18 DECLARATION OF FTC'S EXPERT
19 WITNESS **PETER J. VANDER NAT** IN
20 SUPPORT OF PLAINTIFF'S EX PARTE
21 APPLICATION FOR TRO AND OTHER
22 EQUITABLE RELIEF

23 ENTERED ON ICMS
24 DEC 20 2002
25 CV [Signature]

1 emphasizes the role of retail sales and states:

2 Trek's sales and marketing program is based upon retail sales to the ultimate
3 consumer. Every aspects of the program is designed to assist our Independent
4 Representatives in the marketing of fine products and services to the general
5 consuming public.

6 In reality, retail sales do not play any significant role in Trek's program. Although the company
7 has certain rules regarding retail requirements (the "6 retail sales rule" and "70% rule" explained
8 below), it is very likely that Trek does not enforce these rules; moreover, even if they were
9 enforced, these rules would not lead to any significant retail sales. I believe the level of retail
10 activity is exemplified by certain data received from the State of Maryland which show that,
11 relative to all Trek product sold in Maryland (approximately \$1.8 million in total), recorded retail
12 sales to the general public amounted to less than 2%. For reasons explained below, retail activity
13 (whether in Maryland or in another state) is not likely to be significantly greater than the amount
14 for which Trek has records.

15 5. Instead of an emphasis on retailing, Trek gives its distributors a Pay Plan under which
16 the various positions and the related earnings hinge critically on the ongoing recruitment of new
17 distributors. Under several optimal scenarios in which the distributors do exactly what is needed
18 to obtain the rewards proposed by the Pay Plan, approximately 98.8% to 99.6% fail to achieve any
19 earnings.¹ These results come from the very structure of the Pay Plan. It is also shown from
20 earnings data that the vast majority of distributors do not, in fact, obtain *any earnings* from the
21 Pay Plan.² And for the minority of distributors who do obtain some earnings, approximately 90%
22 of these do not receive sufficient earnings from the Pay Plan to recoup regular monthly business
23

24 ¹ I refer to respective optimal scenarios for becoming either a Bronze Director or a Bronze
25 Coordinator (as Trek defines these positions in the Pay Plan). These positions are among the
26 *lower* bonus positions that Trek describes as being at the heart of the compensation plan.

27 ² These data come from the State of Maryland and also from nation-wide Trek distributor
28 earnings that are derivable from company materials.

1 expenses that they incur in actively pursuing Trek's program.

2 6. I have considered a base of some 22, 281 Trek distributors (since inception, all those
3 who joined by the close of year 2001). Upon applying conservative assumptions about business
4 expenses and upon also including all who had earned nothing from the Pay Plan, I estimate that in
5 all likelihood more than 96% of Trek distributors experienced business failure. For those who
6 joined during 2001 (nearly 6,100 distributors), I estimate that more than 99% experienced failure.
7 From all of the above considerations, I conclude Trek Alliance is a pyramid scheme.

8 **Part II: The General Elements of a Pyramid Scheme**

9 7. In generic form, a pyramid scheme is an organization in which the members obtain
10 their monetary benefits primarily from the recruitment of new members rather than selling goods
11 and services to the public. The main benefit of membership is the right to recruit others and to
12 receive monetary compensation for doing so. The program may involve the sale/purchase of
13 certain goods or services to the public or to the members of the organization. Frequently, the
14 members themselves may consume some product or service that the organization offers. These
15 may range from items that are commonly available and frequently purchased – such as everyday
16 household items, nutritional supplements, personal care products– to items new to the market
17 such as internet access devices for television sets. Sometimes, the product or service may be
18 consumed independently from recruitment; other times the good or service can only be received in
19 direct connection with the recruitment of others. But whatever the particular details, in compari-
20 son to alternative ways of obtaining the product or service, the benefits from the organization's
21 provision of the product or service range from small to none; at the same time, people obtain most
22 of the monetary benefits of membership by recruiting others into the organization.

23 8. A pyramid scheme in its most extreme form is one in which there is no product or
24 service. The organization is essentially a chain letter that is funded entirely by ongoing
25 membership payments. People are motivated to join and to make the required payments because
26 they are promised a certain part of the payments made by those who join later on. If enough
27

1 people continue to join, a given member could recoup his or her initial payment (or the ongoing
2 monthly payments) and also generate additional returns. Of course, it is this latter circumstance
3 that all members are hoping to attain. But the required numbers of new members cannot, in fact,
4 be recruited on a perpetual basis; hence, at some point the scheme collapses.

5 9. The particular formula that compensates people for obtaining new recruits may vary
6 from one pyramid scheme to another, but all have a common thread. Some type of "downline"
7 with an associated compensation schedule is established for all members. As new recruits are
8 drawn into the organization and are placed into various downlines, those who are already
9 members generally move to higher levels where they may qualify for greater compensation. Like
10 any chain letter, a pyramid scheme is just a mechanism to transfer funds from one person to
11 another. Those at lower levels of the organization pay certain amounts to those at higher levels.
12 As noted earlier, a person is motivated to make these payments in the hope of making a profit
13 later on. Oftentimes, the compensation schedule reveals that a given participant must generate a
14 certain number of recruits in order to recoup - by receiving a cut of the new membership fees -
15 the person's own membership payment(s).³ As the recruits do their own recruiting in turn, a given
16 person may be fortunate enough that his or her downline is filled with growing numbers of
17 people, and the total compensation received might go well beyond the person's own membership
18 payment(s). In contrast, there is a clear down side as well: the lower one's level in the structure,
19 the less is the compensation. Although it may seem obvious to say so, there is always some set of
20 people at or near the bottom. As explained further below, over time these levels have magnitudes
21 that grow very rapidly and, in fact, comprise the vast majority of the participants. Also, those at
22 or near the bottom inevitably lose their money.

23 10. The harm caused by a pyramid scheme may be summed up as follows: since most of
24 the proposed rewards are tied to recruitment, a situation is created in which the monetary benefits
25

26 ³ This feature describes one important type of compensation plan; another type of com-
27 pensation (discussed below) hinges on "sales volume" that is generated in the act of recruitment.

1 set forth by the company cannot come true for the vast majority of participants (while all members
2 pay money for the ostensible benefits of membership). The benefits are premised on the ongoing
3 ability to recruit new members, while this premise is always false. Growth is limited by the fact
4 that the number of people willing and able to invest in any given business venture are fewer in
5 number than the general population. Also, regardless of the definition of "general population"
6 (i.e. region, country, or international domain), the population remains finite; thus, at some point,
7 new recruitment possibilities cease. Yet, for as long as a successful recruitment pattern is
8 maintained, the number of people who are near the base of the pyramid often grows at an
9 exponential rate, and the people who are at or near the base usually comprise the vast majority of
10 the participants. (The names of those who are at or near the bottom will change, but the relative
11 proportion of people at or near the bottom does not change for as long as a successful recruitment
12 pattern is maintained). Eventually, when new enrollment stops, the people at or near the base of
13 the pyramid cannot qualify for the rewards precisely because their downlines are either empty or
14 have insufficient numbers of recruits.

15 11. The resulting losses are not accidental; they are determined by the structure of a
16 compensation plan that ties most of the promised rewards to a participant's ability to recruit
17 others into the program. By the very nature of the recruitment pattern, earnings representations
18 attached to a pyramid scheme must turn out to be false. Either the recruitment pattern cannot, in
19 fact, proceed as the organizers claim (thereby invariably making the associated claims for
20 earnings false) or, for as long as recruitment does proceed according to a stated pattern, the vast
21 majority end up at or near the base of the pyramid, in which case the compensation schedule
22 ensures they cannot qualify for the promised rewards; again, the earnings claims turn out to be
23 false. For illustration, I reference a well-known mathematical computation. Under a plan that
24 requires (say) 3 recruits per member, the number of participants would exceed the combined
25 population of the United States and Canada between the 17th and 18th levels. Also, assuming that
26 each person could recruit at least one person a month (a claim that is often made by pyramid
27

1 organizers), the 18th level of recruitment, together with all prior levels, would be completed in just
2 4.5 years! Naturally, the pyramid would collapse before this point. The latter observations under-
3 score that the scheme is doomed from the outset: the prospective rewards depend critically on a
4 continual increase in the number of participants, while the total potential membership is finite and
5 would be quickly exhausted if recruitment were actually to proceed as the organizers claim.⁴

6 12. There are a number of variations which, in some way or other, deviate from the
7 simplest form of a pyramid scheme (the simplest form being a chain letter with a stated recruit-
8 ment pattern). The variations typically involve some collection of goods or services that members
9 can buy from the organization. It is very easy to adjoin a product to a pyramid scheme. For
10 example, products may be made available through a catalog. Members may soon discover that
11 there are no savings from catalog purchases, while, by design of a particular compensation plan,
12 a person's ability to receive a designated cut of downline payments may have no connection with
13 anyone's catalog purchases; people obtain all or almost all of the benefits of membership from
14 recruiting others into the organization. Another variation involving goods and services is that the
15 rewards for recruitment are tied in some way to what is being purchased from the organization by
16 a member's downline. Within this type of plan there may be many further variations. In general,
17 the total compensation for any given member could be a combination of (i) gains derived from
18 recruiting new members and (ii) gains derived from selling the organization's products or services
19

20 ⁴In order to describe typical losses, I continue the mathematical computation. Assuming
21 again that each member is to have 3 recruits, the bottom two layers of the pyramid taken together
22 would comprise (for as long as a successful recruitment pattern is maintained) about 90 percent
23 of the ongoing membership. When growth stops, the people at the very bottom lose their invest-
24 ment since they have no downline. Also, those just one level above the base lose most of their
25 investment because they do not have a sufficient downline: they have only enrolled "level-1" (or
26 direct) recruits, typically not enough to earn back their initial payment(s). (The compensation
27 schedule usually requires participants to have some indirect recruits, or recruits of recruits, before
28 a certain level of rewards can be obtained.) In such a circumstance about 90 percent of the
members, and possibly more, do not obtain the promised rewards and outrightly lose money of
their own. The percentage of those who lose (in the double sense of not receiving anticipated
rewards and also losing their own money) becomes all the greater as more ambitious recruitment
requirements are set forth. For example, if each person is to have 5 direct recruits, about 96% of
the ongoing membership would reside at the bottom two levels and thus not obtain the promised
rewards, while also losing all or most of their initial payments.

1 to the public. Here, there emerges a set of possibilities ranging from a legitimate multi-level
2 marketing firm to a disguised pyramid scheme.

3 13. In distinguishing between a pyramid scheme and a legitimate business, the critical
4 issue is whether rewards paid in connection with recruitment are tied to, or are derived from, the
5 sales of goods and services to the general public (i.e., retail sales).⁵ Economic assessment of this
6 matter involves a series of questions. First, are any goods or services being sold to general
7 consumers? If not, or if such sales are *de minimis* while members are still promised lucrative
8 returns for signing up new members, the organization must certainly be a pyramid scheme.
9 Secondly, if goods or services are being sold to consumers at some nontrivial level, what is the
10 dollar size of this sales volume in comparison to the total dollars generated from direct
11 membership payments? If this query does not indicate an obvious problem, further questions are
12 posed. Do the participants make their earnings primarily from recruitment or from sales to the
13 general public? Also, are the revenues from the sales of the goods and services to general
14 consumers sufficient to cover the following costs and expenses: immediate production costs, the
15 various marketing expenses, general overhead, and the promised rewards for enrolling new
16 members? As explained more fully below, from an economic perspective, the latter two queries
17 are especially useful in assessing whether the organization is a pyramid scheme or legitimate
18 multi-level marketing firm (MLM).⁶

19 14. An MLM system is a way of distributing products or services in which each partici-
20 pant earns income not only from his or her own sales to the public but may also earn income from
21 the retail sales made by the direct or indirect recruits of the participant. In an MLM system,
22

23 ⁵ I am aware that the Koscot case affirmed the stated issue to be the critical factor. Later,
24 cases such as Webster v Omnitrition and Gold Unlimited affirmed Koscot. In Webster, the court
25 also found that for purposes of pyramid analysis the sales that are made to a distributor's down-
line do not count as retail sales. A "retail sale" refers to a sale of product to a general consumer,
i.e., someone who is not a member of the organization.

26 ⁶ I have recently co-authored an article on this same matter; see Vander Nat and Koop,
27 "Marketing Fraud: An Approach for Differentiating Multilevel Marketing from Pyramid
Schemes," Journal of Public Policy & Marketing, Volume 21, Number 1 (2002).

1 product may be moved downline through a series of recruited distributors, and in this process
2 certain financial rewards may be paid to the distributors for moving the product downline. But, in
3 principle, the “bonuses,” “rebates,” “commissions,” or whatever the rewards paid to distributors
4 may be called, are ultimately to be paid (or be payable) out of retail revenues. There are two main
5 ways that a company can achieve this latter objective. The first is to tie upline rewards directly to
6 retail activity of recruits.⁷ In this circumstance, although there are rewards paid in connection
7 with recruitment, the very design of the compensation plan secures that these rewards can be paid
8 only to the extent that there are corresponding sales of products or services to general consumers.

9 15. There may be other ways to secure the desired result that the various rewards paid to
10 distributors could ultimately be paid out of retail revenues. A plan could pay rewards (upline) that
11 are based on the amount of inventory product that is purchased by a new recruit. It may be
12 possible that the firm could demonstrate that, as a matter of track record, most of distributor
13 inventory is actually retailed to the public, while it may also be able to demonstrate that the
14 resulting retail revenues would be large enough to pay for all costs and expenses related to the
15 product, including the rewards paid for building a downline. In such circumstances, the rewards
16 paid upline at the time of recruitment may be objectively described as “sales commissions in
17 advance of the retail sale.” On economic grounds, I think this description would be valid
18 whenever (i) the volume of product purchased by distributors is a reliable proxy measure for
19 eventual retail sales, and (ii) the resulting revenues from the retail sales would be sufficient to
20 cover all or most of the costs and expenses related to the product, including the rewards that were
21 given for retail sales “in advance of the sale.”

22 16. An organization may also pay “volume rewards” to an upline as a way to run a
23

24 ⁷ For example, the compensation plan may be constructed along the following lines. A
25 distributor earns (i) a 20% retail margin on his or her own retail sales, (ii) a 10% commission on
26 retail sales made by a distributor’s immediate recruits, and (iii) a 5% commission on retail sales
27 made by any recruit of a distributor’s immediate recruit. Usually, the company has a suggested
retail price, and the distributor may decide to charge a different price. To accommodate this
circumstance, the indicated sales commissions may be expressed, more conveniently, as a
percentage of the “distributor’s wholesale value” of the product.

1 pyramid scheme disguised as an MLM system. Again, the firm may pay upline rewards that are
2 based on the volume of inventory purchased by a new recruit. But now the company may also
3 create a compensation plan whose economic incentives strongly favor recruitment over retail
4 effort. This plan may then be bolstered with specific company training that further teaches people
5 to favor recruitment over retail effort. In these circumstances, the following results would surely
6 be inevitable: only a small part of the inventory purchased by the distributors would actually be
7 retailed to the public, while the distributors would obtain their monetary benefits primarily from
8 recruiting. Also, the cumulative upline rewards may be so large that it becomes patently evident
9 that actual retail revenues (accomplished by such little retail effort that may still occur) could not
10 possibly pay for all these rewards. It would then also be clear that rewards paid in connection
11 with recruitment cannot be derived from, or be tied, in any meaningful way to actual sales of
12 goods and services to the public; that is to say, the organization must be a pyramid scheme.

13 17. Finally, I emphasize that in a pyramid scheme the large-scale failure to obtain the
14 proposed rewards is not postponed until market saturation. For as long as a successful
15 recruitment pattern is maintained, the names of the most recent recruits change over time, but the
16 *percentage* of members constituting the most recent layers of recruits does not appreciably
17 change. At whatever enrollment the program may be considered, whether the total membership
18 be large or small, saturation or not, the rules and implementation of the program ensure that the
19 vast majority of members are not in a position to obtain the proposed rewards. For the promoters
20 of the scheme, this feature always limits the liability for required payouts, while also favoring
21 relatively few participants who are at or near the top of the structure. This description is typically
22 true for all stages of recruitment, including those stages that are still far from market saturation.
23 Also, in a pyramid scheme the number of people who lose money increases exponentially for as
24 long as a successful recruitment pattern is maintained. From the perspective of consumer
25 protection, it is always better that a pyramid scheme fail sooner rather than later.

1 **Part III: Trek Alliance**

2 Analysis of the Compensation Plan

3 18. The Trek compensation plan - called the Pay Plan- has the following main elements:
4 (i) a variety of "differential bonuses" paid according to a distributor's rank, (ii) "commissionable
5 points" that are attributed to Trek products for purposes of bonus calculations, and (iii) a certain
6 "total group volume" and "personal volume" associated with each Trek distributor, again for
7 purposes of bonus calculations. Each of these elements is explained in turn.

8 19. In various promotional materials, the company describes the Pay Plan as a system of
9 "differential bonuses." In Trek's official glossary of terms, there is the following definition:

10 Differential Bonus - a bonus that pays *Reps* the difference between their *qualified*
11 bonus level and their *downline's qualified* bonus level on their *downline's* volume
12 totals [emphasis in original].

13 Specific details of differential bonus systems vary from one program to another, while certain key
14 points remain in common.⁸ First, the monetary rewards are often expressed as a percentage of the
15 "point values" or "commissionable points" ("CP") that are attributed to products sold directly by a
16 distributor or indirectly by a distributor's downline. These commissionable points may be the
17 same as, or be different from, the suggested retail value of the product. A "qualifying bonus,"
18 expressed as a percentage of CP, accrues to each distributor rank that occurs in the hierarchy of all
19 upline and downline positions (Trek has 22 designated positions that a distributor may attain). As
20 conveyed by the above definition, upline distributors earn money on the differences of the various
21 bonuses paid to downline distributors. Here, conceptually, an upline distributor may be thought of
22 as paying out a number of bonuses to downline distributors for achieving certain product volumes,
23 where these downline payments involve bonus percentages which are smaller than what the upline
24

25
26 ⁸ Historically, the most well-known network marketing firm to use a differential bonus
27 system is the Amway company. Since Away's formulation of this system during the 1960s, a
28 number of network marketing firms have used the same concept, along with their own variations.

1 distributor would obtain for the total product volume. Such a system is best illustrated by example.

2 20. Assume John Doe's rank qualifies him to receive a 30% qualifying bonus on total
3 product volume of \$3,000 CP. If John had achieved this volume directly through his own sales or
4 through additional inventory purchases, his bonus would be 30% of \$3,000 CP, or \$900. In
5 contrast, assume the total volume is comprised of \$2,000 CP achieved by a downline distributor of
6 rank A and another \$1,000 CP from a downline distributor of rank B. John Doe, being the sponsor
7 of A and B, must allow distributor A (say) a 20% commission on A's CP volume and must allow B
8 a 5% commission on B's volume. Hence, via the activity of distributor A, John Doe receives 10%
9 (i.e., 30% - 20%) of \$2,000 CP. John also receives a 25% commission (i.e., 30% - 5%) of \$1,000
10 CP via the activity of B.⁹ Under the stated differential bonus system John Doe here obtains a net
11 bonus of \$550 (= \$200 + \$250) on total product volume of \$3,000 CP. It should be added that
12 under such a system it is often the case that if a downline distributor should fail to qualify for the
13 bonus percentage accruing to that distributor's rank, this percentage accrues (or "rolls up") to the
14 first upline sponsor who qualifies to receive it. Specifically, if distributor A should fail to meet the
15 qualifications for his or her qualifying percentage, John would obtain A's lost commission (again
16 assuming John to be A's immediate upline sponsor) and thereby receive a full 30% commission on
17 A's \$2,000 CP volume.

18 21. A notable feature of the above example is that the qualifying bonus percentage which
19 pertains to a distributor's rank may be different from the actual bonus percentage received. In the
20 example, John Doe's qualifying percentage is 30%, but the actual percentage received turned out to
21 be 18.3% = \$550 / \$3,000. Depending on the way total CP volume is spread over the downline
22 -with a variety of different bonuses paid to the downline distributors- the actual bonus percentage
23 received by an upline distributor may be different (and lower) than the qualifying percentage. In
24 order to address this variable factor, the company may declare definite bonus percentages that an
25

26 ⁹ For simplicity I assume here that neither A nor B is in the other's downline. If not so, a
27 somewhat different bonus calculation would be made.

upline distributor will receive for any amount of CP volume that occurs at specific downline levels. A person having a certain distributor rank may be paid X% of the CP volume that occurs at the distributor's 1st level, Y% of the CP volume at the distributor's 2nd level, Z% of CP volume at the 3rd level (and so forth). The values for X, Y and Z are arranged in decreasing size and depend on the rank of the distributor. The various ranks and their associated percentages are fused into one system. By a proper selection of the various X, Y, Z bonus percentages, the system as a whole may be viewed as yielding the effective *result* of a specific differential bonus system.

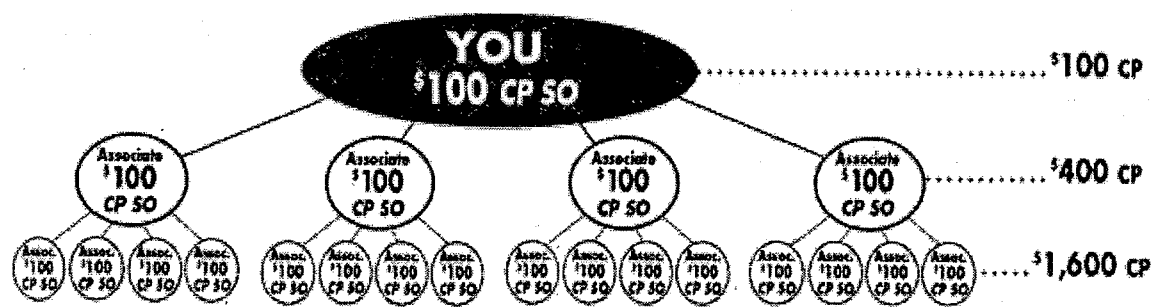
22. I have presented the above outline of a differential bonus system for several reasons. First, in a number of places, the company's materials reference the "differential" nature of its bonus system, where the latter may involve concepts not readily transparent to the reader. Beyond the definition quoted above from the company's glossary of terms, Trek gives cryptic descriptions of the rules that it employs. Here, it is important for me to clarify that there need not be anything objectionable about a differential bonus system in itself. The pyramid analysis given in this declaration considers the full combination of rules, policies, and procedures whereby Trek implements its program.

23. Table 1 below summarizes certain information in the Trek Pay Plan. I focus here on the first three positions of the Pay Plan; these positions are frequently discussed in the company presentations and display many of the important features of Trek's Pay Plan. (Beyond these three there are 19 other positions; see below.)

Table 1. Summary of Certain Trek Bonuses in the First Three Positions of the Pay Plan

Rank	Qualifier	Trek Bonus Percentage
<i>Supervisor</i>	\$4,000 CP	20% of CP volume of 1 st level Associates 15% of CP volume of 2 nd level Associates 10% of CP volume of 3 rd (or deeper) level Associates
<i>Field Representative</i>	\$2,000 CP	10% of CP volume of 1 st level Associates 5% of CP volume of 2 nd level Associates
<i>Associate</i>	application & starter kit	5% of CP volume of 1 st level Associates 5% of CP volume of 2 nd level Associates

24. An illustration of this payment schedule is conveyed by a "4 x 4" scenario presented in a company's brochure regarding the Pay Plan. Trek presents a scenario in which a person named "You" sponsors "four people who each sponsor four people, and everyone maintains a Standing Order (SO) of \$100 CP:"



Your Total Group Volume: \$2,100 CP (\$1,260 Wholesale)

Field Rep	Supervisor	
10% (\$400 CP) = \$40.00	20% (\$400 CP) = \$80.00	Trek Program [1 st level] Trek Program [2 nd level] Alliance Bonus
5% (\$1,600 CP) = \$80.00	15% (\$1,600 CP) = \$240.00	
8% (\$1,260 w/s) = \$100.80	8% (\$1,260 w/s) = \$100.80	
\$220.80	\$420.80	Total
- \$70.00	- \$60.00	Cost of Personal SO
\$150.80/mo	\$360.80/mo	
\$1,809.60/yr*	\$4329.60/yr*	
+ \$1,200 CP of Product/yr	+ \$1,200 CP of Product/yr	

Note: Associates are not shown in chart since \$2,000 CP TGV promotes them to Field Rep. The Fast Cash Bonus is NOT figured into these examples.

Trek's diagram shows 21 slots, with "You" in the top slot and the remaining 20 slots (= 4 + 16) being the result of "4 x 4" recruitment under "You." On the right side of the diagram, there are respective totals for the CP volumes that pertain to each level. The lower charts display calculations of the corresponding earnings that would pertain to a Field Representative or to a Supervisor. Here, upon taking the person called "You" to be Field Representative, the chart shows the following earnings: (i) earnings derived from level-1 Associates: 10% of 400 CP = \$40; (ii) earnings derived from level-2 Associates: 5% of 1600 CP = \$80. The chart also computes an "Alliance bonus," which is an additional type of bonus paid by Trek. In computing the earnings that would

1 apply to a Supervisor (see also next paragraph), the company calculates earnings of 20% from the
2 level-1 Associates' \$400 CP and further earnings of 15% from level-2 Associates' \$1,600 CP.¹⁰

3 25. Somewhat curiously, the stated scenario displays earnings for a Supervisor. By the
4 terms of the Pay Plan, for a distributor to attain the rank of Supervisor, the qualifying level would
5 be \$4,000 CP. Yet, for the given "4x 4" scenario, the total CP volume that would accrue to the
6 person called "You" is just \$2,100 CP (= \$1,600 CP + \$400 CP + \$100 CP). Consequently, "You"
7 are not (or not yet) qualified to be a Supervisor. From the total context of Trek's exposition I infer
8 the explanation would be the following. The context presents the "4 x 4" scenario as an ongoing
9 process; specifically, a header placed above the diagram states (with large and bold letters in the
10 original):

**Build Your Unit & Be Automatically
Diamond Qualified EVERY Month!**

11
12 Indeed, if this process could continue month after month, the recruitment of the 3rd level of
13 Associates (the next level, but not shown in the diagram) would promote "You" to a Supervisor.
14 The displayed earnings would then apply, month after month (along with additional bonuses as
15 well) for as long as the stated recruitment pattern continues.

16 26. A critical part of the structure of Trek's program is that each distributor (generically
17 known as a "Trek Representative" or a "Rep") has a "Personal Volume" and a "Total Group
18 Volume." Personal Volume (PV) is comprised of all the distributors personally placed orders
19 (such as standing monthly orders or purchases of business inventory), as well as all orders placed
20 by that distributor's retail customers and "Retail Members." A "Retail Member" is defined by
21 Trek to be a person who does not have a position within the Pay Plan and buys product only for
22 personal consumption, which is reckoned at a 10% discount from Trek's suggested retail price.
23

24
25 ¹⁰ Other Associates also receive certain bonuses. For convenience I call "You" John Doe.
26 Associates at John Doe's 1st level have their own 1st level in turn. Notwithstanding Trek's
27 potentially confusing note ("Associates are not shown in chart since \$2,000 CP TGV promotes
them to Field Rep"), each Associate at John Doe's 1st level is not qualified to be a Field Rep and
by Trek's rules would obtain a 5% bonus on purchases at their own 1st level (5% of \$400 CP).

1 Also, a distributor's Total Group Volume (TGV) is comprised of the following components: (i)
2 the distributor's Personal Volume as just defined, (ii) all purchases made by Representatives in
3 the distributor's downline, and (iii) all purchases made by retail customers or Retail Members that
4 accrue to some Representative in the stated distributor's downline. Thus, for any John Doe Rep,
5 John's Total Group Volume is the mathematical sum of all Personal Volumes of the representa-
6 tives in John's downline.

7 27. As a distributor moves up in the hierarchy of positions, commissions and bonuses
8 become available by meeting certain qualifications. These qualifications are of various types. One
9 type addresses a required size for Total Group Volume; briefly put, the higher the rank, the greater
10 must be TGV (see Pay Plan for various details). Another type of qualifier addresses exclusions
11 from TGV that will not count in calculating certain Trek bonuses. TGV is partitioned into two
12 components. One component, called "Unit Volume" (UV), is comprised of a Rep's Personal
13 Volume and any volume from a downline Rep who has not achieved a certain status that is called
14 "Diamond Qualified" (DQ). The glossary of terms defines a "DQ Rep" as a distributor who is
15 Supervisor (or higher) and who has a standing order of at least \$100 CP or a Personal Volume of at
16 least \$150 CP. By definition of terms, $TGV = (UV) + (\text{any volume from a downline DQ Rep})$.
17 The Trek bonuses of Table 1, and the corresponding Trek bonuses for any higher rank, are
18 calculated only on the UV portion of Total Group Volume (thus, excluding the DQ portion).

19 28. This DQ exclusion would not have any realistic impact on the first two positions of the
20 Pay Plan (an Associate or Field Rep), but could have a substantial impact on a Supervisor who has
21 a person with rank of Supervisor in the downline. As an apparent compensation for removing
22 certain monetary rewards that would otherwise have accrued to a Supervisor, each rank of
23 Supervisor and higher is offered a new bonus called a "multi-generational bonus." The latter is
24 again described as a differential bonus earned on downline volume, but it starts at a considerably
25 lower percentages than what was effectively lost by the DQ exclusion. For example, for a Bronze
26 Consultant (the rank immediately above Supervisor), the multi-generational bonuses are the
27

1 following: 5% of CP volume of 1st level Associates, 3% of CP volume of 2nd level Associates, and
2 3% of CP volume of 3rd level Associates. Along side of this array, the earlier defined Trek bonuses
3 having the pattern of 20%, 15% and 10% (as exemplified by Table 1) are calculated only on the
4 UV portion of TGV. Also, a further differential bonus called a "total group bonus" starts at the
5 rank of Bronze Director (4 ranks above Supervisor), and increases steadily for higher ranks by
6 increments of either one percentage point or ½ of one percentage point. The highest level in the
7 Pay Plan is called "Partner." For this rank, the total group bonus is set at 13%, and multi-
8 generational bonuses of 6%, 4%, 3%, 3% are applied (respectively) to the CP volumes of the first
9 four levels of a Partner's downline.

10 29. A third type of qualification, among a plethora of others that I will not mention here,
11 addresses the rank of Supervisor (or higher) and a certain number of "diamond qualified legs" that
12 a distributor needs to maintain in order to qualify for either a multi-generational bonus or a total
13 group bonus. A "diamond qualified leg" has two parts to its definition. First, the upline distributor
14 is to have a certain "leg" and this leg is to be "diamond qualified." Each new representative that a
15 given distributor personally sponsors (i.e., recruits) creates a "leg" for the stated distributor. Thus,
16 if John Doe personally recruits Bill and Mary, then they will establish two legs of John's downline.
17 If John should never recruit anyone else, then John's downline has (at most) two legs. Then, to say
18 that these legs are "diamond qualified" means that Bill and Mary must, respectively, attain the rank
19 of Supervisor (or higher) and have a standing order of at least \$100 CP or a Personal Volume of at
20 least \$150 CP.

21 30. In the section of the Pay Plan called "Olympic Bonuses," the combination of the multi-
22 generational bonuses and the total group bonuses are called "the heart of the compensation plan."
23 I thus consider certain scenarios that address these bonuses. In order to obtain a total group bonus,
24 a distributor must be a Bronze Director (or higher) and maintain at least 3 diamond qualified legs.
25 Moreover, starting with Bronze Director and moving to the highest level of Partner, the number of
26 diamond qualified legs that are required range from 3 legs to 8 legs. I consider a scenario in which
27

1 the distributors are striving to be Bronze Directors (the lowest level for the stated bonuses). Each
2 distributor thus recruits three other distributors, who in turn recruit three others, etc., and all
3 maintain a standing order of at least \$100 CP per month. The minimal volume requirement to
4 qualify as a Bronze Director is \$10,000 CP per month. In terms of the scenario, to achieve this
5 volume the distributor must have 4 (or more) downline levels that maintain standing orders of
6 \$100 CP per month. By using the mathematical formulas in Appendix III, it follows that approxi-
7 mately 98.8% of the distributors fail to qualify for Bronze Director. As another example, I consider
8 the rank of Bronze Coordinator. Here the scenario is modified to maintaining 4 legs and a volume
9 requirement of \$30,000 CP per month. Under this scenario, 99.6% fail to qualify for Bronze
10 Coordinator.¹¹ (Each higher rank has a still higher failure rate.) At the heart of the Pay Plan lies
11 the principle that only a handful of people will qualify for the desired positions.

12 Retail Sales Rule and Trek's 70% Rule

13 31. Regarding retail sales, the company has a "6 retail sales rule" requiring a distributor to
14 make 6 retail sales a month to non-Trek representatives in order to qualify for earnings from the
15 Pay Plan.¹² There is no requirement about the dollar size of these sales nor the type of products
16 involved. If a distributor sold a bottle of vitamin pills to (say) a relative in November 2002, this
17 sale would count as one of the 6 required for the month. I have reviewed numerous declarations
18 from participants on the matter of retail sales, as well as other matters.¹³ These distributors
19 generally indicate that they were unaware of any retail requirements and that a need for retail sales
20

21 ¹¹ The earlier Trek scenario regarding "You" is also a 4 x 4 scenario. The bonus for a
22 Supervisor has a volume requirement of \$4,000 CP; moreover, under the company's indicated
23 scenario, distributors with just two downline levels do not qualify for a Supervisor's bonus.
24 Upon applying the mathematical formulas of Appendix III, I calculate that approximately 98.4%
25 of the distributors will fail to obtain the desired bonus under the indicated 4 x 4 scenario. An
26 alternative way of becoming a Supervisor is to purchase \$4,000 CP outrightly (see below).

27 ¹² Section 38.B of Trek's Policies & Procedures directly points out that the required 6
28 retail sales per month refer to sales that are made to non-Trek representatives.

¹³ These include, but are not limited to, declarations from Alexander Martell, Isaac Julian,
Juanita Fallis, Thomas Gandolph, Ronald McNeal, Kelly Olson, Kristen Schweissing, Steve
Weilhammer, and Erin Winski.

1 was neither emphasized nor communicated by the upline. They were not told to save any receipts,
2 nor that the company could eventually ask for retail receipts by way of an audit. The declarants
3 frequently say that the products were difficult to sell and overpriced. Those who made an effort to
4 sell products to the general public report that they mostly failed. One distributor (Mr. Martell)
5 specifically recounts his efforts to compare Trek's health and nutritional products to those sold at
6 GNC (General Nutrition Center). He states that in his experience Trek products were substantially
7 higher in price, up to three times. He and others communicate they were so busy at the local Trek
8 office with perpetual company briefings and efforts to recruit new distributors that they had little
9 time for retail effort. In the same vein, I have read transcripts of Trek briefings and training
10 sessions prepared for the distributors. These convey a common thrust, namely a focus on
11 recruitment as the way to make money with Trek's program.

12 32. In materials given to the State of Maryland, Trek provides information on audit proce-
13 dures for monitoring the required retail activity of the distributors. Interestingly, although 6 retail
14 sales a month are officially required to obtain earnings from the Pay Plan, and retail sales are also
15 described by Trek as the basis for its entire marketing program,¹⁴ distributors are not required to
16 send any retail receipts to the company unless requested as part of a random audit initiated by
17 Trek.¹⁵ The company states in the first paragraph of the audit letter that Trek is seeking "proof of
18 sales to non-Trek representatives." In the second paragraph of the same letter Trek tells the audited
19 distributor: "Standing Orders that are placed in the [requested] volume month would count towards
20 a retail sale." The letter does not say whether these "Standing Orders" would exclude any such
21 orders undertaken by the distributor. In terms of the logical construction of the letter, distributor
22 purchases would be excluded here, since Trek has stated, up front, that the company is seeking
23 retail receipts that would prove sales to non-Trek representatives.

24 33. Upon considering the possibility that Retail Members may have standing orders for
25

26 ¹⁴ See Section 38 of the company's Policies and Procedures.

27 ¹⁵ See materials given to the State of Maryland; specifically, see Exhibit 2 attached below.

1 monthly product purchases, I begin by assuming that the audit letter is referring to the latter type of
2 standing orders.¹⁶ Curiously, since all standing orders are placed directly with the company, such
3 orders represent sales for which Trek has records. I note that the purpose of the audit is not that of
4 an "accounting audit" from a Certified Public Accountant (seeking to verify the accuracy of the
5 company's own records). The purpose of the audit is to establish proof of retail sales to non-Trek
6 representatives - thus presumably sales for which Trek has no records, or else proof would not be
7 needed by way of an audit. I note further that the Policies & Procedures also say that, as far as the
8 company's own definitions are concerned, retail sales "include...purchases by representatives for
9 personal and family use." Thus, if a distributor would respond to the audit letter by indicating a
10 standing order pertaining to the distributor's own monthly purchases, it is not clear that Trek's
11 audit procedure would reckon this response as a noncomplying element. Moreover, if a
12 distributor's own standing order should count toward compliance with the audit, it is again an
13 instance of a sale for which Trek has company records. Finally, the following offer also appears in
14 Trek's Policies & Procedures (Section 39, dealing with monthly sales volume requirements that a
15 distributor needs to maintain to qualify for bonuses); specifically, "...volume requirements may be
16 fulfilled by taking orders from retail customers which will be fulfilled or drop-shipped by Trek
17 directly to the retail customer." Trek offers to fulfill and ship any orders to any retail customers
18 that a distributor may have, and one would think it surely makes good business sense for a
19 distributor who has any retail customers to take Trek up on its offer. I conclude from these various
20 considerations that Trek is likely to possess, by way of its own records, the bulk of the information
21 for which it is requesting proof. (Besides underscoring the peculiar nature of Trek's audit, I return
22 to this point later.)

23 34. The company's submission to the State of Maryland regarding audits gives essentially
24 no information on what the actual rate of compliance is with the retail requirements. The company
25

26 ¹⁶ I add that, theoretically, any retail customer could have a standing order. Still, people
27 who buy product on a regular monthly basis (i.e., have a standing order) would certainly want
28 any discount that Trek may offer to Retail Members and would thus join under this category.

1 affirms that during 1999 a random sample of 623 audit letters was sent out (Exhibit 3, attached). If
2 no retail receipts were returned within 60 days - a time span which included a 2nd follow up letter-
3 Trek either suspended or *could have suspended* earnings from the Pay Plan until compliance
4 occurred (again, see the sample letter given to the State). Trek declares that, to date, there have
5 been 83 such suspensions. No information is given on how suspensions may be resolved; possibly,
6 whenever the audited distributor sends the required receipts, compliance is achieved. Moreover,
7 once a distributor is put on notice by an audit letter that the distributor is required to send 6 receipts
8 (of whatever size) and is further given 60 days to comply or suspension may occur, what could be
9 established about *general retail sales* under such a procedure? Again, in determining a compliance
10 rate with the "6 retail sales rule," would the subsequent sending of 6 receipts (say after a warning
11 from the 2nd letter) count as a positive instance of compliance? Trek does not say. Although Trek
12 was asked by the State of Maryland, under a subpoena, very pointed questions about its audit
13 procedures and actions taken for distributor noncompliance, essentially no information is given on
14 what the actual compliance rate is nor how Trek would, or could, have determined a rate.

15 35. In the Maryland materials Trek provided a memorandum written by two persons from
16 a statistical consulting service on the topic of "Sample Size and Confidence Interval Calculations"
17 (Exhibit 4, attached). Also, there was an adjoined article published by the American Statistical
18 Association in 1998. Trek presented this submission as a vehicle by which the company (quote)
19 "could be assured that the Respondent [Trek] was achieving a 90%, 95%, and 99% compliance rate
20 on our random audits" (Exhibit 3). In my work as an economist and specialization in mathematics,
21 I am acquainted with the analysis contained in the submitted memorandum and the adjoined
22 article. I have no issue with the information presented in these materials.¹⁷ However, these
23 documents do not address the issue of how -through sample size or through any other method-
24

25 ¹⁷ The documents present standard formulas for choosing a sample of sufficient size (n)
26 so that the statistical variation in a certain estimate (itself derived from random sampling) will
27 not exceed certain bounds. Since every statistical estimate has some degree of error, one would
like to limit the size of this potential error by choosing a sufficiently large sample.

1 one would secure a desired *compliance rate* with a stated audit procedure. Whatever the true
2 compliance rate may be for the relevant set of Trek distributors, the referenced materials discuss
3 how the size of the sample can secure a certain *statistical confidence level* for whatever ultimate
4 estimate is derived from the sample. Contrary to Trek's quoted claim, the submitted materials
5 cannot provide any assurance nor any method for achieving a compliance rate in regard to Trek's
6 random audits.

7 36. From the variety of considerations set forth above about the "6 retail sale rule" and the
8 nature of the audit procedure, I conclude that this rule has at best a *de minimis* impact on retail
9 activity. The type of outcome for retail activity that one could expect from Trek's policies is
10 displayed by the Maryland data: the retail sales for which Trek could provide records -which, as I
11 have explained, are likely to be the lion's share of all extant retail sales- comprised just 1.3% of all
12 Trek product sold in Maryland. (See fuller analysis of Maryland data given below.) Moreover,
13 even if the rule were enforced, it would permit a very small volume of product to masquerade as
14 though it were significant retail activity. Indeed, the submitted retail receipts could have a very
15 small dollar size and be insignificant relative to all product sold, but still count as compliance with
16 Trek's retail requirements.

17 37. The company also has a "70% rule" which ostensibly prevents inventory loading and
18 would also encourage retail sales. Trek's policy officially prohibits distributors from purchasing
19 new product unless they have sold or consumed at least 70% of the products they previously
20 purchased from the company. The participant declarations evidence a general unawareness of the
21 70% rule. Moreover, the ones that do address it, such as the declaration by Mr. Martell (but not he
22 alone) state that when the topic did come up, upline sponsors said not to worry about this rule.
23 More specifically, a very high level Trek representative is reported to have said that it is ridiculous
24 to expect distributors to sell 70% of their inventory. Since distributors need standing orders to
25 qualify for bonuses, strict adherence to the rule would effectively prevent them from obtaining a
26 bonus on a monthly basis. Indeed, the standing order for monthly purchases by the distributors is
27

1 one of the core elements of Trek's compensation system. Once such an order is signed by the
2 distributor, product is automatically shipped each month without an ongoing need to certify that
3 70% of the order for the prior month was sold or consumed. Apparently, in Trek's view, this
4 certification is given up front, once and for all. The declarants also say that Trek did not generally
5 enforce the 70% rule by (say) making spot checks to determine if distributors were actually abiding
6 by the rule.

7 38. The Policies and Procedures also convey a buy-back policy for distributors who want
8 to discontinue Trek's program. The participant declarations affirm any number of problems when
9 a refund is sought. Once a box of product has been shipped by Trek and the distributor opens the
10 box, the entire contents are disqualified for a refund even though the various items in the box were
11 never opened. Also, product that Trek deems out of date is disqualified, and all returned product
12 (if accepted) carries a 10% restocking fee. The declarants further say that a buy-back involves
13 telephone calls to Trek - with the distributor being placed on hold for some time and for which the
14 distributor pays the telephone charge - only to be told of additional forms and a "buy-back ID
15 number" that must be processed. Indeed, one distributor knowledgeable of Trek's operation since
16 inception in 1997 (Mr. Martell) states that when he decided to quit, he did not bother to apply for a
17 refund, knowing it was not worth his effort. In my opinion, one of the most ironic circumstances is
18 the following. New distributors are strongly encouraged to purchase \$4000 CP in inventory so as
19 to procure immediately the rank of Supervisor (see participant declarations and Trek sales pre-
20 sentations and briefings). But the form used for a buy-back has a number of exclusions, including
21 the provision that product purchased for the sake of obtaining a certain position within the Pay
22 Plan does not qualify for a buy-back (Exhibit 5, attached). As affirmed by participant declarations,
23 a distributor upon first joining and following Trek's strong advice on any number of matters is not
24 aware of the variety of exclusions that will apply later, should the participant decide to quit. (For
25 example, see complaint letter written to Trek by Mr. Randy Schmitt from Baltimore, Maryland;
26 Exhibit 6, attached.)
27

1 39. I sum up my analysis and conclusions at this point. In its Policies & Procedures
2 (Section 38), Trek formally stresses the importance that the company attaches to the sale of its
3 products to the general consuming public. After noting what Trek's believes to be an industry-wide
4 practice of allowing personal consumption by distributors to count as a retail sale (a practice that
5 Trek concurs with), the company also asserts it has distinguished itself as follows. In order to be
6 eligible for earnings from the company's compensation plan, Trek distributors must make at least 6
7 retail sales a month to nonrepresentative retail customers. In reality, as shown above in a variety of
8 ways, retail sales do not play any significant role in Trek's program. To the contrary, Trek gives to
9 its distributors a Pay Plan under which the earnings hinge critically on the ongoing recruitment of
10 new distributors. In order to have a chance at the thousands of dollars a month that Trek represents
11 as readily achievable for a distributor, personal recruitment of others and monthly volume require-
12 ments are very substantial. Moreover, under two optimal scenarios in which all the distributors
13 follow the company's advice and do exactly what is needed to obtain the proposed rewards,
14 approximately 98.8% to 99.6% fail to achieve any earnings from the Pay Plan. This result follows
15 from the structure of the compensation plan.

16 40. As empirical matter, it is shown below from Trek's own data (Maryland and nation-
17 wide data) that the vast majority of distributors do not obtain any earnings from the Pay Plan.
18 Also, for the minority that receives some earnings, approximately 90% of these do not recoup
19 regular business expenses that they incur in actively pursuing Trek's program. It is further shown
20 below that, considering all distributors who joined since inception, it is extremely likely more than
21 96% experienced a failed business venture.

22 Analysis of Trek's Submission to the State of Maryland

23 41. The company's submission to the State of Maryland contains Trek earnings data for
24 Maryland distributors from the company's inception in the State in 1997 through 9/ 27 /2001. The
25 database has 1,872 distinct distributor ID numbers. In order to estimate the proportion of those
26 who did not receive earnings from the Pay Plan, I considered all distributors who joined since
27

1 inception through 12/ 31/ 2000, yielding 1,319 ID numbers. In view of those who joined near the
2 end of 2000, this time frame permits nine months to obtain some Trek earnings, even \$1. The data
3 show that 1,077 IDs out of 1,319, or 81.7%, failed to receive earnings from the Pay Plan during the
4 relevant pay period (i.e., from the time they joined through payments ending in September 2001).¹⁸

5 42. For those who did receive earnings from the Pay Plan, the break-out is the following:
6 for 1997, 10 income earners; for 1998, 196 income earners; for 1999, 12 income earners; for 2000,
7 24 income earners; and for 2001 (nine months), 68 income earners. Upon considering all distribu-
8 tors who had joined since inception in 1997 through 12/ 31 /2000, there were 242 distinct IDs that
9 exhibited gross earnings (of any size and at any point during the relevant pay period). As implied
10 by these numbers, there is some overlap between income earners from one year to the next. For
11 example, starting with the 196 income earners for 1998 (the best year for Trek distributors in
12 Maryland), 8 distributors continued to receive Trek earnings during 1999. There is also some
13 overlap between the income earners of the later years. As is further evident from the best
14 performance year, the proportion of distributors who received continued earnings is extremely low.
15 Upon tracking the income earners of 1998 (i.e., 196 IDs), the data reveal that more than 95% of
16 them did not receive any Trek earnings after 1998; that is, their Trek earnings were limited to just
17 one year or some part of the year.¹⁹

18 43. I have considered what may reasonably be meant by the notion of continued earnings
19 and also the matter of estimating a rate for continued earnings that would be derived by using
20 various periods as a base. In view of the time period covered by the Maryland data , 4 to 5 years, I
21

22 ¹⁸ The key identifier in the database is the "Distributor ID" number, which is used to
23 enumerate the different distributorships that Trek has sold in Maryland. For ease of exposition,
24 I use the terms "distributorship" and "distributor" interchangeably. In a number of instances a
25 given ID number was shared by two people; invariably, both would have the same recorded last
26 name and same recorded address. For the analysis given below, there is no important impact
27 from (potentially) distinguishing these instances as separate entities. Moreover, since Trek saw
28 fit to give them the same ID number, it is probably best to count these "dual pairs" as one entity.

¹⁹ The database showed that 187 of the indicated 196 distributors had zero Trek earnings
for each of the years 1999 and 2000, as well as the nine months of 2001. (187 / 196 = 95.4%.)

1 looked for an earnings interval longer than two recorded pay periods (thus longer than two years,
2 since the earnings in the database are reported annually). Such an earnings interval also seemed
3 reasonable to me - and indeed a very low threshold - in view of the consideration that Trek's
4 promotional materials present the distributorships as opportunities that can replace one's current
5 employment if pursued full time, and even provide for retirement. Over the entire data-base for
6 Maryland there were just 4 IDs that exhibited earnings for three or more consecutive years (upon
7 counting the nine months of 2001 as one earnings year).

8 44. In order to calculate a failure rate to obtain continued earnings, I considered the
9 distributors who had at least nine or more months to obtain earnings of whatever size, thus
10 delimiting the set of distributors to all who joined on or before March 31, 1999. This yielded a
11 base of 709 distributors. Of this same base, 4 had earnings in three consecutive years (further
12 noting that *two* of these 4 had earnings in four consecutive years - the latter being best instances in
13 the database). Equivalently expressed, less than six-tenths of 1% of Maryland distributors received
14 continued earnings from the Pay Plan.

15 45. The results do not come out better for Trek by extending the sign-up date beyond
16 March 31, 1999. Whatever subset of size N is added for those who joined after this date, the result
17 is that the same 4, but now out of a base of $709 + N$, received continued earnings; thus a lower rate
18 for continued earnings. Also, given the nature of the time span pertaining to the data, it is not
19 feasible to extend the sign-up date beyond December 1999 in regard to the stated test for continued
20 earnings; beyond the latter date, some distributors would have had no chance for obtaining Trek
21 earnings in three consecutive pay periods (since the data end during year 2001).²⁰

22
23 ²⁰ I have also considered using another *earnings* year as a base. Such calculations would
24 need to begin with very small subsets. For example, starting with the 12 income earners of 1999,
25 the data show that 4 continued to receive earnings in the year 2000, and some in still later years.
26 But there are two considerations here. A base of 12 people is too small to permit a statistically
27 significant calculation for a rate of continued earnings. There is also the fact that 8 of these 12
28 have shown themselves to be the (only) survivors from the income earners of the prior year - out
of 196 income earners - thus, 8 people who are more likely to have had substantial downlines.
Not surprisingly, such people also have a better chance at continued earnings. Yet, only half of

1 46. The data show that the level of recorded retail sales is extremely small compared to all
2 Trek products sold in Maryland. From direct information provided by the company, total product
3 sold in Maryland from March 98 through October 2001 came to \$1,774,606. The company further
4 provided a list of all Retail Members and Retail Customers (as these categories are defined in the
5 Trek's materials), as well as a record of product purchased by these customers. The total product
6 bought by Retail Members and Retail Customers came to \$23,659. Thus, as a percentage of all
7 Trek product sold in Maryland, the recorded retail sales came to approximately 1.3% (= \$23,659 /
8 \$1,774, 606). Also, for reasons explained earlier, it is very unlikely that there are any significant
9 retail sales for which Trek would not have had records. Moreover, it is certainly in the company's
10 own interest to present whatever retail records it may have. In view of these considerations and
11 also the fact that the submitted retail sales are in a neighborhood of 1.3% of all product sold in the
12 State, I conclude that retail sales are incidental to Trek's Maryland operation.

13 47. I have also considered Trek earnings paid out in Maryland and compared these to
14 Maryland retail volume. From Trek's submitted data, the total earnings paid to its Maryland
15 distributors by the Pay Plan (since inception to the close of September, 2001) came to \$517,541.
16 In comparison, the retail volume lies in a neighborhood of \$23,600. I conclude that these data
17 show on their face that the rewards bestowed by Trek's Pay Plan, being more than \$500,000,
18 cannot have any meaningful connection with retail sales of about \$23,600. In sum, in view of the
19 various considerations set forth above about retail activity, I conclude that Maryland retail sales are
20 both incidental and unrelated to the distributor earnings paid by Trek in the same locality. It is
21 equally evident that the rewards paid in Maryland under the Pay Plan are overwhelmingly funded
22 by the ongoing recruitment of new distributors.

23 48. In my opinion, the Maryland database does provide sufficient information to derive a
24 _____
25 these 8, or just 4 distributors, obtained any earnings after 1999. See also the table in Appendix II
26 displaying the records for all joined by the close of 1999 and who received \$1,000 or more from
27 the Pay Plan over the entire time of their recorded participation (51 out of a total of 840 distribu-
28 tors who had joined by the close of year 1999).

1 reliable statistical estimate of an overall failure rate for the receipt of earnings from the Pay Plan.
2 This opinion is based on the following considerations. Trek's program is promulgated in a very
3 uniform manner. The same Trek website, products, promotional materials, sales presentations,
4 briefings, EP seminars, and Pay Plan are used where ever Trek's program is presented. I have also
5 read numerous transcripts covering the variety of these materials; they are remarkably similar in
6 content, and it is evident that the same economic incentives are given to all the distributors.
7 Hence, on such matters as the general earnings performance of Trek distributorships, the purchases
8 undertaken by a distributor, the level of retail sales that occur, the distribution of earnings derived
9 from the Pay Plan, and for other matters as well, there is no *ex ante* expectation of dissimilar
10 results between the distributors from one locality (Maryland) to another (California). The
11 Maryland distributorships reasonably constitute a random sample of Trek distributorships.²¹

12 49. As noted earlier, a sample must have sufficient size to permit a reliable statistical
13 projection to the larger population. When dealing with a binomial test, such as a "pass/fail" test,
14 a sample of 500 observations is certainly sufficient.²² I note that the Maryland distributors who
15 joined since inception in 1997 through 12/ 31/ 2000 comprise 1,319 distributorships, a collection
16 amply sufficient for a reliable binomial test. For this test, as applied to Trek distributorships, a
17 "pass" means that some dollar amount was received from the Pay Plan during the relevant pay
18 period (which, as explained earlier, permits payments through September 2001), and "fail" means
19 no earnings were received by the distributorship. Upon starting with the indicated 1,319
20

21 ²¹ Due to the *ex parte* nature of these proceedings, a first-best procedure for obtaining a
22 random sample was not available, such as drawing every 20th file from the company's full data-
23 base. In place of such a procedure, I have analyzed a large subset of distributorships (1,872).
24 As explained above, I do not have any reason to think that the earnings performance in Maryland
25 would be significantly different from the general experience of Trek distributors. If ultimately a
26 unique factor regarding the Maryland distributors can be identified and may have had a nontrivial
27 impact on earnings from the Pay Plan, a review of Trek's full business records would certainly
28 show whether any correction (up or down) may be needed for the estimates I deduce from the
Maryland sample.

²² The matter is affirmed by any number of standard texts in statistics; see for example,
Statistical Concepts and Methods by G.K. Bhattacharyya and R.A. Johnson (1977), p. 272 - 275.

1 distributors, a query on the Maryland database shows that 1,077 failed the test. Upon further
2 applying standard statistical formulas, the overall failure rate is, at least, 79.5%.²³ As explained
3 below, this statistic directly conflicts with Trek's claim that, by the close of the year 2000, some
4 38% of all distributors since Trek's inception had received earnings from the Pay Plan. According
5 to the experience of the Maryland distributors, the claimed 38% may be cut roughly in half.²⁴

6 Analysis of Trek's Revenue Disclosure Statements and Related Distributor Earnings

7 50. In my opinion, certain Trek assertions in its Revenue Disclosure Statements regarding
8 average distributor earnings are very misleading. The crux of the problem can be explained by a
9 simple illustration. Assume an XYZ business has 10 participants who pay initial fees of \$50 a
10 person and that after some reporting period the gross earnings paid out by the company are these:
11 one person received \$10,000, three persons received \$20 each, and six received nothing. Upon
12 computing an arithmetic average for the four people who received positive income, one obtains:
13 $\$10,060 / 4 = \$2,515$. Suppose that through promotional materials the company tells prospective
14 and current members that 40% of XYZ participants have average earnings of approximately \$2,500
15 each. These same promotional materials fail to say that the majority of people made nothing and
16 also fail to say that 90% of the participants did not recoup their business expenses (thus, a net loss).
17 It would be clear to anyone who knew the full facts of this situation that the company's selective
18 summary is very misleading.

19 51. In connection with various disclosures made concerning the year 2000, Trek makes the
20 representation that upon considering the total number of Trek distributors since the inception of the
21

22 ²³ Upon applying the STATA computerized program for calculating a 95% confidence
23 interval for the failure rate in the broader population, the lower bound for this interval is 79.5%.
24 The actual failure rate could be higher than this mark, and it may be asserted at a 95% confidence
25 level that, in any event, the rate would not be lower than 79.5%.

26 ²⁴ Trek's Revenue Disclosure Statements for the year 2000 and also the year 2001 are
27 attached as Exhibit 7. In practical terms, the lower bound for the statistical failure rate is 80%
(rounding to the nearest whole percent), thereby leaving at best a 20% rate for positive earnings
from the Pay Plan. Also, the fact that the pay period for the indicated test includes payments
received during the first nine months of 2001 is favorable to the company's claim. If these nine
months were excluded, the statistical failure rate would increase.

1 program (some 16,184 people): "38% of the total received an average of \$2,120.90 revenue each"
 2 (Exhibit 7). Also, in connection with 2001, the company makes a similar representation that
 3 regarding all Trek distributors since the inception of the program (a total of 22,281 by the close
 4 year 2001): "38% of the total received an average of \$2,176.29 revenue each" (Exhibit 7). As will
 5 become apparent below from a review of Trek data, these representations are very misleading and
 6 are similar to the type of selective summary illustrated above for the XYZ business venture.

7
 8 **Extended Summary of Trek Distributor Gross Earnings for Calendar Years 2000 and 2001**

9

10 Table A	Year 2000			Year 2001		
11 Title	Number of Reps at stated level	% of Reps relative to positive base*	Average annual gross earnings	Number of Reps at stated level	% of Reps relative to positive base*	Average annual gross earnings
12 Intl. Exec Director	3	0.1%	\$225,032	3	0.1%	\$211,905
13 Nat. Exec Director	4	0.2%	\$84,160	6	0.2%	\$80,814
14 Exec Director	9	0.4%	\$68,521	9	0.3%	\$49,014
15 Coordinator	18	0.8%	\$32,912	11	0.4%	\$28,888
16 Director	65	2.9%	\$13,410	45	1.6%	\$16,996
17 Consultant	295	13.2%	\$3,985	346	12.5%	\$4,054
18 First three levels (combined)	1,844	82.4%	\$467	2,344	84.8%	\$503/yr.
19 <u>by title:</u>						
20 Supervisor	1,147		\$690/yr.	1,486		\$709/yr.
21 Field Rep	333		\$166/yr.	435		\$191/yr.
22 Associate	364		\$39/yr	423		\$100/yr.

23
 24
 25
 26 * for each year, the *positive base* refers to all those who had positive gross earnings for the year.
 27 Table A shows all (and only) those who received earnings from the Pay Plan; see also Table B.

	Year 2000		Year 2001	
Table B	Number of Reps:	% of Reps relative to total participation since inception:	Number of Reps :	% of Reps relative to total participation since inception:
total participation since inception:	16,184 (by end of yr 2000)	100%	22,281 (by end of yr 2001)	100%
<i>positive base:</i> all those with earnings >\$0 for the year	2,238	13.8%	2,764	12.4%
those having zero earnings for the year (whether active, inactive, or have quit)	13,946 (by end of yr 2000)	86.2%	19,517 (by end of yr 2001)	87.6%

52. The information in Tables A & B can be deduced (after considerable work—see below) from what the company states in its “Revenue Disclosure Statements” for the years 2000 and 2001. I illustrate how various entries are obtained. Regarding the position of International Executive Director for the year 2000, Trek states that the total earnings for this category came to \$675,096 and that the average earnings for the people in this category came to \$225,032. I deduce that the corresponding number of International Executive Directors comes to 3 (= \$675,096 / \$225,032). More generally, if N stands for the number of people in a certain category and \$T stands for the total earnings in the category, the corresponding average earnings (Avg) are $Avg = \$T / N$, so that $N = \$T / Avg$. In so deriving the number of distributors for each title category, I make use of several further statements made by Trek: (i) the earnings that pertain to a distributor are reported in the highest title that this person has achieved, and (ii) once a certain title is achieved it is not

1 removed.²⁵ This means that if John Doe's highest title was Director during a stated year, all of
2 John's earnings for the year are displayed under this title. Among other things, I infer that there is
3 no double counting of income across the stated categories; i.e., although John may have held
4 different titles during the year, John's earnings are not reported under the different titles - only the
5 highest title is used in Trek's Revenue Disclosure Statements. Premised on Trek's given data,
6 Tables A & B enumerate and partition the set of distributors (and the related annual earnings) by
7 the highest titles that the distributors have obtained.²⁶

8 53. In further explanation of Tables A & B, I note that I have added together the positive
9 income earners over the various title categories for an indicated year, thus obtaining the total
10 number of distributors who had positive earnings for the year. The respective totals, dubbed the
11 "positive base," are shown in the second to the last row of Table B. Specifically, there were some
12 2,238 distributors with positive income from Trek for the year 2000, and 2,764 such distributors
13 for the year 2001. Using these respective totals as a base, I calculate the corresponding percentage
14 of distributors in each title category for the same years. Distributors who received zero earnings
15 from Trek are not reported upon by the company's disclosures. Nonetheless, as shown below,
16 certain important facts about the latter distributors are ultimately deducible from Trek's data.²⁷

17 54. Trek states the total number of distributors who have joined since the inception of the
18 company as of the close of an indicated year for various calendar years. This information when
19 combined with the "positive base" (above), may be used to deduce a remaining category of people
20

21 ²⁵ The first of these statements is found in the body of the Trek's Revenue Disclosure
22 Statements for the respective years 2000 and 2001. The second statement is found at various
places in the promotional materials and in Trek's Policies and Procedures.

23 ²⁶ I assume that the numerical data given by Trek is correct or is essentially correct. This
24 still permits small inadvertent errors in the given data; the latter would have no important impact
25 on my analysis. If a subsequent review of Trek's business records should reveal significant
differences between Trek's presently disclosed data and the business records, I would reconstruct
Tables A & B in keeping with whatever the business records show.

26 ²⁷ My conclusions are based on various analytical steps and related calculations. I add
27 this comment because I strongly doubt that a general participant would have the analytical and
mathematical background needed to deduce the business failure rates implicit in the data.

1 who received no earnings during an indicated year. Measured from inception, this category is
2 logically comprised of three subsets: (a) distributors who were active during the year but received
3 no earnings from Trek; (b) distributors who were inactive during the year and received no earnings
4 from Trek; (c) those who were no longer Trek distributors during a stated year (thus no earnings
5 for the year). The union of these subsets into one category - the zero-earnings category for the
6 indicated year- is presented in the last row of Table B. By the close of the year 2000, those who
7 received zero earnings during the year 2000 (whether active, inactive, or have quit) comprised
8 approximately 86% of all distributors since the inception of the company; moreover, by the close
9 of year 2001, this zero-earnings category grew to approximately 88%.

10 55. It may be helpful here to consider the extent to which the latter percentages are recon-
11 cilable (or not) with certain Trek-claimed averages; i.e., those referenced earlier that by the close
12 of year 2000 and for all distributors since inception: "38% .. received an average of \$2,120.90..,"
13 or that for all distributors since inception, now by the close of 2001, "38% .. received an average of
14 \$2,176.29..." Under a series of questions from the State of Maryland, the company was asked how
15 it determined these results. Regarding the close of 2000, Trek stated that a query was run on the
16 company's database to count the distributors who had received (any) earnings from Trek since
17 inception of the company and to find the total dollar amount (exhibit 8, attached). The query
18 identified 6,114 distributors with total earnings of \$12,967,183. Trek stated that the corresponding
19 average amount for earnings is found by dividing \$12,967,183 by 6,114 (thereby obtaining
20 \$2,120.90) and that the remaining distributors (10,070) had not received earnings since the
21 inception of the company.²⁸ Assuming the accuracy of the numbers, Trek's methodology shows
22 that about 38% (more precisely, 37.8%) of all distributors since inception had received certain
23 (gross) earnings by the close of year 2000, while approximately 62% had not received any Trek
24 earnings. I emphasize that the indicated methodology counts all the distributors who received
25

26 ²⁸ For the close of year 2000, Trek reports there were 16,184 distributors since inception,
27 while the distributors who had not received (any) earnings were 10,070 (= 16,184 - 6,114).

1 earnings at any point in time. If John Doe received (say) \$1 from the Pay Plan in January 1998,
2 John counts as one of the distributors who is part of the referenced 38% by the close of year 2000,
3 and again by the close of 2001. He is also one of the distributors whose earnings are reckoned at
4 an average amount of about \$2,100 "each." (Regarding the year 2000, see Trek's Disclosure
5 Statement; specifically, "Of those 16,184 representatives, 6,114 (38% of the total) received an
6 average of \$2,120.90 each.")

7 56. Trek's resulting failure rate (62%) may appear to contradict certain percentages that I
8 deduce just above and that are displayed in Table B, namely an 86.2% zero-earnings category by
9 the close of the year 2000 and an 87.6% zero-earnings category by the close of 2001. I explain in
10 the appendix how Trek's calculations may be consistent with the figures in Table B, while the data
11 further show that Trek's methodology leads to a significant underestimate of an *annualized* failure
12 rate regarding the lack of earnings from the Pay Plan by participating distributors. (See example in
13 Appendix I.)²⁹

14 57. From various calculations it is evident that a sizable majority of distributors – and
15 possibly an overwhelming majority – receive no earnings from the Pay Plan. Again, by the close of
16 two consecutive years, the company's own calculations show that at least 62% of all distributors
17 since inception had not received any Trek earnings – a sizable majority by any reckoning. Here, I
18 have also considered the outcome of assuming that for some reason the 62% failure rate may apply
19 during the course of year 2001. If so, starting with 6,097 distributors who joined during that year,
20 about 62% (or 3,780) would not have received Trek earnings for the year. Yet, during the same
21 year the zero-earnings category increased by 5,571,³⁰ and a residual number of participants must
22

23 ²⁹ The crux of the matter can be seen from a John Doe Participant who received \$1 but
24 (though active) nothing further. This subsequent lack of earnings has no impact on Trek's
25 methodology. Once John has obtained \$1 from Trek, and though his ventures fails later, he is
(always) part of the set of distributors who – when reckoned from the inception of the program –
received earnings, and is so counted year after year. No adjustment is made for a failed venture.

26 ³⁰ From Table B, there were some 13,946 distributors in the zero-earnings category by the
27 close of year 2000 and 19,517 by the close of 2001; moreover, $19,517 - 13,946 = 5,571$. This
number counts all the participants during 2001 who received no earnings during the year.

1 have received zero earnings who were not new (year 2001) distributors - this residual being 1,791
2 (= 5,571 - 3,780). These additional "zero income earners" could only have come from the
3 positive base of the prior year. I note that the positive base for the year 2000 comprised 2,238
4 distributors (see Table B); no doubt, some of these people received no earnings for year 2001.
5 Hence, if Trek's 62% failure rate is applicable during the year 2001, I deduce from the data that
6 the proportion of people who dropped out of the positive base from the prior year must have been
7 very large: an order of magnitude of about 80.1% (= 1,792 / 2,238). From whatever perspective I
8 consider the matter, I conclude that the vast majority of distributors receive no earnings from the
9 Pay Plan or are soon in that position.³¹

10 58. I now consider distributors who receive positive Trek earnings and inquire whether
11 they generally have a successful business venture. Here, "success" has a conservative meaning:
12 a distributorship that generated enough earnings to recoup regular business expenses and leave
13 some profit (of whatever size) to the owner for time and effort spent on business activities.³² From
14 participant declarations it is evident that there are a number of significant monthly expenses - ones
15 that a number of participants say they did not understand until after signing up with Trek; these
16 were desk fees, telephone fees, advertising fees, and fees for certain monthly training seminars
17 ("EPs" or "Educational Programs"), as well as food and lodging costs for these events. For an
18 active Supervisor (or higher rank) the sum of these various fees may readily have an average of
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21

22 ³¹ From the perspective of counting the distributors who experienced business failure, it is
23 of no special importance how one partitions the referenced 5,571 participants who received no
24 earnings during the year 2001. Whether they came from new, i.e., year 2001, distributors who
25 received no Trek earnings during the year (in any event, the majority), or whether some of them
26 are participants who had positive earnings the prior year but no earnings during 2001, all of these
27 are instances of business failure.

28 ³² I emphasize the conservative nature of this criterion. If gross earnings are greater than
regular expenses, the distributorship is counted as a "success" even though the implicit wage to
the distributor for all the hours spent may well have been zero. This criterion is adopted here due
to a present lack of data that prevents a fuller assessment.

1 \$850 a month or more.³³ In addition, there are monthly product purchases, namely standing orders
2 of \$100/ month or more, undertaken to qualify for commissions and bonuses. Then, beyond these
3 monthly purchases, the procurement of the rank of Supervisor typically involves initial inventory
4 purchases ("Business-in-a-Box" or "BIBs") in a range from \$2,000 to \$4,000.³⁴

5 59. Table A shows what a Supervisor generally received from the Pay Plan: an average of
6 \$58 (gross) earnings per month during the year 2000, and about \$59 gross earnings per month
7 during 2001. Given the huge disparity between monthly earnings and monthly expenses, most
8 Supervisors were likely to have incurred substantial losses. Indeed, even the highest Trek-paid
9 Supervisors were likely to have been in a precarious position. The data show that the highest Trek
10 earnings for a Supervisor for the year 2000 came to \$7,656, and to \$9,602 for the year 2001.
11 Surely, these top earners pursued their business opportunity very actively and thereby would have
12 incurred monthly desk fees, telephone fees, advertising fees, and fees for training seminars that, in
13 total, were likely to run in a neighborhood of \$850 a month or more - thus yielding an annual
14 expenditure of \$10,200 or more. Again, these figures have not yet addressed monthly product
15 purchases (\$100+) nor typical initial inventory costs (\$2,000- \$4,000). It is evident that even the
16 highest Trek-paid Supervisors were unlikely to have recouped their regular monthly costs and
17 expenses, let alone Supervisors who received in a neighborhood of \$59 a month from the Pay Plan.
18 Similarly, I see from Trek's data that the outcome for a Field Representative or an Associate
19
20

21 ³³ See the declarations of Alexander Martell, Isaac Julian, Juanita Fallis, Ronald McNeal,
22 Thomas Gandolph, and Kristen Schweissing. The cited declarations, as well as others that I have
23 read, show the following monthly expenses as being normal for a Supervisor or higher rank: desk
24 fees, \$300 - \$400; telephone & advertising fees, \$150 - \$250; expenses for training seminars
25 (including food and lodging), \$200 - \$400. These various expenses would average about \$850
per month. The declarations also mention a number of further expenses, such as website access,
office supplies, special parties, and a "merchant account" (at \$120/month under a lease arrange-
ment for 4 years); I could not ascertain the frequency nor an overall average for these expenses.

26 ³⁴ See virtually any of the participant declarations; also see the Sales Presentation and
27 Briefing of March 15, 2001 in Maryland, led by Trek distributors Jay Graham and Sandy
Jacobson. "BIBs" carry a price tag of \$2,000 each.

1 would typically involve a business loss for these participants as well.³⁵

2 60. A failure to recoup monthly expenses also applies to certain higher positions. For the
3 year 2001 the average annual earnings paid by Trek to Consultants came to \$4,054, while their
4 annual business expenses may well have been more than double this amount (see above). On
5 average, Consultants certainly did not recoup their expenses. Indeed, in view of the hierarchical
6 nature of Trek's Pay Plan it is very likely that for a stated title category (such as Consultant,
7 Director, or Supervisor) the lion's share of the earnings would be concentrated near the top of the
8 category. Thus, the average earnings would be higher than the *median* earnings - the latter being
9 the 50th percentile (half more, half less) for the earnings in the category. I note that by the close of
10 2001 there were 346 Consultants, thus yielding by the stated considerations at least 174 Consult-
11 ants (half plus one), and possibly more, who were unsuccessful during the year. Certain Directors
12 also failed to recoup regular expenses; on the low side of this category, Directors received annual
13 Trek earnings of about \$4,200 (see Trek's data), while their annual expenses were likely to have
14 run more than double this amount.

15 61. I note that the distributors who received income from Trek within the first three levels
16 of the Pay Plan (Associate, Field Representative, and Supervisor) comprise the vast majority of all
17 income earners; specifically, they comprise about 82% of the income earners for the year 2000 and
18 about 85% for the year 2001. In order to estimate unsuccessful ventures, I further adjoin to these
19 categories at least half of the number of Consultants (see prior two paragraphs). Upon doing so, I
20 infer the following result from the combination of Trek's data and regular business expenses: in all
21 likelihood, about 90% of Trek *income earners* over the years 2000 and 2001 (and possibly more
22

23 ³⁵ Like all Trek distributors, the people at these ranks are strongly encouraged to attend
24 company functions, such as regular EP seminars, as well as special parties (etc.). Assuming just
25 the most modest business expenses, these will readily exceed average monthly Trek earnings,
26 which were below \$16 per month for each of the years 2000 and 2001. Also, even the top earners
27 for Associates and Field Representatives (\$211 per month) way well have been in a precarious
28 business position in view of regular EP seminars, which have monetary fees and food & lodging
costs (at the low end of the range) in a neighborhood of \$200 a month. Moreover, the top earners
in these ranks are the most likely ones to have attended, or to attend, such events.

1 than these) experienced an unsuccessful business venture.³⁶

2 62. I emphasize that the latter failure rate has not yet incorporated thousands of distribu-
3 tors during the same period who received no earnings from the Pay Plan. Here, a very relevant
4 statistic – and especially so for a prospective participant– would incorporate those who were likely
5 to have been active over a certain period but failed to obtain Trek earnings. I thus consider again
6 the distributors who joined during 2001 –some 6,097 in total– and see how they fared.³⁷ Upon
7 (favorably) applying Trek’s 62% failure rate regarding zero receipt of earnings from the Pay Plan,
8 there were at least some 62% of 6,097, namely 3,780 distributors, who received no Trek earnings.
9 Moreover, upon further applying a conservative analysis of regular expenses for the remaining
10 2,317 distributors who did receive (gross) earnings, about 91.1% did not recoup their monthly
11 business expenses during the year 2001 (prior paragraph). In sum, upon starting with 6,097 new
12 and active distributors, the proportion who experienced business failure conservatively comes to
13 96.6% –derived as $[3,780 + (.911)(2,317)] / 6,097$.

14 63. The latter percentage is exceedingly large but still understates the plight experienced
15 by the class of Trek distributors, since it does not adequately address the ongoing replacement (or
16 “churning”) of a substantial number of people at the lower levels of the Pay Plan. This can be seen
17 from Trek’s data as follows. First, as noted earlier, the *increase* in the zero-earnings category for
18 the year 2001 came to 5,571 distributors. In considering business failure, it is not important
19 whether this increase came from new (2001) distributors who failed to receive earnings from Trek
20 or whether, in part, this increase came from people who dropped out of the positive base of the
21

22 ³⁶ I use Table A. Starting with the first three levels for the year 2001, I add half of the
23 Consultants (plus one); this yields 2,518 out of a positive base of 2,764, thus, 91.1%. By a
24 similar computation for the year 2000, I obtain 1,992 out of a positive base of 2,238, or 89%.

25 ³⁷ Surely all (or virtually all) of these distributors were active during the year, since
26 inactivity is extremely unlikely for new distributors. In regard to the status of the distributors
27 covered by the data, Trek states that it pertains to “Independent Representatives who submitted
28 an application and purchased at least one product order outside of a Starter Kit” (see Disclosure
Statements). In its Policies and Procedures Trek states that a “Starter Kit” need not be purchased
by retail members or customers; this kit is for people who want to pursue a business opportunity.

1 prior year (into the zero-earnings category of year 2001); either avenue signifies a failed venture.
2 Equally important, the people who dropped out of the prior positive base were replaced, in total
3 number, by a certain subset of new participants who joined during 2001 -if this were not so, the
4 data would not have shown a *net* increase in the positive base by the end of the year 2001.³⁸ Upon
5 considering the positional rank and the number of these new replacements, I infer that in all
6 likelihood these new participants did not fare better than the people they replaced.³⁹ Beyond these
7 replacements, Table A (which presents only positive income earners) shows that there was a net
8 increase in the *first three levels* of the Pay Plan by 500 people. All or virtually all of these 500
9 would not have recouped regular business expenses (see prior analysis). In view of some further
10 number of new Consultants and Directors who also did not recoup their expenses (a number not
11 yet included), I estimate that there were at least 500 additional distributors who received positive
12 earnings during 2001 but did not recoup their monthly expenses. In sum, after incorporating an
13 ongoing replacement of certain participants in the lower levels of the Pay Plan, I estimate that
14 more than 99% of the new distributors in year 2001 experienced an unsuccessful business venture
15 -derived as $(5,571 + 500) / (6,097) = 99.6\%$.⁴⁰

17 ³⁸ See Table B; by comparing the respective positive bases by the close of each year, the
18 data show a net increase of 522 distributors who received positive earnings.

19 ³⁹ I consider various matters here. The first three levels of the Pay Plan combined with
20 half of the Consultant category comprise 2,518 people from the positive base of year 2001; these
21 were extremely unlikely to have recouped monthly expenses. Also, the indicated replacements
22 would be at most 1,792 in number, the latter being the upper limit for the number of people who
23 may have dropped out of the positive base of the prior year. Since most people join at the level
24 of Supervisor or lower, the replacements that occurred during 2001 would have occurred mostly
25 (and possibly, entirely) within the first three levels of the Pay Plan. (For year 2001 there were a
26 total of 2,344 people in the first three levels.) Even if some of the indicated replacements
27 involved the lower portion of the Consultant category, all of the new people were still extremely
28 unlikely to have recouped their monthly business expenses.

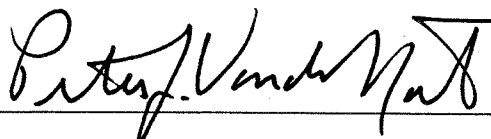
⁴⁰ A more precise estimate may be obtained from an ultimate review of Trek's business
records. Upon such review I fully expect the indicated computation to remain conservative.
Although it is possible that a handful of the referenced 500 new income earners in the first three
levels of the Pay Plan may have experienced moderate success, they would probably be offset by
certain new Consultants and Directors who failed to recoup monthly expenses and who are not
yet included in the stated computation. Also, the summand "5,571" refers to the new (year 2001)

1 64. I understand that this declaration may be used by the Federal Trade Commission in a
2 law enforcement proceeding.

3 I declare under penalty of perjury under the laws of the United States of America that the
4 foregoing is true and correct to the best of my knowledge and belief.

5 Executed on November 27, 2002, at Washington, D.C.

6 (Date)

7 
8 **PETER J. VANDER NAT, Ph. D.**

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distributors who either obtained zero Trek earnings for the year or were current replacements for certain people who were in the positive base of the prior year but had dropped out (and fell into the zero- earnings category for 2001). As explained above, in all likelihood these replacements during the year 2001 fared no better than the people who had dropped out.

Appendix I

The purpose of this appendix is to give a complete illustration of the following matter. Trek's methodology (as exhibited in response to certain questions posed by the State of Maryland) yields a 62% rate at which the distributors, since inception of the company, fail to receive earnings from the Pay Plan. However, the methodology for computing this rate cannot accurately reflect an annualized failure rate regarding the lack of earnings from the Pay Plan. Moreover, the cumulative effect of this matter over a four year period is very substantial. In order to show the related computations in a straightforward manner, I use a hypothetical XYZ company and a data set obtained from financial records:

Summary for XYZ program over four year of operation

	1 st year	2 nd year	3 rd year	4 th year
new distributors who joined during the indicated year	1,000	2,000	3,000	4,000
total number of distributors since inception by close of indicated year:	1,000	3,000	6,000	10,000
the number (and %) of distributors since inception who have received any earnings* by close of indicted year:	380 (38%)	1,140 (38%)	2,280 (38%)	3,800 (38%)
implied failure rate to receive earnings (using Trek's methodology)	62%	62%	62%	62%
the number of distributors who received any earnings during the indicated year ("positive base")	380	836	1,307	1,782

* "earnings" refer to all financial rewards that the company pays to its distributors.

From these data, a prospective XYZ participant might think that the annualized failure rate for a general XYZ distributor to receive earnings is 62% (noting that this rate was apparently obtained at the close of each year over a four year period). A closer look at the data for the 4th year reveals that such a view may well be erroneous. During the 4th year, 4,000 new distributors joined, but the net increase in the number of *income earners* during this the year came to just 475 people (= 1,782 - 1,307). Thus, the proportion of the new distributors who received no earnings for the year *could* have been as many as 3,525 out of 4,000 - a potential failure rate of 88.1%. A closer look at the 3rd year shows that while 3,000 new distributors joined, the positive base increased by just 471, thus potentially a failure rate as high as 84.3% (= 2,529 / 3000). For the given data there may be various failure rates for new distributors and different considerations for deriving any specific rate. Among these considerations is an "annual exit rate" for current income earners; more specifically, certain people who receive earnings during one year may not receive any earnings during the next. For simplicity of the example, such people are assumed to exit the program. (An "annual exit rate" is the critical factor that Trek's methodology does not capture.)

Although a variety of scenarios may apply to the given XYZ data, there is still an optimal scenario in the sense that no other scenario could generate - in total - a smaller number of distributors who fail to receive earnings. For the given data, an optimal scenario postulates that

62% of distributors fail to receive any earnings during the year that they enter the program (rather than a higher rate which the data could also support). A related "annual exit rate" is then applied to current income earners so that the data remain numerically consistent. This rate is 80% for the given data; that is, 80% of current income earners do not receive earnings during the *next* year and are assumed to exit the program by the end of that year. Intuitively, this combination (62%; 80%) may be seen as being optimal in view of the following considerations: both rates communicate a certain failure to receive earnings, while the smaller of the two rates is applied to the larger of the two relevant sets of people. Indeed, 62% is applied to an annual set of new distributors, while 80% is applied to the annual base of the prior year; moreover, the annual size of new distributors is numerically much larger than the positive base of any given year (true of the XYZ data as well as Trek's data.).

Extended Summary of XYZ Performance

		1 st year	2 nd year	3 rd year	4 th year
(1)	distributors who received any earnings for the year ("positive base")	380	836	1,307	1,782
(2)	new distributors who joined during the indicated year	1,000	2,000	3,000	4,000
(3)	the new distributors in positive base for the indicated year	380	760	1,140	1,520
(4)	number of distributors since inception who have received any earnings:	380 = 380	380 + 760 = 1,140	380 + 760 + 1,140 = 2,280	380 + 760 + 1,140 + 1,520 = 3,800
(5)	S = all distributors since inception by end of year	1,000	3,000	6,000	10,000
(6)	percent of all distributors since inception who received any earnings:	38%	38%	38%	38%
(7)	all participants who received zero earnings during indicated year	620	1,544 = 304 + 1240	2,529 = 669 + 1,860	3,525 = 1,045 + 2,480
(8)	Z = all those having zero earnings by close of year, whether active or have exited the program	620	2,164 = 620 + 1,544	4,693 = 2,164 + 2,529	8,219 = 4,693 + 3,526
(9)	percent of all distributors since inception who received no earnings by close of indicated year: (Z / S)	62%	72.1%	78.2%	82.2%

The critical difference in deriving row (9) - which presents a specific way to measure failure to receive earnings since inception (versus what is obtained by Trek's methodology)- is that an "annual exit rate" is incorporated in the computations of row (7). For example, when one considers the movement from the 1st year to the 2nd year, not only do we apply a 62% failure rate to the new distributors who enter during the 2nd year, but also apply an "annual exit rate" (here, 80%) to the positive base of the first year -yielding an additional 304 people who (though pursuing the program) do not receive any earnings during the second year. As the extended table shows, keeping track of people who have exited the program due to an experienced failure to receive earnings will render a substantial effect by the close of the fourth year. For the XYZ program, the failure rate for receiving earnings starts at 62%; however, by the close of the 4th year approximately 82% of all distributors (measured from the inception of the company) are not receiving any earnings from the program. (For simplicity, new XYZ distributors are assumed to enter at the start of the year; any exit occurs at the end of the year. Exit occurs for those who have experienced zero earnings for one year.)

For completeness of explanation, I illustrate how the positive base is generated under the given scenario. The scenario begins with 1,000 distributors who enter the first year. By the close of the year there are 380 (or 38% of 1000) who received earnings (while 620 did not). The positive base at the close of the first year is thus comprised of 380 people. During the second year, there are 2,000 new participants. Of these new people, there are 760 (or 38% of 2,000) who receive earnings during the second year. Also, regarding the positive base at the close of the 1st year, 20% continue on to make earnings during the 2nd year, while 80 % do not receive any earnings during the 2nd year and thus exit the program at the close of that year. The positive base at the close of the 2nd year thus comes to $(.2 \times 380) + (.38 \times 2,000) = 836$. Upon continuing this pattern, there will be 1,307 people in the positive base by the close of the 3rd year, and 1,782 (rounded) at the close of the 4th.

The illustrated XYZ data exhibit an *annualized* failure rate to receive earnings. Here, the notion of an annualized failure rate for the participants refers not only to new distributors who fail to receive earnings during the stated year but also to those participants who have already received income, are continuing to pursue the XYZ program, and then fail to receive earnings. Under the stated scenario, I compute an annualized failure rate for (or during) the 2nd year:

$$[(.62) (2,000) + (.8) (380)] / (2,380) = 64.9\%.$$

By an analogous procedure, an annualized rate can be computed for each year of the XYZ program. For the hypothetical data, and also Trek's data, these annualized rates are successively larger, year by year. Moreover, all of these annualized rates are significantly higher than 62%, the latter being the XYZ failure rate at the close of each of the four years (as deduced under Trek's methodology).

Although an optimal scenario (as here described) could be applied to Trek's data, I believe that such a scenario would understate the actual number of distributors who do not receive earnings from the Pay Plan. A better method, since it is available, would be a review of Trek's business records. The records would reveal: (a) what proportion of the new 6,100 distributors who joined during 2001 actually received Trek earnings within some designated period (e.g., one year from the date they joined), and (b) regarding the people who received earnings over any given time period (say, year 2000 or some other period), how many of them received any earnings one full year after the receipt of their first check.

Appendix II: Top Trek Earners in Maryland for Those Who Joined by Close of 1999*

*all distributors who received \$1,000 or more from the Pay Plan over the full time span of their participation

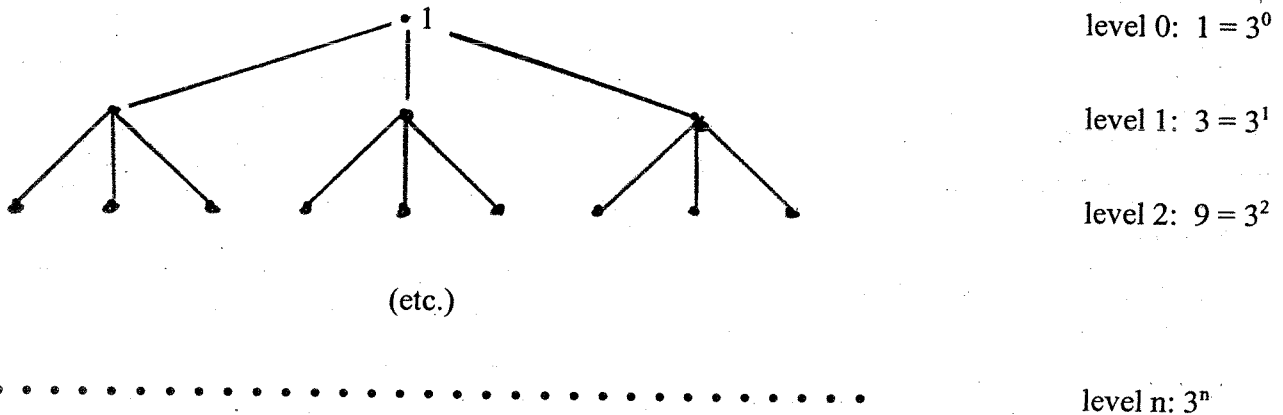
(51 distributors out of a total of 840 who had joined by the close of year 1999)

Distributor ID	1997	1998	1999	2000	2001	Sum of Earnings
114559	\$0.00	\$21,046.30	\$2,364.28	\$29,535.00	\$10,083.92	\$63,029.50
114421	\$4,034.73	\$49,962.36	\$3,129.09	\$0.00	\$0.00	\$57,126.18
120521	\$0.00	\$4,580.03	\$5,884.63	\$20,929.98	\$7,767.91	\$39,162.55
125943	\$0.00	\$0.00	\$4,470.11	\$20,842.34	\$1,137.88	\$26,450.33
115952	\$0.00	\$11,622.68	\$0.00	\$0.00	\$0.00	\$11,622.68
117926	\$0.00	\$11,025.76	\$0.00	\$0.00	\$0.00	\$11,025.76
122577	\$0.00	\$4,134.49	\$6,248.09	\$0.00	\$0.00	\$10,382.58
118580	\$0.00	\$8,965.70	\$0.00	\$0.00	\$0.00	\$8,965.70
114152	\$3,466.80	\$3,896.06	\$0.00	\$0.00	\$0.00	\$7,362.86
117089	\$0.00	\$6,575.48	\$0.00	\$0.00	\$0.00	\$6,575.48
117096	\$0.00	\$6,454.54	\$0.00	\$0.00	\$0.00	\$6,454.54
114217	\$1,623.75	\$4,738.58	\$0.00	\$0.00	\$0.00	\$6,362.33
119521	\$0.00	\$3,284.35	\$2,693.59	\$0.00	\$0.00	\$5,977.94
134175	\$0.00	\$0.00	\$0.00	\$0.00	\$5,911.17	\$5,911.17
122579	\$0.00	\$2,308.17	\$3,530.69	\$0.00	\$0.00	\$5,838.86
122883	\$0.00	\$1,780.63	\$3,184.75	\$0.00	\$0.00	\$4,965.38
113940	\$688.00	\$3,851.36	\$0.00	\$0.00	\$0.00	\$4,539.36
118360	\$0.00	\$4,420.62	\$0.00	\$0.00	\$0.00	\$4,420.62
134648	\$0.00	\$0.00	\$3,037.94	\$1,188.45	\$0.00	\$4,226.39
117090	\$0.00	\$4,167.47	\$0.00	\$0.00	\$0.00	\$4,167.47
137186	\$0.00	\$0.00	\$0.00	\$3,780.06	\$11.50	\$3,791.56
117877	\$0.00	\$3,548.88	\$0.00	\$0.00	\$0.00	\$3,548.88
122861	\$0.00	\$3,515.97	\$0.00	\$0.00	\$0.00	\$3,515.97
113920	\$1,341.03	\$1,830.18	\$0.00	\$0.00	\$0.00	\$3,171.21
122164	\$0.00	\$2,207.92	\$739.77	\$0.00	\$0.00	\$2,947.69
117932	\$0.00	\$2,906.79	\$0.00	\$0.00	\$0.00	\$2,906.79
125868	\$0.00	\$0.00	\$2,885.12	\$0.00	\$0.00	\$2,885.12
137443	\$0.00	\$0.00	\$0.00	\$2,849.88	\$0.00	\$2,849.88
114440	\$2,811.69	\$0.00	\$0.00	\$0.00	\$0.00	\$2,811.69
118494	\$0.00	\$2,774.12	\$0.00	\$0.00	\$0.00	\$2,774.12
117876	\$0.00	\$2,692.04	\$0.00	\$0.00	\$0.00	\$2,692.04
119692	\$0.00	\$2,573.75	\$0.00	\$0.00	\$0.00	\$2,573.75
119538	\$0.00	\$2,479.08	\$0.00	\$0.00	\$0.00	\$2,479.08
124887	\$0.00	\$0.00	\$0.00	\$2,403.92	\$55.96	\$2,459.88
117334	\$0.00	\$2,376.60	\$0.00	\$0.00	\$0.00	\$2,376.60
117236	\$0.00	\$2,339.85	\$0.00	\$0.00	\$0.00	\$2,339.85
119704	\$0.00	\$2,339.29	\$0.00	\$0.00	\$0.00	\$2,339.29
119247	\$0.00	\$2,289.39	\$0.00	\$0.00	\$0.00	\$2,289.39
114497	\$0.00	\$2,137.62	\$0.00	\$0.00	\$0.00	\$2,137.62
120043	\$0.00	\$1,950.63	\$0.00	\$0.00	\$0.00	\$1,950.63
114625	\$1,813.43	\$0.00	\$0.00	\$0.00	\$0.00	\$1,813.43
131260	\$0.00	\$0.00	\$0.00	\$1,610.28	\$0.00	\$1,610.28
119025	\$0.00	\$1,429.91	\$0.00	\$0.00	\$0.00	\$1,429.91
114482	\$1,214.23	\$174.90	\$0.00	\$0.00	\$0.00	\$1,389.13
118569	\$0.00	\$1,378.54	\$0.00	\$0.00	\$0.00	\$1,378.54
119698	\$0.00	\$1,326.69	\$0.00	\$0.00	\$0.00	\$1,326.69
121284	\$0.00	\$1,189.40	\$0.00	\$0.00	\$102.20	\$1,291.60
114449	\$0.00	\$1,211.83	\$0.00	\$0.00	\$0.00	\$1,211.83
123798	\$0.00	\$1,193.62	\$0.00	\$0.00	\$0.00	\$1,193.62
117087	\$0.00	\$1,077.75	\$0.00	\$0.00	\$0.00	\$1,077.75
117978	\$0.00	\$1,026.23	\$0.00	\$0.00	\$0.00	\$1,026.23

Appendix III: Mathematical Analysis of Pyramids

The purpose of this appendix is to track the growth of an organization in which each member recruits Q new members, where Q is some fixed positive integer (e.g., $Q = 3$). It is shown that as growth continues, the percentage of the total membership that resides at the base will rapidly converge to a definite value. There is a similar rapid convergence for the percentage of the total membership that resides at any designated number of levels above the base. The process is illustrated for $Q = 3$; the technique holds for any positive integer.

For analytical purposes the starting point is some "originator" at "level 0" who recruits the first set of three members ("level 1 recruits"). Each one of these three persons, in turn, finds three new members, where the latter (nine) are called "level 2 recruits" with respect to the "originator." The diagram displays the results for the first n levels of recruitment:



We compute the total number of people in the organization (including the first person) after n iterations. This total is denoted by T_n .

$$T_n = 1 + 3 + 3^2 + \dots + 3^{n-1} + 3^n,$$

or, for a general Q ,

$$T_n = 1 + Q + Q^2 + \dots + Q^{n-1} + Q^n.$$

Relative to the total number (T_n), the percentage of members at level n is given by the ratio:

$$Q^n / T_n = Q^n / (1 + Q + Q^2 + \dots + Q^{n-1} + Q^n).$$

Focusing on the expression , $Q^n / (1 + Q + Q^2 + \dots + Q^{n-1} + Q^n)$, we divide numerator and denominator by Q^n and obtain

$$(Eq.1) \quad Q^n / T_n = \frac{1}{1/Q^n + 1/Q^{n-1} + \dots + 1/Q^1 + 1} = \left[\sum_{k=0}^n (1/q)^k \right]^{-1}$$

If we assume (theoretically) that each person can always find three others (or that 3 can be found for them as claimed by Streamline), we let n increase without bound. Since the denominator is a convergent geometric series, the percentage of the membership residing at level n (given by Eq.1) must have a definite limiting value. In order to evaluate the series contained in Equation 1, we use the general formula for a geometric series (cf. Apostol, T.M. Mathematical Analysis (1957), Addison Wesley Publ. Co.). This formula is:

$$(Eq.2) \quad \sum_{k=0}^{\infty} b^k = \frac{1}{1 - b}, \quad |b| < 1.$$

By setting $b = 1/Q$, the ratio Q^n / T_n converges to the value that is given by

$$(Eq.3) \quad [1 / (1 - b)]^{-1} = 1 - b = 1 - (1/Q).$$

Eq.3 gives the (convergent) percentage of the members who reside at the base level n.

Setting $Q = 3$, this last equation renders: $1 - (1/3) = 2/3$. That is, if each member has 3 members in their frontline, the percentage of members who reside at level n converges to $2/3$ (= 66.67%).

The percentage of members at the combined levels n-1 and n can be computed as:

$$(Q^n + Q^{n-1}) / T_n = [(Q^n) (1 + 1/Q)] / T_n = \{[1 + (1/Q)] Q^n\} / (1 + Q + Q^2 + \dots + Q^{n-1} + Q^n).$$

By again dividing the numerator and denominator by Q^n , we obtain:

$$(Eq.4) \quad \frac{1 + (1/Q)}{1/Q^n + 1/Q^{n-1} + \dots + 1/Q^1 + 1} = [1 + (1/Q)] \left[\sum_{k=0}^n (1/Q)^k \right]^{-1}$$

Letting n increase without bound, and using Equation (2) with $b = 1/Q$, the new ratio in Equation 4 has a convergent value that is given by

$$(Eq.5) \quad [1 + (1/Q)] [1 - (1/Q)] = 1 - (1/Q)^2 = 1 - (1/Q^2).$$

Eq.5 gives the (convergent) percentage of the membership at the combined levels n-1 and n. For $Q = 3$, we obtain: $1 - (1/9) = 8/9$, which is 88.9% to the nearest one-tenth of 1 percent.

By an analogous method it also deducible that the percentage of the membership at the combined (three) levels of n, n - 1, n - 2 is given by:

$$(Eq. 6) \quad [1 + (1/Q) + (1/Q^2)] [1 - (1/Q)]$$

For $Q = 3$, we obtain $[1 + (1/3) + (1/9)] [1 - (1/3)]$, which is .96296, or 96.3% to the nearest one-tenth of 1 percent.

Also, again by extending this same method, the percentage of the membership at the combined (four) levels of n, n - 1, n - 2, n - 3 is given by:

$$(Eq. 7) \quad [1 + (1/Q) + (1/Q^2) + 1/Q^3] [1 - (1/Q)]$$

For $Q = 3$, we obtain $[1 + (1/3) + (1/9) + (1/27)] [1 - (1/3)]$, which is .987654, or 98.8% to the nearest one-tenth of 1 percent.

The percentage of the membership at the combined (five) levels of n, n - 1, n - 2, n - 3, n - 4 is given by:

$$(Eq. 8) \quad [1 + (1/Q) + (1/Q^2) + 1/Q^3 + 1/Q^4] [1 - (1/Q)]$$

For $Q = 3$, we obtain $[1 + (1/3) + (1/9) + (1/27) + (1/81)] [1 - (1/3)]$, which is .995884 or 99.6% to the nearest one-tenth of 1 percent. This also implies that the (residual) percent of all remaining members must be 0.4%; these are the members who reside at level n - 5 or higher.

As shown by the next table, the convergence to the respective percentages noted above occurs very rapidly. After completing $n = 6$, the organization has roughly 1,000 members. At this point each of the convergent percentages has been effectively reached and will not change any further when rounded to nearest one-tenth of 1 percent:

Illustration: Growth of the Organization if Each Member Recruits 3 New Members

(a) Recruit- ment level (n)	(b) Members at level n	(c) Total number of members	(d) percent of members at base level n*	(e) Base plus 1 level above base (bottom 2)	(f) Base plus 2 levels above base (bottom 3)	(g) Base plus 3 levels above base (bottom 4)	(h) Base plus 4 levels above base (bottom 5)
n = 0	1	1	100.0%				
n = 1	3	4	75.0%	100.0%			
n = 2	9	13	69.2%	92.3%	100.0%		
n = 3	27	40	67.5%	90.0%	97.5%	100.0%	
n = 4	81	121	66.9%	89.3%	96.7%	99.2%	100.0%
n = 5	243	364	66.8%	89.0%	96.4%	98.9%	98.9%
n = 6	729	1,093	66.7%	88.9%	96.3%	98.8%	99.6%
n = 7	2,187	3,280	66.7%	88.9%	96.3%	98.8%	99.6%
n = 8	6,561	9,841	66.7%	88.9%	96.3%	98.8%	99.6%
n = 9	19,683	29,524	66.7%	88.9%	96.3%	98.8%	99.6%
n = 10	59,049	88,573	66.7%	88.9%	96.3%	98.8%	99.6%

*In columns (d) - (h), the stated level n functions as an assumed base level of the recruitment structure.



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RESUMÉ AND CURRICULUM VITAE

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EMPLOYMENT EXPERIENCE

September, 1988 to Present: Economist for the Bureau of Economics, Federal Trade Commission, Washington, D.C. Nature of duties: analysis and evaluation of FTC consumer protection cases and trade rules pertaining to unfair or deceptive business practices, including the determination of consumer financial injury and civil penalties. Expert witness in the economic analysis of pyramid schemes; presented court testimony in a number of pyramid cases.

September, 1983 to May, 1988 and Sept. 1978 to May 1981: Asst. Professor of Economics, Hope College, Holland, MI. Courses taught: Principles of Economics, Macroeconomics (Intermediate), International Economics.

September, 1976 to May, 1977: Instructor of Economics, Calvin College, Grand Rapids, MI. Courses taught: Principles of Economics, Microeconomics (Intermediate), Seminar in Economics of Underdevelopment.

January, 1975 to May, 1975: Instructor of Mathematics, Calvin College, Grand Rapids, MI. Courses taught: Calculus I and II.

EXHIBIT
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000018

ACADEMIC TRAINING AND DEGREES:

Education:

September, 1981 to May, 1983: University of Notre Dame, IN.
Major Field: Public Policy Economics.
Degrees: Ph.D. [Economics], May 1987; M.A. [Economics] 1985.

September, 1974 to September, 1976: Michigan State University, East Lansing, MI.
Major: Economic Theory (M.A. Graduate Studies).

September, 1969 to September, 1973: Michigan State University, East Lansing, MI.
Major: Mathematics (Graduate Studies).
Degrees: A.B.D.*, 1974; M.A. [Mathematics], 1974.

September, 1964 to May, 1968: Calvin College, Grand Rapids, MI.
Major: Mathematics;
Minors: Philosophy, German.
Degree: B.A., 1968.

*in addition to the Ph.D. in economics, I have completed all requirements for doctoral degree in mathematics, except for dissertation. Doctoral exams in mathematics were passed in Topology and Real/Complex Analysis.

Doctoral Dissertation:

Title: "The Pareto Optimal Taxation of Resource Use for the Financing of Public Goods."

Director: Dr. James Rakowski, Professor of Economics,
University of Notre Dame, IN.

Precis of Dissertation:

To display and prove optimal methods for levying selective taxes on the factors of production in a manner that does not interfere with the efficiency of competitive market transactions.

EXHIBIT

01

030849

HONORS AND AWARDS:

My dissertation was designated by the National Tax Association/Tax Institute of America as one of ten finalists for outstanding dissertations written in the area of Public Policy during the 1986-1987 academic year. The contest, open to all graduate students in the United States and Canada, covered the areas of government finance, taxation, debt and fiscal policy, government budgeting, administrative and management science applications, program analysis and policy evaluation. Dissertations were evaluated on the basis of originality, clarity of exposition, usefulness to scholars and practitioners of government finance.

Designated as a Michigan Scholar (by Governor of Michigan), 1967.
Upperclassman scholarship, Calvin College, 1966.
State of Michigan Competitive Scholarship (three years), 1965 - 1968.
Honorable Mention from the Woodrow Wilson Foundation, 1968.
NSF and NDEA Fellowship in Mathematics (four years), 1970- 1974.
Member of Phi Kappa Phi Honor Society, MSU.
Graduate Scholarship, Notre Dame University, 1981-1983.

REFERENCES:

References may be provided upon request.

EXHIBIT

01

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Addendum A



October 17, 2001

«First_Name» «Last_Name»
«Address1»
«City», «State» «Zip»

RE: Retail Receipt Request

Dear «First_Name»:

We need your help. Trek is required by various applicable state laws to provide retail receipts showing that Retail Customers are, indeed, purchasing and consuming Trek products. From time to time we randomly select representatives from throughout the country and require that those reps provide retail receipts as proof of sales to non-Trek Representatives. Your name has been selected for this process.

Please assist us in complying with these laws. We ask that you please forward copies of at least six (6) retail sales receipts for products purchased in the **August 2001 Volume month** to Trek Alliance at the address on this letter, attention Compliance Department. Standing Orders that are placed in the above stated volume month would count towards a retail sale. Please make reference to any Standing Orders that were active during the above stated Volume month. The receipts need to be completely filled out with the following information:

- product description
- quantity
- customer address & phone

If we have not received your receipts by **October 23, 2001**, per Trek's Policies & Procedures your commission and bonus checks could be held until this request is fulfilled.

Don't risk missing out on bonuses, please send your retail receipts today! We thank you in advance for your help with this matter.

Sincerely,

Compliance Department

EXHIBIT

02



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Summary in Addition to Document Submission

This Summary is addition to the documents provided herewith and is intended to more fully respond to Request numbered 11.

In 1999, letters requesting retail receipts were sent randomly to Independent Representatives. There were 625 letters sent. If receipts were not received within 30 days, a follow-up letter is then sent. If no retail receipts are received from the Independent Representative, they are suspended from doing business until compliance. To date there have been 83 suspensions.

In April, 2001, a new Director, Compliance & Security was hired (Gregory J. Caldwell, CPP, VSM) and one of his first tasks was to review the appropriate procedure and change as appropriate or needed. After consulting for months with several colleges and universities, the Respondent hired Dr. Thomas J. Santner and Sumithra J. Madrekar of the Statistical Consulting Serve at Ohio State University. Respondent presented the FTC requirements and requested that the consultants provide Respondent with formulas by which Respond could be assured that Respondent was achieving a 90%, 95% and 99% compliance rate on our random audits. On July 30, 2001, Respondent received the results of their work and the operational formula based on sample size and Confidence Interval Calculations. Attached. The formula is currently being worked in Trek Alliance Distributor Database (by Director of MIS) so that the sample size will be random, monthly and will provide Respondent with the assurance that Respondent is, at any give time, in a reasonable compliance with the 70% Rule. In addition see further documents produced.

EXHIBIT

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000052

To
Gregory J. Caldwell
Director, Compliance and Security
Trek Alliance Inc.

From
Dr. Thomas J. Santner and Sumithra J. Mandrekar
Statistical Consulting Service
The Ohio State University

Date: 7/30/01

Subject: Sample Size and Confidence Interval Calculations

I. INTRODUCTION

Suppose n is the number of agents audited quarterly (i.e., n = sample size). First we address the issue of what to do with the compliance data given we have determined n (analysis), and then describe a method for choosing n (design).

II. ANALYSIS

Define

$$X_i = \begin{cases} 1, & \text{if the } i\text{th person is compliant} \\ 0, & \text{otherwise} \end{cases}$$

for $i = 1, 2, \dots, n$. Then $Y = \sum_{i=1}^n X_i$ is the total number of agents who are compliant in the sample. Suppose p is the population proportion of agents who comply.

We propose that you analyze your data by forming a confidence interval for p based on Y . Define the sample proportion of compliant persons, \hat{p} , to be Y/n . The confidence interval provides a set of likely values for p that are consistent with the data. We suggest that you use the very accurate set of confidence intervals introduced by E. Wilson in 1927 (see also Brown et al., 2001). These are known as score confidence intervals. The $100(1-\alpha)\%$ score confidence interval is given by:

$$\left[\left\{ \hat{p} + \frac{z_{\alpha/2}^2}{2n} \right\} \pm z_{\alpha/2} \sqrt{[\hat{p}(1-\hat{p}) + z_{\alpha/2}^2/4n]/n} \right] / (1 + z_{\alpha/2}^2/n) \quad (1)$$

Here $z_{\alpha/2}$ denotes the $1-\alpha/2$ quantile of the standard normal distribution. Values of $z_{\alpha/2}$ for common choices of confidence levels are given in the table below:

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α	$z_{\alpha/2}$	Confidence Level
0.01	2.56	99%
0.05	1.96	95%
0.10	1.645	90%

Thus for a 99% confidence interval use $z_{\alpha/2} = 2.56$, for a 95% confidence interval use $z_{\alpha/2} = 1.96$, and for a 90% confidence interval use $z_{\alpha/2} = 1.645$. For convenience, let $z = z_{\alpha/2}$ in the discussion of the score confidence interval below:

From equation (1), we get the midpoint of the interval to be:

$$\frac{\hat{p} + \frac{z^2}{2n}}{1 + z^2/n} = p \left(\frac{n}{n+z^2} \right) + \frac{1}{2} \left(\frac{z^2}{n+z^2} \right) \quad (2)$$

which shows that the midpoint of the interval is between the sample proportion and $\frac{1}{2}$. The value $\frac{1}{2}$ can be thought of as a no-data guess of p . Pulling \hat{p} toward $\frac{1}{2}$ creates an estimator, which is more stable and less biased than the naïve \hat{p} .

III DESIGN OF THE SURVEY

We propose choosing n so that the length of the confidence interval does not exceed a given target. To accomplish this, we see from equation (1) that the length of the confidence interval is:

$$\sqrt{\frac{4z^2}{n+z^2} \left[\hat{p}(1-\hat{p}) \left(\frac{n}{n+z^2} \right) + \left(\frac{1}{2} \right) \left(\frac{1}{2} \right) \left(\frac{z^2}{n+z^2} \right) \right]} \quad (3)$$

which depends on the data (through \hat{p}) and on the nominal confidence level. Because the maximum value of $p(1-p)$ occurs at $p = 0.5$, we obtain the maximum length of the confidence interval by substituting $\frac{1}{4} = \frac{1}{2}(\frac{1}{2})$ for $\hat{p}(1-\hat{p})$ in equation (3).

$$\text{Maximum length} = \frac{z}{\sqrt{n+z^2}} \quad (4)$$

For example, if 90% confidence limit is desired, the maximum length is $\frac{1.645}{\sqrt{n+1.645^2}}$, if

95% confidence limit is desired, the maximum length is $\frac{1.96}{\sqrt{n+1.96^2}}$, and if 99%

EXHIBIT

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confidence limit is desired the maximum length is $\frac{2.56}{\sqrt{n+2.56^2}}$. Table 1 gives the maximum length, using equation (4), for a grid of n and α values. Formula (4) can be used to determine the sample size to be taken in your audit as shown in the following example.

Example

Suppose we are interested in finding a 90% confidence interval whose length is desired to be no more than 0.15 in length. Using equation (4), we can get the value of n that satisfies this criterion to be: $\frac{1.645}{\sqrt{n+1.645^2}} \leq 0.15$, where $z = 1.645$ for 90% confidence level. The length requirement lies between $n = 100$ and $n = 125$ values as calculated in Table 1. The exact calculation based on the sentence above gives $n \geq 117.562$, or we take $n = 118$.

Therefore we need to sample (a minimum of) 118 agents in order to obtain a 90% confidence interval of length ≤ 0.15 . Suppose now that our sample proportion, \hat{p} , is 0.85, then we can use equation (1) to get the 90% confidence interval. Substituting the appropriate values for n , z , and \hat{p} in equation (1), we get:

$$\left[\left\{ 0.85 + \frac{1.645^2}{2(118)} \right\} \pm 1.645 \sqrt{[0.85(1-0.85) + 1.645^2 / 4(118)] / 118} \right] / (1 + 1.645^2 / 118)$$

$$= (0.7881, 0.8962)$$

Note that the length of the confidence interval is $0.108 = 0.8962 - 0.7881 \leq 0.15$. The reason that we obtain a shorter length than 0.15 is that we used the upper bound $\frac{1}{4}$ for $\hat{p}(1-\hat{p})$ in deriving equation (4). \square

The example shows that if we know that our \hat{p} is likely to be not near $\frac{1}{2}$, then we can use this information to help decrease our sample size. If we solve equation (3) using a non-data prior guess of \hat{p} , we can obtain a lower sample size than in Table 1. For example, if we use a prior guess of $\hat{p} = 0.90$, then Table 2 shows the length, using equation (3), of the resulting confidence interval. Using $n = 50$ and a 90% confidence interval gives a length of 0.1420. However, we warn you that the length of the interval you finally calculate depends on the actual $\hat{p} = Y/n$ that is calculated from the data and Table 2 - equation (3) calculations are for planning purposes only. As long as $\hat{p} \geq 0.90$, the interval will have the length no more than 0.1420 but it could be longer if $\hat{p} < 0.90$.

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Table 1: The maximum length for 90%, 95%, and 99% confidence intervals for different sample sizes n

n	Max Length (90%)	Max Length (95%)	Max Length (99%)
25	0.3125	0.3650	0.4557
50	0.2266	0.2671	0.3404
75	0.1866	0.2207	0.2835
100	0.1623	0.1923	0.2480
125	0.1456	0.1727	0.2232
150	0.1331	0.1580	0.2046
175	0.1234	0.1466	0.1900
200	0.1155	0.1373	0.1781
225	0.1090	0.1296	0.1682
250	0.1035	0.1230	0.1598
275	0.0987	0.1174	0.1526
300	0.0945	0.1124	0.1462
325	0.0909	0.1081	0.1406
350	0.0876	0.1042	0.1356
375	0.0846	0.1007	0.1311
400	0.0820	0.0975	0.1270
425	0.0795	0.0946	0.1232
450	0.0773	0.0920	0.1198
475	0.0753	0.0896	0.1167
500	0.0734	0.0873	0.1137

Table 2: Estimated lengths for 90%, 95%, and 99% confidence intervals assuming $\hat{p} = 0.90$ based on equation (3).

n	Interval Length (90%)	Interval Length (95%)	Interval Length (99%)
25	0.2031	0.2435	0.3200
50	0.1420	0.1701	0.2243
75	0.1154	0.1381	0.1818
100	0.0996	0.1191	0.1567
125	0.0890	0.1063	0.1397
150	0.0811	0.0969	0.1272
175	0.0750	0.0896	0.1176
200	0.0701	0.0837	0.1098
225	0.0661	0.0789	0.1034
250	0.0627	0.0748	0.0980
275	0.0597	0.0713	0.0934
300	0.0572	0.0682	0.0894
325	0.0549	0.0655	0.0858
350	0.0529	0.0631	0.0827
375	0.0511	0.0610	0.0798

EXHIBIT

n	Interval Length (90%)	Interval Length (95%)	Interval Length (99%)
400	0.0495	0.0590	0.0773
425	0.0480	0.0572	0.0749
450	0.0466	0.0556	0.0728
475	0.0454	0.0541	0.0708
500	0.0442	0.0527	0.0690

References:

Agresti, A., and Coull, B. A. (1998), "Approximate is Better than "Exact" for Interval Estimation of Binomial Proportions," *The American Statistician*, 52, 119-126.

Brown L. D., Cai T. T., and DasGupta A. (2001), "Interval Estimation for a Binomial Proportion," forthcoming, *Statistical Science*.

Wilson, E. B. (1927), "Probable Inference, the Law of Succession, and Statistical Inference," *Journal of American Statistical Association*, 22, 202-212.

EXHIBIT

04



Trek Alliance, Inc.

917 Tahoe Blvd., #103
Incline Village, NV 89451
(775) 833-TREK (8735)
Fax: (775) 833-8787

PLEASE PRINT CLEARLY

BUY BACK AFFIDAVIT

FOR OFFICE USE

Authorization # _____

By: _____ Date: _____

Today's Date: 2-8-01

The following affidavit is submitted in connection with my request to terminate my independent Trek Alliance distributorship and return product under the Trek Alliance Buy Back provisions as outlined in its Policies & Procedures.

2 Rep Info

Trek ID #: 139415

Rep Name: Marc Burger

Mailing Address: 3202-H Normandy Woods Dr.

City, State, Zip: Ellicott City, MD 21043

City Phone: (410) 750 - 9629

I Certify Under Penalty of Perjury the Following:

1. That I originally purchased the product to give an honest attempt to do the business.
2. That I am canceling my distributorship with Trek Alliance and giving up any right to future commissions or bonuses on my personal or downline activity.
3. That the product I am seeking to return was purchased by me within the first 12 months of the initial date of my first product purchase AND within 12 months of the product's original first purchase date.
4. That all product to be returned will be in its original packaging, unopened and in resale condition with a usable shelf life before expiration of not less than four months.
5. That products that have been discontinued or whose discontinuance have been announced shall not be eligible for buy back.
6. That all certifications that I have previously provided to you, relative to inventory purchased and sold, are valid.
7. That none of the product I am seeking to return was purchased for purpose of purchasing a Pay Plan position or winning a contest instead of for consumption and/or inventory for resale.
8. That I have never encouraged people to return product, delayed return of product or asked people to return product for me.
9. That I am not seeking to dispose of this inventory because I intend to switch to another company or move one or more of my Trek Alliance representatives to a competitive company.
10. That, should Trek authorize the return of inventory, that all such inventory accepted for buy back will be reimbursed on the value of the original order(s) less freight, rebates, bonuses, personal discounts and a 10% (percent) of retail value restocking charge.

I declare under penalty of perjury that the foregoing is true and correct.

Executed at: Parcel plus - Ellicott City Date Executed: 2-8-01

Signature(s): [Signature]

State of Maryland County of Howard

- This affidavit must be signed before a Notary Public.
- No request will be processed without this signed and NOTARIZED affidavit.

5 Notary Public

• THE ORIGINAL NOTORIZED FORM MUST BE MAILED BACK TO TREK ALLIANCE!

On this 8th day of FEB 2001 before me, the undersigned Notary Public, personally appeared MARC BURGER to me known to be the individual described in and who executed the foregoing instrument, and acknowledged that he (she) executed the same as his (her) free act and deed.

EXHIBIT

Notary Public: [Signature] 030058

My Commission Expires: 7-1-02

ELIZABETH WHITEHEAD
 NOTARY PUBLIC FOR
 HOWARD COUNTY, MARYLAND
 COMM. EXPIRES 7-1-02
 3/12/00



 **COPY**

September 8, 2001

Trek Alliance
c/o Audit/Review Department
917 Tahoe Blvd.
Suite 103
Incline Village, NV 89451

RECEIVED

SEP 17 2001

To Whom It May Concern:

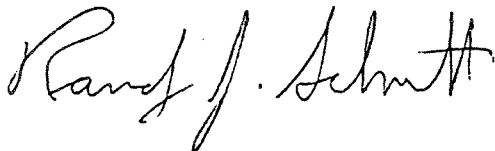
My name is Randy Schmitt I.D. #146229 and I have received the letter concerning the confirmation of refund. There are a couple of points I wish to make. The first concerns the retail value of the items that were returned. The attached worksheet shows my results to be somewhat higher. The result is based on current retail value of the product taken from the Trek website excluding the value of Bio-Energetic Weight Control for which there was no price. In addition, the result subtracts the value of those items considered to be a loss from your data. It is certainly possible that I do not understand how the retail value was reached.

The second point concerns several of the items that are considered to be losses. One of item #1017S is said to have been broken. One of those items had a cracked lid when I received it and I assume that is the one to which you are referring. Two items, 1021S and 1022S are said to be open. I kept my inventory in a location of its own and all items for my personal use or for use as samples were removed to a different location. If any items were truly open they were that way when I received them. I would never return partially used items.

The third and most important point concerns misleading information that is given to prospective representatives during overviews. Several Trek representatives including one highly placed individual associated with Chesapeake Alliance like to say that people cannot lose any money by becoming representatives because it is against the law. By my calculation, due to shipping in two directions, restocking fee, and loss, I will lose in excess of \$700 and I cannot argue with any of those as I think they are reasonable. However, when one is listening to a presentation, he or she is not thinking of those things, so when it is said that money cannot be lost that person is taken at his or her word. Making the commitment to become a representative was not easy for me because I did not think I fit the requirements, but staring unemployment in the face and believing I would not lose money made the decision somewhat easier.

The first two points above do not concern me very much as they are what they are. The third point concerns me very much. I believe such statements open up the company to legal proceedings based on misrepresentation. I worked for a large company for a long time and its reputation was a very valuable asset. Please do not misunderstand my intentions as there are none. I would not pursue such a matter and will be glad to end this entire episode. I do think it is in the best interests of Trek to tell its associates not to make such outlandish claims that can sully the Trek reputation or lead to even worse results.

Sincerely,



Randy Schmitt

410-342-0994

3418 ELLIOTT ST.
BALTIMORE, MD 21224-5105

EXHIBIT

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TREK ALLIANCE, INC. REVENUE DISCLOSURE STATEMENT

Revised May 2002

We are very pleased and excited about Trek Alliance's growth to date and especially proud of its reputation as a company with whom motivated people can build their futures. After a little over four years in business, Trek Alliance has already made a strong statement that its products, support, training and Pay Plan rank amongst the best in the industry.

Trek Alliance's products have won over thousands of people, many of whom order from Trek on a monthly basis and use their distributorship only to obtain products at a discount. We welcome them and look forward to a beneficial long-term relationship together. Many others have joined Trek Alliance on a part-time basis to increasingly supplement their income as well as to obtain products at a discount. We feel strongly that Trek offers this group a fine opportunity for long-term growth. Finally, others have seen in Trek Alliance the chance to reach for their dreams and build their own businesses. In only a little over four years, serious, passionate people have already begun to build the foundations of their futures. The opportunities available when joining a company in its early years of development are well known. And that's precisely where Trek is.

We have searched to find the fairest way possible to give you the facts as to what has really happened. When a company is only four years old, it is difficult to determine the most realistic presentation of income figures. We feel that using the actual income numbers for the year of January 2001 to December 2001 as a basis is probably the most meaningful presentation possible.

Please note that the table below only uses bonuses and commissions paid by Trek Alliance to its Representatives and DOES NOT INCLUDE EARNINGS A REPRESENTATIVE HAS WHEN RETAILING PRODUCT. Since every Trek Alliance Representative retails products as an ongoing part of his or her business, this could be a very significant income area: as much as 20 to 40% of suggested retail on every product they purchased from Trek!

Further, new associates at any company, Trek Alliance included, have obviously not had the time to reach full growth potential. Trek's young life reflects that reality: few people have had the time to earn income on many levels of distributorships below them. As time progresses, organizations will become increasingly larger with resulting increased financial opportunities for those who will have started on the ground floor and stayed the course.

Finally, and MOST IMPORTANTLY, each person's economic future with Trek Alliance is directly related to that person's efforts and commitment to their career. Many people start and never go beyond first base. Only those truly committed turn the corner and begin a solid advancement. Your future is dependent upon YOU. Trek has the products. Trek has the Pay Plan. But only you can supply the key ingredients: your energy, your commitment and your passion.

EXHIBIT



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The information in this table is the average revenue of all active representatives and member players, based on actual revenue earned from Trek Alliance during the period from January 2001 to December 2001. This information is not intended to represent the performance of any individual representative.

Data by Title

Title	Total	Revenue	Commission	Net Pay
Intl. Exec. Dir.	\$635,713.49	\$163,023.82	\$290,379.60	\$211,904.50
Nat. Exec. Dir.	\$484,835.95	\$46,224.05	\$113,249.18	\$80,614.93
Exec. Director	\$441,130.09	\$23,631.02	\$68,810.58	\$49,014.45
Coordinator	\$317,762.76	\$18,365.14	\$46,613.41	\$28,337.52
Director	\$767,817.23	\$4,207.93	\$32,777.88	\$15,996.19
Consultant	\$1,402,766.43	\$1.80	\$18,927.45	\$4,054.24
Supervisor	\$1,053,882.84	\$6.80	\$9,602.05	\$709.21
Field Rep.	\$83,114.36	\$5.35	\$2,527.17	\$190.63
Associate	\$42,302.08	\$1.36	\$868.51	\$99.53

From Trek Alliance's inception through December 2001, there has been a total of 22,281 Trek Alliance Independent Representatives who submitted an application and purchased at least one product order outside of a Starter Kit. Of those 22,281 Representatives, 8,465 (38% of the total) received an average of \$2,176.29 revenue each.

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Email comments to cs@trekalliance.com

Last modified May 8, 2002

EXHIBIT

07

TREK ALLIANCE, INC. REVENUE DISCLOSURE STATEMENT

(revised May 2001)

We are very pleased and excited about Trek's growth to date and especially proud of its reputation as a company with whom motivated people can build their futures. After a little over three years in business, Trek has already made a strong statement that its products, support, training and Pay Plan rank amongst the best in the industry.

Trek's products have won over thousands of people, many of whom order from Trek on a monthly basis and use their distributorship only to obtain products at a discount. We welcome them and look forward to a beneficial long-term relationship together. Many others have joined Trek on a part-time basis to increasingly supplement their income as well as to obtain products at a discount. We feel strongly that Trek offers this group a fine opportunity for long-term growth. Finally, others have seen in Trek the chance to reach for their dreams and build their own businesses. In only a little over three years, serious, passionate people have already begun to build the foundations of their futures. The opportunities available when joining a company in its early years of development are well known. And that's precisely where Trek is.

We have searched to find the fairest way possible to give you the facts as to what has really happened. When a company is only three years old, it is difficult to determine the most realistic presentation of income figures. We feel that using the actual income numbers for the year of January 2000 to December 2000 as a basis is probably the most meaningful presentation possible.

Please note that the table below only uses bonuses and commissions paid by Trek to its Representatives and DOES NOT INCLUDE EARNINGS A REPRESENTATIVE HAS WHEN RETAILING PRODUCT. Since every Trek Representative retails products as an ongoing part of his or her business, this could be a very significant income area: as much as 20 to 40% of suggested retail on every product they purchased from Trek!

Further, new associates at any company, Trek included, have obviously not had the time to reach full growth potential. Trek's young life reflects that reality: few people have had the time to earn income on many levels of distributorships below them. As time progresses, organizations will become increasingly larger with resulting increased financial opportunities for those who will have started on the ground floor and stayed the course.

Finally, and MOST IMPORTANTLY, each person's economic future with Trek is directly related to that person's efforts and commitment to their career. Many people start and never go beyond first base. Only those truly committed turn the corner and begin a solid advancement. Your future is dependent upon YOU. Trek has the products. Trek has the Pay Plan. But only you can supply the key ingredients: your energy, your commitment and your passion.

The numbers in this table, which represent the collective average of active part-time representatives and power players, were obtained by calculating the actual revenues earned by a Rep from Trek Alliance during the period of January 2000 to December 2000. The earnings are represented in the highest



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07

earned title by the Rep.
Data by Title

Distributor Title	Total	Lowest	Highest	Average
Intl. Exec. Dir.	\$675,096.33	\$140,904.05	\$342,136.68	\$225,032.11
Nat. Exec. Dir.	\$336,640.76	\$68,062.99	\$108,113.13	\$84,160.19
Exec. Director	\$616,688.64	\$5,103.27	\$126,866.31	\$68,520.96
Coordinator	\$592,424.08	\$7,741.24	\$115,024.50	\$32,912.45
Director	\$871,637.40	\$30.62	\$46,155.19	\$13,409.81
Consultant	\$1,175,547.09	\$1.41	\$18,846.56	\$3,984.91
Supervisor	\$791,128.08	\$1.17	\$7,656.15	\$689.74
Field Rep	\$55,277.02	\$0.88	\$1,429.56	\$165.50
Associate	\$14,184.75	\$0.70	\$357.41	\$39.29

Since Trek's inception, there has been a total of 16,184 Trek Independent Representatives who submitted an application and purchased at least one product order outside of a Starter Kit. Of those 16,184 representatives, 6,114 (38% of the total) received an average of \$2,120.90 revenue each.

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Email comments to cs@trekalliance.com

Last modified May 18, 2001

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Summary in Addition to Documents

Respondent's database is oracle based and, therefore, in order to get information/statistics from it, we run what we call queries.

A query were run to ascertain the relevant figures, the result of simple division provides the average annual payment.

A query was run to get the disclosure information from our database. The query asks the database for the total number of distributors that have placed an order outside a Starterkit from the inception of our company. The answer is 16184 as stated in our disclosure statement.

The next query asks how many distributors have received bonuses from Trek and how much that total dollar amount was. (6114 for a total of \$12967183.) The average dollar amount is simply $\$12967183 \div 6114 = \2120.90 . The rest of the distributors ($16184 - 6114 = 10070$) have not been paid bonuses by Trek since the inception of the company