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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

THOMAS G. BRUTON  
CLERK, U.S. DISTRICT COURT

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

A1 JANITORIAL SUPPLY CORP.,  
a dissolved Illinois corporation, also doing  
business as A One Janitorial,

CENTURY MANUFACTURING CORP.,  
a New York corporation, also doing  
business as A-1 Janitorial Supply,

COMMERCIAL MAINTENANCE CHEMICAL  
CORP., a New York corporation, also  
doing business as CMC,

GLOBAL DIRECT RESOURCES, INC.,  
a New York corporation, also doing  
business as A-1 Janitorial, Century  
Manufacturing, Commercial Maintenance  
Chemical, and Target Supplies,

ERIC STERNBERG,  
individually and as an officer of A1  
Janitorial Supply Corp., Century  
Manufacturing Corp., Commercial  
Maintenance Chemical Corp., and Global  
Direct Resources, Inc.,  
and

MATTHEW STERNBERG,  
individually and as an officer of Century  
Manufacturing Corp. and Commercial  
Maintenance Chemical Corp.,

Defendants.

Case No.

**1:17-cv-07790**

**Judge Samuel Der-Yeghiayan**

**Magistrate Judge M. David Weisman**

**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), the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108, and the Unordered Merchandise Statute, 39 U.S.C. § 3009, to obtain temporary, preliminary, and 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 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the FTC’s Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310, and the Unordered Merchandise Statute, 39 U.S.C. § 3009.

**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), 53(b), 6102(c), and 6105(b).

3. Venue is proper in this district under 28 U.S.C. § 1391(b)(2), (b)(3), (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 the Telemarketing Act, 15 U.S.C. §§ 6101-6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices. The FTC also enforces the Unordered Merchandise

Statute, 39 U.S.C. § 3009, which prohibits mailing unordered merchandise, except for free samples clearly and conspicuously marked as such, or merchandise mailed by a charitable organization soliciting contributions, and also prohibits mailing consumers bills or dunning communications for unordered merchandise.

5. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act, the TSR, and the Unordered Merchandise Statute, 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), 6102(c), and 6105(b).

#### **DEFENDANTS**

6. Defendant A1 Janitorial Supply Corp. (“A1 Janitorial”), also doing business as A One Janitorial, is an Illinois corporation with its registered address at 901 South 2nd Street, Suite 201, Springfield, Illinois 62704. A1 Janitorial transacts or has transacted business in this district and throughout the United States.

7. Defendant Century Manufacturing Corp. (“Century Manufacturing”) is a New York corporation with its registered address at 47 Heisser Court, Farmingdale, New York 11735. Century Manufacturing transacts or has transacted business in this district and throughout the United States.

8. Defendant Commercial Maintenance Chemical Corp. (“CMC”), also doing business as CMC, is a New York corporation with its registered address at 43 Heisser Court, Farmingdale, New York 11735. CMC transacts or has transacted business in this district and throughout the United States.

9. Defendant Global Direct Resources, Inc. (“Global Direct”), also doing business as A-1 Janitorial, Century Manufacturing, Commercial Maintenance Chemical, and Target Supplies, is a New York corporation with its registered address at 47 Heisser Court, Farmingdale, New York 11735. Global Direct transacts or has transacted business in this district and throughout the United States.

10. Defendant Eric Sternberg is an officer of A1 Janitorial, Century Manufacturing, CMC, and Global Direct. 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 set forth in this Complaint. Among other things, Defendant Eric Sternberg opened mail boxes at United Parcel Service stores used by Defendants and opened and has access to bank accounts of the Corporate Defendants. Defendant Eric Sternberg, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

11. Defendant Matthew Sternberg is an officer of Century Manufacturing and CMC. 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 set forth in this Complaint. Among other things, Defendant Matthew Sternberg opened and has access to bank accounts of the Corporate Defendants. Defendant Matthew Sternberg, in connection with the matters alleged herein, transacts or has transacted business in this district and throughout the United States.

12. Defendants A1 Janitorial, Century Manufacturing, CMC, and Global Direct (collectively, “Corporate Defendants”) have operated as a common enterprise while engaging in the deceptive and unfair acts and practices alleged below. Corporate Defendants have conducted

the business practices described below through an interrelated network of companies that have common ownership, officers, managers, business functions, employees, and office locations, and that have commingled funds. Because these Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Defendants Eric Sternberg and Matthew Sternberg have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that constitute the common enterprise.

### **COMMERCE**

13. 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**

14. Since at least 2012, Defendants have deceptively marketed and sold nondurable office and cleaning supplies, including powdered drain, sewer, and lift station cleaners, other chemical cleaners, and herbicides to consumers, such as small businesses, hotels, municipalities, and charitable organizations, throughout the United States and Canada. Defendants call consumers purporting to offer a “free sample” of a product, but then bill consumers for the “sample” after shipping it. Even when consumers refuse the sample or do not otherwise order Defendants’ product during the telemarketing call, Defendants still ship the product and invoice consumers as if the product actually was ordered. Upon receiving Defendants’ invoices, many consumers mistakenly believe that someone in their organization ordered Defendants’ products and proceed to pay for them.

15. Defendants contact consumers through unsolicited outbound telemarketing calls and offer them chemical cleaners or other nondurable supplies. During these calls, Defendants typically fail to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call that the purpose of the call is to sell goods.

16. Instead, Defendants typically offer to send consumers a free sample of one of their products, with no mention being made of any cost. If consumers agree to accept the purportedly free sample, then Defendants ship the product to consumers without clearly and conspicuously marking it as a free sample. In some instances, consumers refuse the offer of a free sample during the telemarketing call, but Defendants send it anyway.

17. After shipping the purportedly free sample of their product, Defendants then follow up by sending consumers an invoice demanding payment as if the consumers had ordered the product. The invoices typically list the name of an employee of the organization as if that employee ordered and authorized a purchase of the product.

18. Defendants then convince consumers to pay these invoices for merchandise that the consumers did not order. Defendants' shipments and invoices create the impression that someone in the consumer's organization or business ordered the merchandise. In many instances, the employees who receive Defendants' telemarketing calls and subsequent shipments of purportedly free products are not the same individuals who receive or process Defendants' invoices. Defendants deceive the individuals who receive or process the invoices into believing that the merchandise was ordered by the employee listed on the invoice.

19. Defendants repeatedly send unordered merchandise followed by invoices demanding payment as if the consumer had placed an order. In many instances, after consumers have received the initial shipment and invoice, Defendants then ship increasingly larger

quantities of the same product to the same consumers and follow the shipments with invoices seeking increasingly higher amounts. When consumers complain that these additional products were unordered, Defendants claim that the subsequent shipments were just part of the initial order and that repeated shipments were necessary because the product was damaged in shipping.

20. If consumers refuse to pay Defendants' invoices, Defendants send them dunning notices, such as invoices or facsimile cover sheets indicating that an account is overdue. They also make collection calls demanding payment. During the collection calls, Defendants often insist that the employee listed on the invoice placed an order and sometimes claim that they have a recording of the telephone call during which the order purportedly was placed.

21. Some consumers pay one or more of Defendants' invoices simply to stop Defendants from continuing to harass them for payment. Defendants, however, then continue sending these consumers unordered merchandise and invoices even after the consumers have requested that Defendants cease contacting them.

22. When consumers realize that they paid for a product that was supposed to have been a free sample or that was otherwise unordered, they often contact Defendants seeking to return the product for a full refund. In many instances, Defendants refuse those refund requests, claiming that the merchandise cannot be returned because it is a chemical.

23. Defendants have sent invoices to consumers throughout the United States and Canada, demanding payment for products that were offered as free samples or that were otherwise unordered. By repeatedly sending these invoices, Defendants have billed some consumers in excess of one thousand dollars for unordered merchandise. Defendants' scheme has generated hundreds of consumer complaints and caused millions of dollars in consumer loss.

## VIOLATIONS OF THE FTC ACT

24. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

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

### **Count I**

#### **Misrepresentations to Induce Payment for Defendants’ Goods**

26. In numerous instances in connection with the marketing, promotion, offering for sale, sale, or distribution of nondurable office and cleaning supplies, Defendants have represented, directly or indirectly, expressly or by implication, that:

- a. Defendants would send consumers a sample of their goods at no cost to the consumer; or
- b. Consumers ordered and agreed to pay for the goods that were shipped to them by Defendants.

27. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 26 of this Complaint:

- a. Defendants did not send consumers a sample of their goods at no cost to the consumer; and
- b. Consumers did not order and agree to pay for the goods that were shipped to them by Defendants.

28. Therefore, Defendants’ representations as set forth in Paragraph 26 of this Complaint are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

## VIOLATIONS OF THE TELEMARKETING SALES RULE

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

30. Defendants are “seller[s]” and/or “telemarketer[s]” engaged in “telemarketing,” and Defendants have initiated, or have caused telemarketers to initiate, “outbound telephone call[s]” to consumers to induce the purchase of goods or services, as those terms are defined in the TSR, 16 C.F.R. § 310.2(x), (dd), (ff), and (gg).

31. Under the TSR, an “outbound telephone call” means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution. 16 C.F.R. § 310.2(x).

32. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, the total costs to purchase, receive, or use, and the quantity of, any goods or services that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(i).

33. The TSR prohibits sellers and telemarketers from making a false or misleading statement to induce any person to pay for goods or services. 16 C.F.R. § 310.3(a)(4).

34. The TSR requires telemarketers in an outbound telephone call to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call that the purpose of the call is to sell goods or services. 16 C.F.R. § 310.4(d)(2).

35. Telephone calls between a telemarketer and a business to induce the retail sale of nondurable office or cleaning supplies are subject to the TSR. 16 C.F.R. § 310.6(b)(7). In its Statement of Basis and Purpose for the TSR, the Commission stated:

[T]he Commission's enforcement experience against deceptive telemarketers indicates that office and cleaning supplies have been by far the most significant business-to-business problem area; such telemarketing falls within the Commission's definition of deceptive telemarketing acts or practices.

60 Fed. Reg. 43842, 43861 (Aug. 23, 1995).

36. 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).

## **Count II**

### **Misrepresentations of Costs**

37. In numerous instances, in connection with the telemarketing of nondurable office and cleaning supplies, Defendants have misrepresented, directly or by implication, the total costs to purchase, receive, or use the goods, including by stating that Defendants would send a free sample of the goods.

38. Defendants' acts or practices, as described in Paragraph 37 above, are deceptive telemarketing acts or practices that violate Section 310.3(a)(2)(i) of the TSR, 16 C.F.R § 310.3(a)(2)(i).

## **Count III**

### **Misrepresentations to Induce Payment**

39. In numerous instances, in connection with the telemarketing of nondurable office and cleaning supplies, Defendants, to induce payment for goods or services, have misrepresented, directly or by implication, that:

- a. Defendants would send consumers a sample of their goods at no charge to the consumer; or

b. Consumers ordered and agreed to pay for the goods that were shipped to them by Defendants.

40. Defendants' acts or practices, as described in Paragraph 39 above, are deceptive telemarketing acts or practices that violate Section 310.3(a)(4) of the TSR, 16 C.F.R. § 310.3(a)(4).

#### **Count IV**

##### **Failure to Disclose That Purpose of Call is to Sell Goods**

41. In numerous instances, in connection with the telemarketing of nondurable office and cleaning supplies, Defendants, in "outbound telephone call[s]," as that term is defined in the TSR, 16 C.F.R. § 310.2(x), have failed to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call that the purpose of the call is to sell goods.

42. Defendants' acts or practices, as described in Paragraph 41 above, are abusive telemarketing acts or practices that violate Section 310.4(d)(2) of the TSR, 16 C.F.R. § 310.4(d)(2).

##### **VIOLATIONS OF THE UNORDERED MERCHANDISE STATUTE**

43. The Unordered Merchandise Statute, 39 U.S.C. § 3009, prohibits mailing unordered merchandise, except for free samples clearly and conspicuously marked as such, or merchandise mailed by a charitable organization soliciting contributions, and also prohibits mailing consumers bills or dunning communications for unordered merchandise.

44. The Unordered Merchandise Statute defines "unordered merchandise" as merchandise mailed without the prior expressed request or consent of the recipient. 39 U.S.C. § 3009(d).

45. Pursuant to Subsection (a) of the Unordered Merchandise Statute, 39 U.S.C. § 3009(a), a violation of the Unordered Merchandise Statute constitutes an unfair method of competition and an unfair trade practice, in violation of Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

### **Count V**

#### **Sending and Billing for Unordered Merchandise**

46. In numerous instances, Defendants, who are not a charitable organization soliciting contributions, have shipped merchandise, which is not clearly and conspicuously marked as free samples, to consumers without the prior express request or consent of the consumers, thereby violating Subsection (a) of the Unordered Merchandise Statute, 39 U.S.C. § 3009(a).

47. In numerous instances, Defendants have mailed consumers bills or dunning communications for unordered merchandise, thereby violating Subsections (a) and (c) of the Unordered Merchandise Statute, 39 U.S.C. § 3009(a) and (c).

48. Defendants' practices, as alleged in Paragraphs 46 and 47 above, are unfair trade practices that violate Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

#### **CONSUMER INJURY**

49. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, the TSR, and the Unordered Merchandise Statute. 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**

50. 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.

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

**PRAYER FOR RELIEF**

Wherefore, Plaintiff FTC, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), the Unordered Merchandise Statute, 39 U.S.C. § 3009, and the Court's own equitable powers, requests that the Court:

A. Award Plaintiff such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, temporary and preliminary injunctions, an order freezing assets and granting immediate access to business premises, and appointment of a receiver;

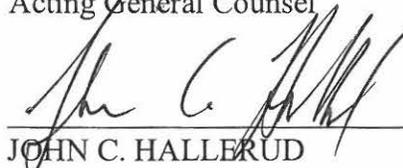
B. Enter a permanent injunction to prevent future violations of the FTC Act, the TSR, and the Unordered Merchandise Statute by Defendants;

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

D. 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.

Respectfully submitted,

DAVID C. SHONKA  
Acting General Counsel



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Dated: October 30, 2017