

UNITED STATES DISTRICT COURT  
DISTRICT OF KANSAS

UNITED STATES OF AMERICA,

Plaintiff,

v.

DIRECT SECURITY SERVICES, INC.; a  
Kansas Corporation;  
STEVEN DOCKERY, individually and as an  
officer of Direct Security Services, Inc.;  
GARY TIDBALL, individually and as an  
officer of Direct Security Services, Inc.,

Defendants.

Case No.

**COMPLAINT FOR CIVIL  
PENALTIES, PERMANENT  
INJUNCTION, AND OTHER RELIEF**

Plaintiff, the United States of America, acting upon notification and authorization to the Attorney General by the Federal Trade Commission (“FTC” or “Commission”), pursuant to Section 16(a)(1) of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 56(a)(1), for its complaint alleges:

1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), 16(a) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), 56(a) and 57b, and Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6105, to obtain monetary civil penalties, a permanent injunction, and other equitable relief for Defendants’ violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the FTC’s Telemarketing Sales Rule (the “TSR” or “Rule”), 16 C.F.R. Part 310, as amended by 68 Fed. Reg. 4580, 4669 (January 29, 2003).

## **JURISDICTION AND VENUE**

2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), and 56(a). This action arises under 15 U.S.C. § 45(a).
3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1395(a), and 15 U.S.C. § 53(b).

## **DEFENDANTS**

4. Defendant Direct Security Services Inc. (“DSSI”) is a Kansas Corporation with its principal place of business at 8334 Nieman Road, Lenexa, Kansas. Defendant DSSI is a telemarketer that initiated outbound telephone calls to induce consumers to purchase home security alarm goods or services. Defendant DSSI transacts or has transacted business in this District.
5. Stephen Dockery is President of DSSI and 50% owner of the company. In connection with the matters alleged herein, he resides or has transacted business in this District. Acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts or practices set forth in this complaint.
6. Gary Tidball is Executive Vice President of DSSI and 50% owner of the company. In connection with the matters alleged herein, he resides or has transacted business in this District. Acting alone or in concert with others, he has formulated, directed, controlled or participated in the acts or practices set forth in this complaint.

**THE TELEMARKETING SALES RULE**  
**AND THE NATIONAL DO NOT CALL REGISTRY**

7. In 1994, Congress enacted the Telemarketing Act, 15 U.S.C. §§ 6101-6108, which directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices. Accordingly, on August 16, 1995, the FTC adopted the Telemarketing Sales Rule (the “Original TSR”), 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a final amended TSR (the “Amended TSR”) and a Statement of Basis and Purpose. 68 Fed. Reg. 4580, 4669.
8. Among other things, the Amended TSR established a “do-not-call” registry, maintained by the Commission (the “National Do Not Call Registry” or “Registry”), of consumers who do not wish to receive certain types of telemarketing calls. Consumers can register their telephone numbers on the Registry without charge either through a toll-free telephone call or over the Internet at [donotcall.gov](http://donotcall.gov).
9. Consumers who receive telemarketing calls to their registered numbers can complain of Registry violations the same way they registered, through a toll-free telephone call or over the Internet at [donotcall.gov](http://donotcall.gov), or by otherwise contacting law enforcement authorities.
10. Since October 17, 2003, sellers and telemarketers have been prohibited from calling numbers on the Registry in violation of the Amended TSR. 16 C.F.R. § 310.4(b)(1)(iii)(B).
11. Since September 2, 2003, sellers, telemarketers, and other permitted organizations have been able to access the Registry over the Internet at [telemarketing.donotcall.gov](http://telemarketing.donotcall.gov) to download the registered numbers.
12. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section

18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

### **DEFENDANTS' BUSINESS ACTIVITIES**

13. Defendants are “seller[s]” or “telemarketer[s]” engaged in “telemarketing,” as defined by the Amended TSR, 16 C.F.R. § 310.2.

14. Defendants entered into written contractual agreements with ADT Security Services, Inc. (“ADT”), which gave the Defendants the right to market ADT home security systems and related goods or services through means including telemarketing.

15. On or after October 17, 2003, the Defendants engaged in telemarketing on behalf of ADT.

16. On or after October 17, 2003, the Defendants have directly, or through intermediaries, placed outbound telephone calls to consumers’ telephone numbers on the National Do Not Call Registry.

17. At all times relevant to this complaint, Defendants have maintained a substantial course of trade or business in the offering for sale and sale of goods or services via the telephone, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

**VIOLATIONS OF THE TELEMARKETING SALES RULE**

**Count I**

**Violating the National Do Not Call Registry**

18. In numerous instances, in connection with telemarketing, Defendants have initiated, or caused others to initiate, an outbound telephone call to a person's telephone number on the National Do Not Call Registry in violation of the TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

**CONSUMER INJURY**

19. Consumers in the United States have suffered and will suffer injury as a result of Defendants' violations of the TSR. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers and harm the public interest.

**THIS COURT'S POWER TO GRANT RELIEF**

20. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and other ancillary relief to prevent and remedy any violation of any provision of law enforced by the FTC.

21. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and as implemented by 16 C.F.R. § 1.98(d) (1997), authorizes this Court to award monetary civil penalties of not more than \$11,000 for each violation of the TSR. Defendants' violations of the TSR were committed with the knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A).

22. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to remedy injury caused by Defendants' violations of the Rule and the FTC Act.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court, as authorized by Sections 5(a), 5(m)(1)(A), and 13(b) of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), and 53(b), and pursuant to its own equitable powers:

- A. Enter judgment against Defendants and in favor of Plaintiff for each violation alleged in this complaint;
- B. Award Plaintiff monetary civil penalties from each Defendant for every violation of the TSR;
- C. Permanently enjoin Defendants from violating the TSR and the FTC Act;
- D. Order Defendants to pay the costs of this action; and
- E. Award Plaintiff such other and additional relief as the Court may determine to be just and proper.

Dated \_\_\_\_\_

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Respectfully submitted,

FOR THE UNITED STATES OF AMERICA

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