IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Federal Trade Commission, **Plaintiff,** **v.** **Angel Sales, Inc.,** **an Illinois corporation, also dba** **Kagan Unlimited,** **Robert Engel,** **individually and as an officer and** **owner of Angel Sales, Inc., and** **Laura Engel,** **individually and as an officer and** **owner of Angel Sales, Inc.,** **Defendants.**	**Case No. _____** **COMPLAINT FOR PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

Plaintiff, the Federal Trade Commission ("FTC"), for its Complaint alleges:

1. The FTC brings this action under Section 13(b) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain permanent injunctive relief, rescission or reformation of contracts, restitution, the refund of monies paid, disgorgement of ill-gotten monies, and other equitable relief for Defendants' acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52, in connection with their advertising, marketing, distribution, offering for sale, and sale of ultraviolet light disinfection devices, including the shUVee Ultraviolet Shoe Deodorizer and shUVee Deluxe with 2-piece Travel Unit devices.

JURISDICTION AND VENUE

2. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and 15 U.S.C. §§ 45(a), 52, and 53(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

PLAINTIFF

4. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC also enforces Section 12 of the FTC Act, 15 U.S.C. § 52, which prohibits false advertisements for food, drugs, devices, services, or cosmetics in or affecting commerce.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and to secure such equitable relief as may be appropriate in each case, including rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. § 53(b).

DEFENDANTS

6. Defendant Angel Sales, Inc., also doing business as Kagan Unlimited ("Angel Sales"), is an Illinois corporation, with its principal place of business at 3336 W. Lawrence Avenue, Suite 301, Chicago, Illinois 60625. Angel Sales transacts or has transacted business in this district and throughout the United States. At all times material to this Complaint, acting alone or in concert with others, Angel Sales has advertised, marketed, distributed, offered for sale, or sold ultraviolet disinfectant and deodorizer products, including its shUVee Ultraviolet

Shoe Deodorizer and shUVee Deluxe with 2-piece Travel Unit ("shUVee devices"), to consumers throughout the United States.

7. Defendant Robert Engel is the president and owner of Angel Sales. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Angel Sales, including the acts and practices set forth in this Complaint. Robert Engel reviews and approves all Angel Sales' advertising and promotional materials, and is responsible for reviewing substantiation for all Angel Sales' advertising representations, including those made for shUVee devices. Robert Engel resides in this district and, in connection with the matters alleged here, transacts or has transacted business in this district and throughout the United States.

8. Defendant Laura Engel is the vice president and owner of Angel Sales. At all times material to this Complaint, acting alone or in concert with others, she has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Angel Sales, including the acts and practices set forth in this Complaint. Laura Engel is responsible for reviewing substantiation for all Angels Sales' advertising representations, including those made for shUVee devices. Laura Engel resides in this district and, in connection with the matters alleged here, transacts or has transacted business in this district and throughout the United States.

COMMERCE

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

DEFENDANTS' BUSINESS ACTIVITIES

10. Defendant Angel Sales markets products through mail order catalogs, direct sales organizations, online retailers, and television outlets. Defendants have advertised, marketed, offered for sale, and sold their shUVee devices directly on their Kagan Unlimited *shuvee.com* website and through national retailers, including *skymall.com*, *amazon.com*, and *walgreens.com* websites and the SkyMall in-flight catalog.

11. Defendants have advertised, marketed, offered for sale, or sold their shUVee devices from at least July 1, 2011 to the present. Defendants sell their shUVee Ultraviolet Shoe Deodorizer for $99.99 and the shUVee Deluxe with 2-piece Travel Unit for $139.99.

12. To induce consumers to purchase their shUVee devices, Defendants have disseminated or caused to be disseminated advertisements for shUVee devices, including, but not necessarily limited to, the attached Exhibits A through F. Defendants' shUVee advertisements contain the following statements, among others:

a. **Keep your shoes odor-free and bacteria-free without the spray can**
There's a better way to kill the germs and fungus that cause foot odor and Athlete's Foot. It's the ultraviolet shUVee™ Shoe Deodorizer. The UV light given off by The shUVee™ kills over 95% of germs, bacteria, even the fungus responsible for the highly contagious MRSA bacteria – in less than one hour. It's chemical-free and unlike sprays, the UV light reaches all the way into shoes down to the toes where bacteria live.

(Exhibit A – SkyMall catalog ad, Summer 2012; *see* Exhibit B – *skymall.com* ad, 12/11/13)

b. **The shUVee® Ultraviolet Shoe Deodorizer . . .**
Stops Odor, Kills Germs, Works in One Hour!

* * *

The shUVee® Shoe Deodorizer uses the power of UV light to clean the surface areas inside your shoes. No chemicals or other biological agents are used in this process.

The power of UV light, along with a short period of time, is all that is needed to clean the inside of your shoes. Normally, this dark and often damp area serves as a breeding ground for bacteria and fungus that can attack the feet and cause foul odor.

(Exhibit C – *shuvee.com*, 2/5/15)

c. **Proven**
to Kill Germs

The shUVee® Ultraviolet Shoe Deodorizer is the solution for killing common foot dwelling germs that cause foot odor.

* * *

The shUVee® Ultraviolet Shoe Deodorizer is also designed to take aim at common foot pathogens like Athlete's Foot fungus and bacteria responsible for embarrassing shoe odor.

* * *

Lab tests show The shUVee® Ultraviolet Shoe Deodorizer kills over 99% of common foot dwelling pathogens when used for at least two consecutive hours.

(Exhibit D – shUVee packaging)

d. **Kagan shUVee UV Shoe Deodorizer White**

* * *

Lab tests show The shUVee® kills over 99% of common germs & bacteria that cause foot odor

* * *

> The shUVee® is designed to kill common foot germs and bacteria that cause foot odor. Similar to the technology that is used in hospitals to kill germs and viruses, The shUVee® uses ultraviolet light to kill germs inside your shoes.
>
> (Exhibit E – *walgreens.com*, 2/11/15)

e. shUVee Shoe Deodorizer

> * * *
>
> Kills germs that cause foot odor and athlete's feet! Shoes can be very expensive and insoles simply don't do anything to kill the germs and bacteria that cause foot odor and Athlete's Foot. Now you can refresh your shoes in less than one hour with the shUVee Ultraviolet Shoe Deodorizer. The shUVee safely and effectively cleans the inside of shoes using UV light.
>
> (Exhibit F – *Amazon.com*, 2/5/15)

VIOLATIONS OF THE FTC ACT

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

14. Section 12 of the FTC Act, 15 U.S.C. § 52, prohibits the dissemination of any false advertisement in or affecting commerce for the purpose of inducing, or which is likely to induce, the purchase of food, drugs, devices, services, or cosmetics. For the purposes of Section 12 of the FTC Act, 15 U.S.C. § 52, Defendants' shUVee devices are "devices" as defined in Section 15(d) of the FTC Act, 15 U.S.C. § 55(d).

Count I

False or Unsubstantiated Claims

15. Through the means described in Paragraph 12, Defendants have represented, directly or indirectly, expressly or by implication, that:

a. The shUVee devices keep shoes bacteria-free and odor-free;

b. The shUVee devices kill over 95% of germs, bacteria, and the fungus responsible for the highly contagious MRSA bacteria in shoes in less than one hour;

c. The shUVee devices kill over 99% of common foot dwelling pathogens in two hours, including over 99% of the germs and bacteria that cause foot odor; and

d. The shUVee devices kill the germs and fungus that cause Athlete's Foot.

16. The representations set forth in Paragraph 15 are false or were not substantiated at the time the representations were made.

17. Therefore, making the representations as set forth in Paragraph 15 of this Complaint constitutes a deceptive act or practice and the making of false advertisements, in or affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

II

False Establishment Claims

18. Through the means described in Paragraph 12, Defendants have represented, directly or indirectly, expressly or by implication, that scientific studies prove that shUVee devices will cause the results described in Paragraph 15.

19. The representation set forth in Paragraph 18 is false.

20. Therefore, the making of the representation as set forth in Paragraph 18 of this Complaint constitutes a deceptive act or practice and the making of false advertisements, in or

affecting commerce, in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a) and 52.

CONSUMER INJURY

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

THIS COURT'S POWER TO GRANT RELIEF

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

PRAYER FOR RELIEF

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

A. Enter a permanent injunction to prevent future violations of the FTC Act by Defendants;

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

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

Dated: 7/28/15

Respectfully submitted,

JONATHAN E. NUECHTERLEIN
General Counsel

JAMES R. GOLDER
SUSAN E. ARTHUR
Federal Trade Commission
1999 Bryan Street, Suite 2150
Dallas, Texas 75201
(214) 979-9376; jgolder@ftc.gov (Golder)
(214) 979-9370; sarthur@ftc.gov (Arthur)
(214) 953-3079 (Fax)

Local Counsel
ELIZABETH C. SCOTT
Federal Trade Commission
55 W. Monroe Street, Suite 1825
Chicago, Illinois 60603
(312) 960-5609; escott@ftc.gov
(312) 960-5600 (Fax)

Attorneys for Plaintiff
FEDERAL TRADE COMMISSION