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CLERK U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
RIVERSIDE

BY _____

1 DAVID C. SHONKA
2 Acting General Counsel
3 CHARLES A. HARWOOD
4 Regional Director

5 SOPHIA H. CALDERÓN, CA Bar No. 278135
6 Email: scalderon@ftc.gov

7 LAURA M. SOLIS, WA Bar No. 36005, *pro hac vice*
8 Email: lsolis@ftc.gov

9 Federal Trade Commission
10 915 2nd Ave., Suite 2896, Seattle, WA 98174
11 (206) 220-6350 (phone) / (206) 220-6366 (fax)

12 LOCAL COUNSEL
13 THOMAS J. SYTA, CA Bar No. 116286

14 Email: tsyta@ftc.gov
15 Federal Trade Commission
16 10877 Wilshire Blvd., Suite 700, Los Angeles, CA 90024
17 (310) 824-4324 (phone) / (310) 824-4380 (fax)

18 Attorneys for Plaintiff
19 FEDERAL TRADE COMMISSION

20 UNITED STATES DISTRICT COURT
21 CENTRAL DISTRICT OF CALIFORNIA

22 FEDERAL TRADE COMMISSION
23 Plaintiff,

24 vs.

25 ABC HISPANA, INC., a corporation;
26 ISB LATINO, INC., a corporation;
27 ABC LATINA, LLC, a limited liability
28 company; GONZALO RICARDO
BAZÁN JIMÉNEZ; and MILAGROS
RAQUEL URMENETA,
Defendants.

ED No. V17-00252

) COMPLAINT FOR PERMANENT
) INJUNCTION AND OTHER
) EQUITABLE RELIEF

UNDER SEAL

FILED
CLERK, U.S. DISTRICT COURT
FEB 13 2017
CENTRAL DISTRICT OF CALIFORNIA
EASTERN DIVISION
BY DEPUTY

JGB

(DTB)

TRO

LOGGED

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2 Acting General Counsel
3 CHARLES A. HARWOOD
4 Regional Director

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ORIGINAL

5 SOPHIA H. CALDERÓN, CA Bar No. 278135
6 Email: scalderon@ftc.gov
7 LAURA M. SOLIS, WA Bar No. 36005, *pro hac vice*
8 Email: lsolis@ftc.gov
9 Federal Trade Commission
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11 (206) 220-6350 (phone) / (206) 220-6366 (fax)

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15 Federal Trade Commission
16 10877 Wilshire Blvd., Suite 700, Los Angeles, CA 90024
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22 FEDERAL TRADE COMMISSION
23 Plaintiff,

ED) **CV17-00252** JGB
No.)

(DTB)

24 vs.

) **COMPLAINT FOR PERMANENT**
) **INJUNCTION AND OTHER**
) **EQUITABLE RELIEF**

25 ABC HISPANA, INC., a corporation;)
26 ISB LATINO, INC., a corporation;)
27 ABC LATINA, LLC, a limited liability)
28 company; GONZALO RICARDO)
BAZÁN JIMÉNEZ; and MILAGROS)
RAQUEL URMENETA,)
Defendants.)

UNDER SEAL

TRO

1 Plaintiff, the Federal Trade Commission (“FTC”), for its Complaint alleges:

2 1. The FTC brings this action under Section 13(b) of the Federal Trade
3 Commission Act (“FTC Act”), 15 U.S.C. § 53(b), and the Telemarketing and
4 Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C.
5 §§ 6101 - 6108, to obtain temporary, preliminary, and permanent injunctive relief,
6 rescission or reformation of contracts, restitution, the refund of monies paid,
7 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts
8 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and in
9 violation of the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

10 **JURISDICTION AND VENUE**

11 2. This Court has subject matter jurisdiction over this action pursuant to
12 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 53(b), 6102(c), and
13 6105(b).

14 3. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1)-(3),
15 (c)(1)-(3), and (d), and 15 U.S.C. § 53(b).

16 **PLAINTIFF**

17 4. The FTC is an independent agency of the United States Government
18 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
19 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
20 affecting commerce. The FTC also enforces the Telemarketing Act, 15 U.S.C. §§
21 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces
22 the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing
23 acts or practices.

24 5. The FTC is authorized to initiate federal district court proceedings, by
25 its own attorneys, to enjoin violations of the FTC Act and the TSR, and to secure
26 such equitable relief as may be appropriate in each case, including rescission or
27 reformation of contracts, restitution, the refund of monies paid, and the
28

1 disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), 6102(c), and
2 6105(b).

3 **DEFENDANTS**

4 6. Defendant ABC Hispana, Inc. (“ABC Hispana”) is a California
5 corporation with a registered business address of 21418 Douglass Ct., Moreno
6 Valley, California 92557. ABC Hispana transacts or has transacted business in this
7 district and throughout the United States.

8 7. Defendant ISB Latino, Inc. (“ISB Latino”) is a California corporation
9 with a registered business address of 21418 Douglass Ct., Moreno Valley,
10 California 92557. ISB Latino transacts or has transacted business in this district
11 and throughout the United States.

12 8. Defendant ABC Latina, LLC (“ABC Latina”) is a Florida limited
13 liability company with a registered business address of 9401 SW 7th Lane, Miami,
14 Florida 33174. ABC Latina transacts or has transacted business in this district and
15 throughout the United States.

16 9. Defendant Gonzalo Ricardo Bazán Jiménez (“Bazán”) is or has been
17 the CEO, President, Manager, registered agent, and signatory to the bank accounts
18 of ABC Hispana, ISB Latino, and ABC Latina (the “Corporate Defendants”).
19 Bazán owns or has owned the real property used as ABC Hispana’s and ISB
20 Latino’s registered business address. At all times material to this Complaint,
21 acting alone or in concert with others, he has formulated, directed, controlled, had
22 the authority to control, or participated in the acts and practices of the Corporate
23 Defendants, including the acts and practices set forth in this Complaint. Bazán
24 resides or has resided in this district and, in connection with the matters alleged
25 herein, transacts or has transacted business in this district and throughout the
26 United States.

27 10. Defendant Milagros Raquel Urmeneta (“Urmeneta”) is or has been an
28 owner and officer of ABC Hispana, an owner of ABC Latina, an incorporator of

1 ISB Latino, and an authorized signatory to the bank accounts of all three Corporate
2 Defendants. Urmeneta has authorized numerous payments from the Corporate
3 Defendants' bank accounts and is or has been the account holder of telephone
4 numbers associated with the Corporate Defendants. At times material to this
5 Complaint, acting alone or in concert with others, she has formulated, directed,
6 controlled, had the authority to control, or participated in the acts and practices of
7 the Corporate Defendants, including the acts and practices set forth in this
8 Complaint. Urmeneta resides or has resided in this district and, in connection with
9 the matters alleged herein, transacts or has transacted business in this district and
10 throughout the United States.

11 11. The Corporate Defendants have operated together as a common
12 enterprise in conducting the business practices described in this Complaint. The
13 Corporate Defendants have conducted the business practices described below
14 through interrelated companies that have common ownership, officers, managers,
15 business functions, employees, and office locations, and that commingled funds.
16 Because the Corporate Defendants have operated as a common enterprise, each of
17 them is jointly and severally liable for the acts and practices alleged below.
18 Defendants Bazán and Urmeneta have formulated, directed, controlled, had the
19 authority to control, or participated in the acts and practices of the Corporate
20 Defendants that constitute the common enterprise. Collectively, Bazán, Urmeneta,
21 and the Corporate Defendants are referred to hereafter as "Defendants."

22 **COMMERCE**

23 12. At all times material to this Complaint, Defendants have maintained a
24 substantial course of trade in or affecting commerce, as "commerce" is defined in
25 Section 4 of the FTC Act, 15 U.S.C. § 44.
26
27
28

1 typically quote a cost to the consumer of between \$199 and \$799. In numerous
2 instances, Defendants' telemarketers represent to consumers that the course
3 includes personal instruction by teachers, as well as a certificate or diploma upon
4 completion.

5 18. When selling Defendants' tablet computers, in numerous instances
6 Defendants' telemarketers represent to consumers that the telemarketer is from or
7 affiliated with a well-known company, such as Walmart, or a Spanish-language
8 radio station, such as "Viva Latina Radio." In numerous instances, Defendants'
9 telemarketers represent that consumers have won a tablet computer and that they
10 only need to pay approximately \$200, which Defendants' telemarketers claim is
11 for costs related to shipping and handling, taxes, insurance, or an included
12 warranty. Defendants' telemarketers describe the tablet as a brand-name, such as
13 Samsung or iPad, and a recent model, and represent to consumers that it is worth
14 substantially more than whatever costs consumers must cover.

15 19. In fact, neither Defendants nor their telemarketers are from or
16 affiliated with the government, a *centro de ayuda*, a well-known company, or a
17 radio station. Consumers do not receive any grants or scholarships, and have not
18 won any contests, in connection with Defendants' products. Consumers who
19 receive Defendants' products do not receive products worth substantially more
20 than the amount they paid. Consumers who receive Defendants' instructional
21 materials do not receive personal instruction from teachers, or a certificate or
22 diploma upon completion. Consumers who receive the purported English-
23 language learning course typically receive nothing more than self-instruction
24 materials, which consist of booklets, CDs or DVDs, a Spanish-English dictionary,
25 and a small translation device. In some instances, the instructional materials do not
26 work or are of poor-quality, containing malfunctioning equipment and photocopied
27 materials. Consumers who receive the tablet computers receive generic brands and
28 older models, without any included insurance or warranty.

1 **Defendants' Follow-Up Threats**

2 20. In numerous instances, after consumers decline the deceptive offers
3 made by Defendants' telemarketers, or initially express interest but later decide to
4 cancel the delivery, Defendants' telemarketers subsequently harass them and
5 threaten serious consequences unless consumers pay for Defendants' product.

6 21. In numerous instances, Defendants' telemarketers harass and threaten
7 consumers by holding themselves out as lawyers or government officials and
8 representing that consumers will be sued, or have been sued and must appear in
9 court on a specific date and time, in connection with an alleged agreement to
10 purchase Defendants' product. Defendants' telemarketers represent that
11 consumers must pay Defendants to avoid court proceedings. Defendants'
12 telemarketers threaten consumers with arrest, incarceration, referral to law
13 enforcement authorities, losing their home, damage to credit, and other serious
14 consequences if they do not immediately pay Defendants.

15 22. In numerous instances, Defendants' telemarketers also make the
16 representations and threats described in Paragraph 21 to consumers' family
17 members, friends, and acquaintances, whose contact information Defendants'
18 telemarketers solicited during their initial sales calls.

19 23. For example, consumers have reported the following phone calls with
20 Defendants' telemarketers:

- 21 • "After about a month, my brother called my house one morning, very
22 frightened. He told me a gentleman had just called him by phone and
23 told him that I had committed to pay \$249 for a program and had not paid
24 it. He said that the gentleman threatened that he would take us to court,
25 that he knew that we were legal residents, and that he had the power to
26 take away our Dominican passport and residency papers in the United
27 States, including those of my sons' friend."
28

- 1 • “A woman answered the phone in Spanish. I asked her to explain why
2 my husband...was receiving harassing phone calls from her number. The
3 woman told me that my husband had committed fraud because he had
4 agreed to purchase a tablet but had not done so. She told me that if [my
5 husband] did not pay what he owed, the local authorities would come and
6 arrest him, and that they would arrest me too, because I was his wife.
7 She said that we would lose our house.”
- 8 • “Later, I got a call from another man who told me that he was a
9 representative of Immigration. He said that Fed Ex had sued me for
10 ordering things and not paying for them and that I had committed fraud.
11 He also told me to send \$720 to the company that promoted the English
12 course so that I could get a pardon from Immigration.”

13 24. In fact, Defendants’ telemarketers are not lawyers or government
14 officials or calling consumers on behalf of lawyers or government officials.
15 Defendants and their telemarketers have not and do not sue consumers in
16 connection with an alleged agreement to purchase Defendants’ product.

17 25. In numerous instances, Defendants’ telemarketers make their threats
18 and false representations more credible by instructing consumers to call telephone
19 numbers that, when called, are answered by a recording or live person who
20 purports to be associated with a government agency, such as U.S. Citizenship and
21 Immigration Services. In fact, these numbers are operated by Defendants’
22 telemarketers.

23 26. In numerous instances, Defendants’ telemarketers induce consumers
24 to answer their calls by transmitting phony caller identification information, or
25 “spoofing,” causing consumers to believe that they are being called by emergency
26 responders or the individuals whose information they gave Defendants’
27 telemarketers as references.

28

1 27. In numerous instances, even after consumers pay Defendants in
2 response to the false and threatening claims described in Paragraph 21,
3 Defendants' telemarketers continue to make the false and threatening claims
4 described in Paragraph 21 until consumers finally refuse to pay more money.

5 28. Since 2012, Defendants have collected millions of dollars in consumer
6 payments.

7 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

8 29. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits "unfair or
9 deceptive acts or practices in or affecting commerce."

10 30. Misrepresentations or deceptive omissions of material fact constitute
11 deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

12 **COUNT I**

13 **Defendants' Deceptive Sales Calls**

14 31. In numerous instances in connection with the advertising, marketing,
15 promotion, offering for sale, or sale of instructional materials, including English-
16 language learning materials, and tablet computers, Defendants have represented,
17 directly or indirectly, expressly or by implication, that:

- 18 a. Defendants or their telemarketers are from or affiliated with the
19 government, a help center, a well-known company, or a radio
20 station;
- 21 b. the consumer has qualified for a government grant or subsidy, or a
22 scholarship, that will pay a portion of the cost of Defendants'
23 product;
- 24 c. the consumer has won Defendants' product;
- 25 d. Defendants' product is worth substantially more than what the
26 consumer is asked to pay;
- 27
- 28

1 e. Defendants' instructional materials include personal instruction by
2 teachers or a certificate or diploma upon completion; or

3 f. Defendants' tablet computers are brand-names or recent models.

4 32. In truth and in fact, in numerous instances in which Defendants have
5 made the representations set forth in Paragraph 31 of this Complaint:

6 a. Defendants and their telemarketers are not from or affiliated with
7 the government, a help center, a well-known company, or a radio
8 station;

9 b. the consumer has not qualified for a government grant or subsidy,
10 or a scholarship, that will pay a portion of the cost of Defendants'
11 product;

12 c. the consumer has not won Defendants' product;

13 d. Defendants' product is not worth substantially more than what the
14 consumer is asked to pay;

15 e. Defendants' instructional materials do not include personal
16 instruction by teachers or a certificate or diploma upon completion;
17 and

18 f. Defendants' tablet computers are not brand-names or recent
19 models.

20 33. Therefore, Defendants' representations as set forth in Paragraph 31 of
21 this Complaint are false or misleading and constitute deceptive acts or practices in
22 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

23 **COUNT II**

24 **Defendants' Threats of Legal or Financial Consequences**

25 34. In numerous instances in connection with the advertising, marketing,
26 promotion, offering for sale, or sale of instructional materials, including English-
27 language learning materials, and tablet computers, Defendants have represented,
28 directly or indirectly, expressly or by implication, that:

- 1 a. Defendants or their telemarketers are lawyers or government
2 officials; or
3 b. a lawsuit or other legal proceeding has been or will be filed against
4 consumers in connection with an alleged agreement to purchase
5 Defendants' products.

6 35. In truth and in fact, in numerous instances in which Defendants have
7 made the representations set forth in Paragraph 34 of this Complaint:

- 8 a. Defendants and their telemarketers are not lawyers or government
9 officials; and
10 b. no lawsuit or other legal proceeding has been or will be filed
11 against consumers in connection with an alleged agreement to
12 purchase Defendants' product.

13 36. Therefore, Defendants' representations as set forth in Paragraph 34 of
14 this Complaint are false or misleading and constitute deceptive acts or practices in
15 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

16 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

17 37. In 1994, Congress directed the FTC to prescribe rules prohibiting
18 abusive and deceptive telemarketing acts or practices pursuant to the
19 Telemarketing Act, 15 U.S.C. §§ 6101 - 6108. The FTC adopted the original
20 Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended
21 certain sections thereafter. 16 C.F.R. Part 310.

22 38. Defendants are "seller[s]" or "telemarketer[s]" engaged in
23 "telemarketing," as defined by the TSR, 16 C.F.R. § 310.2(dd), (ff), and (gg).

24 39. The TSR prohibits sellers and telemarketers from misrepresenting,
25 directly or by implication, in the sale of goods or services, any material aspect of
26 the performance, efficacy, nature, or central characteristics of goods or services
27 that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

28

1 40. The TSR prohibits sellers and telemarketers from misrepresenting,
2 directly or by implication, in the sale of goods or services, a seller's or
3 telemarketer's affiliation with, or endorsement or sponsorship by, any person or
4 government entity. 16 C.F.R. § 310.3(a)(2)(vii).

5 41. The TSR prohibits any seller or telemarketer from making a false or
6 misleading statement to induce any person to pay for goods or services. 16 C.F.R.
7 § 310.3(a)(4).

8 42. It is an abusive telemarketing act or practice and a violation of the
9 TSR for any seller or telemarketer to engage in threats, intimidation, or the use of
10 profane or obscene language. 16 C.F.R. § 310.4(a)(1).

11 43. The TSR requires that sellers and telemarketers transmit or cause to
12 be transmitted the telephone number and, when made available by the
13 telemarketer's carrier, the name of the telemarketer, to any caller identification
14 service in use by a recipient of a telemarketing call, or transmit the customer
15 service number of the seller on whose behalf the call is made and, when made
16 available by the telemarketer's seller, the name of the seller. 16 C.F.R.
17 § 310.4(a)(8).

18 44. It is a violation of the TSR for any person to provide substantial
19 assistance or support to any seller or telemarketer when that person knows or
20 consciously avoids knowing that the seller or telemarketer is engaged in any
21 practice that violates Sections 310.3(a), (c) or (d), or 310.4 of the TSR. 16 C.F.R.
22 § 310.3(b).

23 45. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C.
24 § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation
25 of the TSR constitutes an unfair or deceptive act or practice in or affecting
26 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

1 **COUNT III**

2 **Misrepresentations in Violation of the TSR**

3 46. In numerous instances, in connection with the telemarketing of
4 instructional materials, including English-language learning materials, and tablet
5 computers, Defendants have misrepresented, directly or by implication, that:

- 6 a. Defendants or their telemarketers are from or affiliated with the
7 government, a help center, a well-known company, or a radio
8 station;
- 9 b. the consumer has qualified for a government grant or subsidy, or a
10 scholarship, that will pay a portion of the cost of Defendants'
11 product;
- 12 c. the consumer has won Defendants' product;
- 13 d. Defendants' product is worth substantially more than what the
14 consumer is asked to pay;
- 15 e. Defendants' instructional materials include personal instruction by
16 teachers or a certificate or diploma upon completion; or
- 17 f. Defendants' tablet computers are brand-names or recent models.

18 47. Defendants' practice as alleged in Paragraph 46 is a deceptive
19 telemarketing practice that violates Sections 310.3(a)(2)(iii), (vii), and 310.3(a)(4)
20 of the TSR. 16 C.F.R. § 310.3(a)(2)(iii), (vii), and 310.3(a)(4).

21 **COUNT IV**

22 **Assisting and Facilitating Deceptive Telemarketing Acts and Practices**

23 48. In numerous instances, Defendants have provided substantial
24 assistance or support to sellers or telemarketers whom Defendants knew or
25 consciously avoided knowing induced consumers to pay for goods and services
26 through the use of false or misleading statements, in violation of Sections
27 310.3(a)(2)(iii), (vii), and 310.3(a)(4) of the TSR. 16 C.F.R. § 310.3(a)(2)(iii),
28 (vii), and 310.3(a)(4).

1 49. Defendants' acts or practices as described in Paragraph 48 are
2 deceptive telemarketing acts or practices that violate Section 310.3(b) of the TSR.
3 16 C.F.R. § 310.3(b).

4 **COUNT V**

5 **Threats and Intimidation in Violation of the TSR**

6 50. In numerous instances, in connection with telemarketing instructional
7 materials, including English-language learning materials, and tablet computers,
8 Defendants have used threats and intimidation to coerce consumers to pay
9 Defendants, including but not limited to, threatening consumers with legal actions,
10 arrest, incarceration, referral to law enforcement authorities, losing their home, and
11 damage to credit.

12 51. Defendants' practice as alleged in Paragraph 50 is a deceptive
13 telemarketing practice that violates Section 310.4(a)(1) of the TSR. 16 C.F.R.
14 § 310.4(a)(1).

15 **COUNT VI**

16 **Failure to Transmit Caller Identification**

17 52. In numerous instances, in connection with telemarketing instructional
18 materials, including English-language learning materials, and tablet computers,
19 Defendants have failed to transmit, or cause to be transmitted, the telephone
20 number and name of the telemarketer or of the seller to any caller identification
21 service in use by a recipient of a telemarketing call, in violation of Section
22 310.4(a)(8) of the TSR. 16 C.F.R. § 310.4(a)(8).

23 **COUNT VII**

24 **Assisting and Facilitating Abusive Telemarketing Acts and Practices**

25 53. In numerous instances, Defendants have provided substantial
26 assistance or support to sellers or telemarketers whom Defendants knew, or
27 consciously avoided knowing, were engaged in violations of Section 310.4 of the
28 TSR. 16 C.F.R. § 310.4.

1 54. Defendants' acts or practices as described in Paragraph 53 are
2 deceptive telemarketing acts or practices that violate Section 310.3(b) of the TSR.
3 16 C.F.R. § 310.3(b).

4 **CONSUMER INJURY**

5 55. Consumers have suffered and will continue to suffer substantial injury
6 as a result of Defendants' violations of the FTC Act and the TSR. In addition,
7 Defendants have been unjustly enriched as a result of their unlawful acts or
8 practices. Absent injunctive relief by this Court, Defendants are likely to continue
9 to injure consumers, reap unjust enrichment, and harm the public interest.

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

11 56. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
12 to grant injunctive and such other relief as the Court may deem appropriate to halt
13 and redress violations of any provision of law enforced by the FTC. The Court, in
14 the exercise of its equitable jurisdiction, may award ancillary relief, including
15 rescission or reformation of contracts, restitution, the refund of monies paid, and
16 the disgorgement of ill-gotten monies, to prevent and remedy any violation of any
17 provision of law enforced by the FTC.

18 57. Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b),
19 authorizes this Court to grant such relief as the Court finds necessary to redress
20 injury to consumers resulting from Defendants' violations of the TSR, including
21 the rescission and reformation of contracts, and the refund of money.

22 **PRAYER FOR RELIEF**

23 Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15
24 U.S.C. §§ 53(b), the TSR, and the Court's own equitable powers, requests that the
25 Court:

26 A. Award Plaintiff such preliminary injunctive and ancillary relief as
27 may be necessary to avert the likelihood of consumer injury during the pendency
28

1 of this action and to preserve the possibility of effective final relief, including but
2 not limited to, temporary and preliminary injunctions, and an order freezing assets;

3 B. Enter a permanent injunction to prevent future violations of the FTC
4 Act and the TSR by Defendants;


5 C. Award such relief as the Court finds necessary to redress injury to
6 consumers resulting from Defendants' violations of the FTC Act and the TSR,
7 including but not limited to, rescission or reformation of contracts, restitution, the
8 refund of monies paid, and the disgorgement of ill-gotten monies; and

9 D. Award Plaintiff the costs of bringing this action, as well as such other
10 and additional relief as the Court may determine to be just and proper.

11
12 Dated this 10th day of Feb., 2017.

13
14 Respectfully Submitted,

15 DAVID C. SHONKA
16 Acting General Counsel

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18 
19 _____
20 SOPHIA CALDERÓN
21 LAURA M. SOLIS

22 Attorneys for Plaintiff
23 FEDERAL TRADE COMMISSION
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