

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING
5 Whether there has been a violation
6 of the Business Opportunity Fraud Act of the
7 State of Washington by:

8 Vendmark, Mark Plotkin, their employees and
9 agents,

10 Respondents.

SDO - 9 - 00

SUMMARY ORDER TO CEASE AND DESIST

Case No. 99-12-0378

11 THE STATE OF WASHINGTON TO:

Vendmark
Mark Plotkin
7227 Maida Lane, #2-F
Fort Myers, FL 33908-4208

12 **STATEMENT OF CHARGES**

13 Please take notice that the Securities Administrator of the State of Washington has reason to believe
14 that Respondents have violated the Business Opportunity Fraud Act and that their violations justify the entry
15 of an order of the Securities Administrator under RCW 19.110.150 to cease and desist from such violations.

16 The Securities Administrator finds that delay in ordering the Respondents to cease and desist from such
17 violations would be hazardous to the investors and to the public and that a Summary Order to Cease and
18 Desist should be entered immediately. The Securities Administrator finds as follows:

19 **TENTATIVE FINDINGS OF FACT**

20 **I.**

21 Vendmark has a principal business address of 7227 Maida Lane, #2-F, Fort Myers, Florida.
22 Vendmark is the seller of vending machine equipment to enable purchasers to establish businesses that
23 place the machines in accessible places for use by the public (the vending opportunity). Vendmark
24 provides location services or provides references to professional locators to assist purchasers of the

1 vending opportunity for placement of the equipment it sells. Mark Plotkin is the owner or principal of
2 Vendmark.

3 II.

4 Respondents, acting in concert or on behalf of each other, maintain an Internet web site located at
5 www.vendmark.com. A Securities Division staff member first accessed the site in late November, 1999,
6 and determined that the site related to various candy, snack, and soft drink machines which could be
7 purchased from Vendmark. The Internet site also indicated that Vendmark identified itself as a “full
8 service vending company” which sells vending equipment and provides locating services. The site
9 included the following language:

10 Vendmark Locating/Placement Services

11 Vendmark provides in person locating services in all 50 states, and Canada, for all coin operated vending
12 machines. Our locators use input YOU provide to better locate machines in your areas where YOU want
YOUR route. We Work for You!! With Vendmark, you accompany our locator and you are free to accept
or reject any location, until all machines are located to your satisfaction...

13 The site also included the following language:

14 Where are vending machines placed?

15 Because of their attractive designs, vending machines can be placed in almost any business or office
16 locations. We can, if you wish, refer you to one or more professional locating companies.

17 The Securities Division staff member, posing as a prospective purchaser of vending equipment, requested
18 online via the Vendmark Internet site that copies of brochures or other information about machines and
19 location services provided by Vendmark to purchasers of machines be sent to a Washington address.

20 Respondents subsequently sent or caused to be sent to the Washington address, by U.S. mail delivery,
21 promotional and other materials relating to Vendmark vending opportunities. The materials included
22 information about the specifications of various types of vending machine equipment, financing
23 documents, price quotations, and a purchase order form. The materials also included a letter from Mark

24 Plotkin on behalf of Vendmark that contained the following statement:

1 least one prospective purchaser in the state of Washington a complete disclosure document containing
2 complete material information regarding Vendmark or the vending opportunity, including but not limited
3 to a financial statement of the seller.

4 III.

5 The offer of the vending opportunity as described in Tentative Findings of Fact I through III was
6 made in violation of RCW 19.110.050(1), the registration requirement provision of the Business
7 Opportunity Fraud Act, because no business opportunity registration has been made nor a permit issued to
8 Vendmark or Mark Plotkin for the offer and/or sale of the vending opportunity in this state.

9 The Securities Administrator finds that this action is necessary and appropriate in the public
10 interest and for the protection of investors and that the public safety and welfare require emergency
11 action.

12 SUMMARY ORDER

13 Based on the premises of the foregoing,

14 IT IS THEREFORE HEREBY SUMMARILY ORDERED That Respondents Vendmark, Mark
15 Plotkin, their employees and agents, each cease and desist from violations of RCW 19.110.070 and RCW
16 19.110.120, the disclosure document and antifraud provisions of the Business Opportunity Fraud Act,
17 respectively.

18 IT IS THEREFORE HEREBY SUMMARILY ORDERED That Respondents Vendmark, Mark
19 Plotkin, their employees and agents, each cease and desist from violations of RCW 19.110.050(1), the
20 registration requirement provision of the Business Opportunity Fraud Act.

21 AUTHORITY AND PROCEDURE

22 This Summary Order is entered pursuant to the provisions of RCW 19.110.150 and chapter 34.05
23 RCW. The Respondents may each make a written request for hearing as set forth in the Notice of
24 Opportunity to Defend and Opportunity for Hearing accompanying this order. A request for a hearing
should be in writing and sent to Deborah R. Bortner, Securities Administrator, Department of Financial

1 Institutions, P.O. Box 9033, Olympia, Washington 98507-9033 to the attention of Brad Ferber. If a
2 Respondent does not request a hearing as set forth in the Notice of Opportunity to Defend and
3 Opportunity for Hearing, the Securities Administrator intends to adopt the Tentative Findings of Fact and
4 Conclusions of Law as final and make this Summary Order to Cease and Desist permanent as to such
5 Respondent.

6
7 WILLFUL VIOLATION OF THIS ORDER IS A CRIMINAL OFFENSE.

8 Dated this _____ day of _____, 2000.

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10 _____
11 Deborah R. Bortner
12 Securities Administrator

13 Presented by: _____
14 Brad Ferber
15 Securities Examiner

Approved by: _____
16 Michael E. Stevenson
17 Chief of Compliance

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**STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
SECURITIES DIVISION**

IN THE MATTER OF DETERMINING
Whether there has been a violation
of the Business Opportunity Fraud Act of the
State of Washington by:

Vendmark, Mark Plotkin, their employees and
agents,

Respondents.

SDO - 9A - 00

NOTICE OF OPPORTUNITY TO DEFEND AND
OPPORTUNITY FOR HEARING

Case No. 99-12-0378

THE STATE OF WASHINGTON TO:

Vendmark
Mark Plotkin
7227 Maida Lane, #2-F
Fort Myers, FL 33908-4208

YOU ARE HEREBY NOTIFIED that a Summary Order To Cease And Desist has been filed by the
Department of Financial Institutions, a true and correct copy of which is attached and made a part hereof.

YOU ARE HEREBY NOTIFIED that you may file an application for an adjudicative hearing before the
Washington State Department of Financial Institutions on the Summary Order. Service of this notice is deemed
complete upon deposit in the United States mail. YOUR APPLICATION MUST BE RECEIVED BY THE
DEPARTMENT OF FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS FROM THE DATE YOU
RECEIVED THIS NOTICE. If you demand a hearing, you will be notified of the time and place for the hearing
at least seven (7) days in advance of the hearing date.

At the hearing, you may appear personally, and by counsel, if you desire. The hearing will be as
informal as is practical within the requirements of the Administrative Procedure Act (see chapter 34.05 RCW).
The hearing will be recorded. The primary concern will be getting to the truth of the matter insofar as the
Summary Order is concerned. Technical rules of evidence will not be binding at the hearing except for the rules
of privilege recognized by law. You have the right to present evidence and witnesses in your own behalf, and to
cross-examine those witnesses presented in support of the Summary Order. You may require the attendance of

NOTICE OF OPPORTUNITY TO DEFEND AND
OPPORTUNITY FOR HEARING

Vendmark

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DEPARTMENT OF FINANCIAL INSTITUTIONS
Securities Division
PO Box 9033
Olympia, WA 98507-9033
(360) 902-8760

1 witnesses by subpoena. If you are limited English- speaking or hearing impaired, you have the right to have an
2 interpreter appointed at no cost to you, as discussed below.

3 INTERPRETER AVAILABILITY. If you or a witness for you is a person who, because of non-
4 English-speaking cultural background, cannot readily speak or understand the English language, or if you or a
5 witness for you is a person who, because of a hearing impairment or speech defect, cannot readily understand or
6 communicate in spoken language, including persons who are deaf, deaf and blind, or hard of hearing, AND
7 YOU NEED AN INTERPRETER, then a qualified interpreter will be appointed at no cost to you or to the
8 witness. You may request the appointment of a qualified interpreter by indicating your request on the attached
9 Application for Adjudicative Hearing form.

10 YOU ARE FURTHER NOTIFIED that if the Department of Financial Institutions does not RECEIVE
11 the Application for Adjudicative Hearing form within twenty (20) days from the date you received this notice,
12 this will constitute a waiver of your right to a hearing and the director will find that you do not contest the
13 allegations of the Summary Order. Upon such a finding by the director a final order will be immediately entered
14 disposing of this matter and ordering you to cease and desist as described in the Summary Order. If you desire a
15 hearing in this matter, please return the attached Application for Adjudicative Hearing to:

16 Washington State Department of Financial Institutions
17 Securities Division
18 Attn: Brad Ferber
19 Post Office Box 9033
20 Olympia, Washington 98507-9033

21 Dated this _____ day of _____, 2000.

22 _____
23 Deborah R. Bortner
24 Securities Administrator

1 **STATE OF WASHINGTON**
2 **DEPARTMENT OF FINANCIAL INSTITUTIONS**
3 **SECURITIES DIVISION**

4 IN THE MATTER OF DETERMINING
5 Whether there has been a violation
6 of the Business Opportunity Fraud Act of the
7 State of Washington by:

8 Vendmark, Mark Plotkin, their employees and
9 agents,

10 Respondents.

SDO - 9B(1) - 00

APPLICATION FOR ADJUDICATIVE
HEARING

Case No. 99-12-0378

11 THE STATE OF WASHINGTON TO:

Vendmark
7227 Maida Lane, #2-F
Fort Myers, FL 33908-4208

12 If you wish to contest the Summary Order To Cease And Desist and have an adjudicative
13 hearing, you must sign, date, and return this form within twenty (20) days of the date you received it, to:

14 Washington State Department of Financial Institutions
15 Securities Division
16 Attn: Brad Ferber
17 P. O. Box 9033
18 Olympia, Washington 98507-9033

19 FAILURE TO RETURN THIS FORM SO THAT IT IS RECEIVED BY THE DEPARTMENT OF
20 FINANCIAL INSTITUTIONS WITHIN TWENTY (20) DAYS OF THE DATE YOU RECEIVED IT WILL
21 CONSTITUTE A DEFAULT AND WILL RESULT IN THE LOSS OF YOUR RIGHT TO AN
22 ADJUDICATIVE HEARING AND WILL RESULT IN THE INFORMAL DISPOSITION OF YOUR CASE
23 AS AUTHORIZED BY RCW 34.05.440. In that case the Director may proceed to resolve this matter without
24 further notice or hearing. In such a case, the Director will immediately enter an appropriate order in disposition
of the Summary Order, to include prohibition against your engaging in certain business practices as described in
the Summary Order.

INSTRUCTIONS: Circle your desired responses to items I, II, and III below.

APPLICATION FOR HEARING

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DEPARTMENT OF FINANCIAL INSTITUTIONS

Vendmark

Securities Division
PO Box 9033
Olympia, WA 98507-9033
(360) 902-8760

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Dated this _____ day of _____, 2000.

Vendmark, by:

Signature

Print Name and Title

Address (if facing page is incorrect):

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Dated this _____ day of _____, 2000.

Mark Plotkin, on behalf of Vendmark and individually:

Signature

Address (if facing page is incorrect):

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