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11 **UNITED STATES DISTRICT COURT**
12 **CENTRAL DISTRICT OF CALIFORNIA**

13	_____)	
	FEDERAL TRADE COMMISSION,)	No. CV04-8013-AHM (JWJx)
14)	
	Plaintiff,)	
15)	AMENDED COMPLAINT FOR
	v.)	PERMANENT INJUNCTION AND
16)	OTHER EQUITABLE RELIEF
	FGH INTERNATIONAL CORPORATION,)	
17	et al.,)	
)	
18	Defendants.)	
	_____)	

19
20 Plaintiff, Federal Trade Commission ("FTC"), by its
21 undersigned attorneys, for its complaint alleges:

22 1. The FTC brings this action under Sections 13(b) and 19
23 of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C.
24 §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and
25 Abuse Prevention Act ("Telemarketing Act"), 15 U.S.C. § 6101 et
26 seq., to secure preliminary and permanent injunctive relief,
27 rescission of contracts, restitution, disgorgement of ill-gotten
28 gains, and other equitable relief against Defendants for engaging

1 in deceptive acts or practices in violation of Section 5(a) of
2 the FTC Act, 15 U.S.C. § 45(a), and for engaging in deceptive and
3 abusive telemarketing acts or practices in violation of the FTC's
4 Trade Regulation Rule entitled "Telemarketing Sales Rule"
5 ("TSR"), 16 C.F.R. Part 310, as amended, in connection with the
6 advertising, marketing and sale of instructional programs.

7 **JURISDICTION AND VENUE**

8 2. This Court has subject matter jurisdiction over
9 Plaintiff's claims pursuant to 15 U.S.C. §§ 45(a), 53(b), 57b,
10 6102(c) and 6105(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

11 3. Venue in the Central District of California is proper
12 under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

13 **THE PARTIES**

14 4. Plaintiff **Federal Trade Commission** is an independent
15 agency of the United States Government created by the FTC Act, 15
16 U.S.C. §§ 41 *et seq.* The FTC enforces the FTC Act, which
17 prohibits unfair or deceptive acts or practices in or affecting
18 commerce. The FTC also enforces the TSR, which prohibits
19 deceptive or abusive telemarketing acts or practices. The FTC
20 may initiate federal district court proceedings, through its
21 attorneys, to enjoin violations of the FTC Act and the TSR, and
22 to secure such other equitable relief, including rescission of
23 contracts and restitution, and disgorgement of ill-gotten gains,
24 as may be appropriate in each case. 15 U.S.C. §§ 53(b), 57b, and
25 6105(b).

26 5. Defendant **FGH International Corporation** ("FGH USA") is a
27 California company with its principal place of business in Van
28

1 Nuys, California. FGH USA has or had a mailing address at P.O.
2 Box 4392, Panorama City, California. FGH USA transacts or has
3 transacted business in this district.

4 6. Defendant **FGH International S.R.L.** ("FGH Peru") is a
5 Peruvian company with its principal place of business in Lima,
6 Peru. FGH Peru transacts or has transacted business in this
7 district

8 7. Defendant **Inti California, Inc.** ("Inti") is a
9 California company with its principal place of business in Van
10 Nuys, California. Inti transacts or has transacted business in
11 this district.

12 8. Defendant **Jaime Jhonny Rojas Villanueva**, a/k/a **Jhonny**
13 **Rojas, Franco Quintero Morales**, and **Franco Quintero**, is a
14 principal, owner, manager, or director of FGH USA, FGH Peru, and
15 Inti. At all times material to this complaint, acting alone or
16 in concert with others, he has formulated, directed, controlled
17 or participated in the acts and practices set forth in this
18 complaint. He resides in and transacts or has transacted
19 business in this district.

20 9. Defendant **Wilson Edgar Rojas Villanueva**, a/k/a Wilson
21 Rojas, is a principal, owner, manager, or director of FGH USA,
22 FGH Peru, and Inti. At all times material to this complaint,
23 acting alone or in concert with others, he has formulated,
24 directed, controlled or participated in the acts and practices
25 set forth in this complaint. He resides in and transacts or has
26 transacted business in this district.

1 telemarketers explain that the consumer can pay in installments,
2 with the first installment (between \$150 and \$300) being paid as
3 a Cash on Delivery ("COD") payment to Federal Express (who
4 delivers the materials).

5 14. In most instances, regardless of whether the consumer
6 agrees to purchase Defendants' program, a few days after the
7 initial telephone call, Defendants send the consumer a letter
8 stating that the materials will arrive via Federal Express COD on
9 a specified date and the consumer is expected to remit the COD
10 payment at the time of delivery. The materials consist of a
11 series of videotapes, computer disks, and workbooks.

12 15. If a consumer refuses the Federal Express package or,
13 prior to the material's arrival, calls Defendants to explain that
14 he or she did not order the materials, Defendants attempt to
15 intimidate the consumer into paying. Typically, shortly after
16 the consumer calls or refuses the Federal Express package,
17 Defendants' representatives, often purporting to be Defendants'
18 attorney, call the consumer and threaten legal action if the
19 requested amount is not paid. In some instances, Defendants'
20 representatives threaten to report the consumer to immigration
21 authorities for deportation if her or she does not pay the
22 requested amount. In some instances, Defendants demand that the
23 consumer pay the full amount of the program or, in some cases, a
24 "discounted" price of around \$300. In other instances, they
25 demand that the consumer pay a "cancellation fee" of around \$100.
26 In many instances, consumers, fearing the threatened legal

1 action, submit to Defendants' demands and wire transfer the
2 requested amount to Defendants.

3 16. Since at least October 17, 2003, Defendants have
4 called, or have caused telemarketers to call, consumers'
5 telephone numbers that are on the National Do Not Call Registry.

6 17. Defendants have not accessed the National Do Not Call
7 Registry to download registered telephone numbers.

8 18. Since at least October 17, 2003, Defendants have
9 called, or have caused telemarketers to call, telephone numbers
10 in various area codes without first paying the annual fee for
11 access to the telephone numbers within such area codes that are
12 included in the National Do Not Call Registry.

13 **THE FEDERAL TRADE COMMISSION ACT**

14 19. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a),
15 prohibits unfair or deceptive acts or practices in or affecting
16 commerce. Misrepresentations or omissions of material fact
17 constitute deceptive acts or practices prohibited by Section 5(a)
18 of the FTC Act.

19 **VIOLATIONS OF SECTION 5(a) OF THE FTC ACT**

20 **COUNT ONE**

21 20. In numerous instances, in connection with the sale,
22 offering for sale, or distribution of instructional programs,
23 Defendants represent, expressly or by implication, that (a) they
24 are an agency of, or affiliated with, the Federal government or a
25 state government and (b) consumers have been selected by the
26 government to receive subsidized training to learn English or
27 become an auto mechanic.

1 which became effective on December 31, 1995. On January 29,
2 2003, the FTC amended the TSR by issuing a Statement of Basis and
3 Purpose and the final amended TSR. 68 Fed. Reg. 4580, 4669.
4 Except for specific provisions relating to the National Do Not
5 Call Registry, the amended TSR became effective March 31, 2003.

6 27. Among other things, the amended TSR established a "do-
7 not-call" registry, maintained by the FTC (the "National Do Not
8 Call Registry"), of consumers who do not wish to receive certain
9 types of telemarketing calls. Consumers register their telephone
10 numbers on the National Do Not Call Registry without charge
11 either through a toll-free telephone call or over the Internet at
12 www.donotcall.gov.

13 28. Since September 2, 2003, sellers, telemarketers, and
14 other permitted organizations have been able to access the
15 National Do Not Call Registry over the Internet at
16 www.telemarketing.donotcall.gov to download the registered
17 numbers.

18 29. On or after December 31, 1995, the TSR prohibits
19 telemarketers and sellers from misrepresenting, directly or by
20 implication, their affiliation with, or endorsement by, any
21 government or third-party organization. 16 C.F.R.
22 § 310.3(a)(2)(vii).

23 30. On or after December 31, 1995, the TSR prohibits
24 telemarketers and sellers from making any false or misleading
25 statements to induce any person to pay for goods or services. 16
26 C.F.R. § 310.3(a)(4).

1 37. Defendants have thereby violated Section
2 310.3(a)(2)(vii) of the Telemarketing Sales Rule, 16 C.F.R. § 310.
3 3(a)(2)(vii).

4 **COUNT FOUR**

5 38. In numerous instances, in the course of offering for
6 sale and selling at-home instructional programs through
7 telemarketing, Defendants have made false or misleading
8 statements, such as threats of legal action, to induce consumers
9 to pay for goods.

10 39. Defendants have thereby violated Section 310.3(a)(4) of
11 the Telemarketing Sales Rule, 16 C.F.R. § 310.3(a)(4).

12 **COUNT FIVE**

13 40. In numerous instances, in the course of offering for
14 sale and selling at-home instructional programs through
15 telemarketing, Defendants have used threats or intimidation to
16 coerce consumers to pay Defendants.

17 41. Defendants have thereby violated Section 310.4(a)(1) of
18 the Telemarketing Sales Rule, 16 C.F.R. § 310.4(a)(1).

19 **COUNT SIX**

20 42. Since at least October 17, 2003, in numerous instances,
21 in the course of offering for sale and selling instructional
22 programs through telemarketing, Defendants have initiated, or
23 caused others to initiate, an outbound telephone call to a
24 person's telephone number on the National Do Not Call Registry.

25 43. Defendants have thereby violated Section
26 310.4(b)(1)(iii)(B) of the Telemarketing Sales Rule. 16 C.F.R.
27 § 310.4(b)(1)(iii)(B).

1 **COUNT SEVEN**

2 44. Since at least October 17, 2003, in numerous instances,
3 in the course of offering for sale and selling instructional
4 programs through telemarketing, Defendants have initiated, or
5 caused others to initiate, an outbound telephone call to a
6 telephone number within a given area code without the required
7 annual fee having been paid for access to the telephone numbers
8 within that area code that are included in the National Do Not
9 Call Registry.

10 45. Defendants have thereby violated Section 310.8 of the
11 Telemarketing Sales Rule. 16 C.F.R. § 310.8.

12 **CONSUMER INJURY**

13 46. Consumers throughout the United States have suffered,
14 and continue to suffer, substantial monetary loss as a result of
15 Defendants' unlawful acts and practices. In addition, Defendants
16 have been unjustly enriched as a result of their unlawful acts
17 and practices. Absent injunctive relief by this Court,
18 Defendants are likely to continue to injure consumers, reap
19 unjust enrichment, and harm the public interest.

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

21 47. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b),
22 empowers this Court to grant a permanent injunction, rescission
23 of contracts and restitution, disgorgement of ill-gotten gains,
24 and other equitable relief to prevent and remedy any violations
25 of any provision of law enforced by the FTC.

26 48. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section
27 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize
28

1 this Court to grant such relief as the Court finds necessary to
2 redress injury to consumers or other persons resulting from
3 Defendants' violations of the TSR, including the rescission of
4 contracts and restitution, and disgorgement of ill-gotten gains.

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Plaintiff, the Federal Trade Commission, pursuant
7 to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and
8 57b, and the Court's own equitable powers, requests that this
9 Court:

10 (a) Award plaintiff such preliminary injunctive and
11 ancillary relief as may be necessary to avert the likelihood of
12 consumer injury during the pendency of this action and to
13 preserve the possibility of effective final relief, including,
14 but not limited to, temporary and preliminary injunctions and an
15 order freezing assets;

16 (b) Permanently enjoin Defendants from violating the FTC
17 Act and the Telemarketing Sales Rule as alleged herein;

18 (c) Award such equitable relief as the Court finds
19 necessary to redress injury to consumers resulting from
20 Defendants' violations of the FTC Act and the Telemarketing Sales
21 Rule including, but not limited to, rescission of contracts and
22 restitution, and disgorgement of ill-gotten gains by Defendants;

23 and

24 //

25 //

26 //

27 //

1 (d) Award plaintiff the costs of bringing this action and
2 such other equitable relief as the Court may determine to be just
3 and proper.

4 Dated: December 7, 2004

Respectfully submitted,

5 WILLIAM E. KOVACIC
6 General Counsel

7
8 /s/ Gregory A. Ashe
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