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 CENTRAL DISTRICT OF CALIFORNIA
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ORIGINAL

UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA

18 **FEDERAL TRADE COMMISSION,**
 19 **Plaintiff,**
 20 **vs.**
 21 **TELESTAR CONSULTING, INC.,**
 22 **also d/b/a Kleritec and United**
 23 **Business Supply; and KARL**
 24 **WESLEY ANGEL, individually and**
 25 **as a principal of Telestar Consulting,**
 26 **Inc.,**
 27 **Defendants.**

No. **CV 16 - 00555 STJ (SSX)**

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

[FILED UNDER SEAL]

1 Plaintiff, the Federal Trade Commission (FTC or Commission), for its
2 Complaint alleges:

3 1. The FTC brings this action under Sections 13(b) and 19 of the Federal
4 Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, the
5 Telemarketing and Consumer Fraud and Abuse Prevention Act, (“Telemarketing
6 Act”), 15 U.S.C. §§ 6101-6108, and the Unordered Merchandise Statute, 39 U.S.C.
7 § 3009, to obtain temporary, preliminary, and permanent injunctive relief,
8 rescission or reformation of contracts, restitution, the refund of monies paid,
9 disgorgement of ill-gotten monies, and other equitable relief for Defendants’ acts
10 or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), the
11 FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, and the Unordered
12 Merchandise Statute, 39 U.S.C. § 3009.

13 **JURISDICTION AND VENUE**

14 2. This Court has subject matter jurisdiction pursuant to 28 U.S.C.
15 §§ 1331, 1337(a), and 1345; 15 U.S.C. §§ 45(a), 53(b), 6102(c), and 6105(b).

16 3. Venue in the Central District of California is proper under 28 U.S.C.
17 §§ 1391(b) and (c), and 15 U.S.C. § 53(b).

18 **PLAINTIFF**

19 4. The FTC is an independent agency of the United States Government
20 created by statute. 15 U.S.C. §§ 41-58. The FTC enforces Section 5(a) of the FTC
21 Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or
22 affecting commerce. The FTC also enforces the Telemarketing Act. In
23 accordance with the Telemarketing Act, the FTC promulgated and enforces the
24 TSR, which prohibits deceptive and abusive telemarketing acts or practices. In
25 addition, the FTC enforces the Unordered Merchandise Statute.

26 5. The FTC is authorized to initiate federal district court proceedings, by
27 its own attorneys, to enjoin violations of the FTC Act, the TSR, and the Unordered
28 Merchandise Statute, and to secure such equitable relief as may be appropriate in

1 each case, including rescission or reformation of contracts, restitution, the refund
2 of monies paid, and the disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b),
3 56(a)(2)(A)-(B), 57b, 6102(c), and 6105(b).

4 **DEFENDANTS**

5 6. Defendant Telestar Consulting, Inc. (“Telestar”), also doing business
6 as Kleritec and United Business Supply, is a California corporation with a
7 registered address in Beverly Hills, California, and its principal place of business at
8 15823 Monte Street, Sylmar, California 91342, units 101 and 103. It has also used
9 the address 8600 Darby Avenue, Northridge, California 91325. At all times
10 material to this Complaint, acting alone or in concert with others, Telestar has
11 initiated outbound telephone calls to induce consumers to purchase goods, and
12 transacts or has transacted business in this District and throughout the United
13 States.

14 7. Defendant Karl Wesley Angel (“Angel”) is and has been an officer,
15 director, or principal of Telestar and has also done business as Kleritec and United
16 Business Supply. At all times material to this Complaint, acting alone or in
17 concert with others, he has formulated, directed, controlled, had the authority to
18 control, or participated in the acts and practices set forth in this Complaint.
19 Defendant Angel resides in this District and, in connection with the matters alleged
20 herein, transacts or has transacted business in this District and throughout the
21 United States.

22 **COMMERCE**

23 8. 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 **DEFENDANTS’ BUSINESS PRACTICES**

27 9. Since at least 2010, and continuing thereafter, the Defendants have
28 engaged in a plan, program, or campaign to sell nondurable office or cleaning

1 supplies, such as art supplies and disinfectant or sanitizer products, through
2 interstate telephone calls to small businesses and non-profit organizations, such as
3 childcare centers and schools (hereinafter “consumers”). In numerous instances,
4 Defendants’ initial contact with consumers is deceptive, and is part of a larger
5 scheme in which Defendants send additional merchandise without the request or
6 consent of consumers.

7 10. Defendants use a variety of tactics in the initial contact with
8 consumers. For example, Defendants have initially contacted consumers by phone
9 to offer a “good deal” on art supplies or to pitch cleaning products like hand
10 sanitizer or stain removers. In some instances, Defendants’ telemarketers have
11 disclosed a price, but fail to disclose total costs, such as shipping charges or other
12 charges included in the invoice subsequently sent to consumers. In addition, the
13 Defendants’ telemarketers sometimes have described the materials offered as, for
14 example, \$300 worth of supplies for \$100, without specifying the quantity of items
15 to be provided at that price. Alternatively, Defendants’ telemarketers have called
16 and obtained the consumer’s agreement to receive a “sample” or “trial” shipment,
17 without mention of any price. And in some circumstances, Defendants’ first
18 contact with the consumer is a shipment of unordered merchandise and an invoice
19 demanding payment for the goods.

20 11. In numerous instances, although Defendants do not disclose their
21 intent to send more than a single shipment, Defendants use the initial or earlier
22 transaction as the foundation for at least one, often several, additional shipments of
23 merchandise, without any prior agreement by consumers to accept these shipments.
24 If the consumer objects that this additional merchandise is unordered, Defendants’
25 telemarketer will claim that the shipment(s) are part of the original or previous
26 order, or were agreed to at the time of the original order. In numerous instances,
27 consumers are persuaded to accept a “backorder” on the understanding that there
28 will be no additional charge, but are subsequently billed in an amount that exceeds

1 the amount of the initial invoice. Another common tactic is for Defendants to tell
2 consumers that the price of the initial invoice was discounted and that a condition
3 of the discount was purchasing more product. As a result, consumers who do not
4 accept additional shipment(s) will, according to Defendants, owe more money for
5 the previous shipment(s), even though no such condition or restriction was
6 disclosed at the time of the earlier sales call. In another similarly misleading
7 variation, Defendants claim that consumers had agreed to multiple shipments,
8 when they in fact agreed to only a single shipment.

9 12. In numerous instances, either before or after telemarketing calls as
10 described in Paragraphs 9-11, Defendants have shipped merchandise to consumers
11 without the consumers' consent or after Defendants' telemarketers have explicitly
12 or by implication misled consumers' employees.

13 13. Many consumers have paid Defendants' invoices under a mistaken
14 belief that someone in the consumer organization or business had expressly
15 ordered the shipped merchandise from Defendants. In many instances, consumers'
16 employees who order supplies are not the same individuals who receive or process
17 Defendants' invoices, and Defendants' tactics deceive the individuals who receive
18 or process Defendants' invoices into believing that the merchandise was ordered.

19 14. In many instances, when consumers do not promptly pay Defendants'
20 invoices or challenge Defendants' right to bill them, Defendants, directly or
21 through their telemarketers, falsely claim that consumers owe payment for
22 unordered merchandise. In many instances, Defendants, directly or through their
23 telemarketers, attempt to persuade consumers to pay by threatening to send
24 consumers to "collections." Consumers have paid because of these claims and
25 threats. Defendants often respond to consumers' payments by sending more
26 unordered merchandise, followed by additional invoices and demands for
27 payments.
28

1 15. As a result of Defendants’ unfair and deceptive tactics, consumers
2 have paid hundreds, sometimes thousands, of dollars apiece to Defendants in
3 excess of the amount, if any, to which they agreed and were legally obligated to
4 pay. In addition, Defendants’ collection calls to consumers are harassing and
5 harmful to the business operations of consumers’ organizations, which are
6 typically small and ill prepared to handle the number and aggressive nature of
7 Defendants’ sales and collection calls.

8 16. In numerous instances, consumers also complain that the merchandise
9 they received was not consistent with the telemarketers’ description, or was
10 otherwise poor quality.

11 17. More than 400 consumers, from locations across the nation, have filed
12 complaints about the business they know as “Kleritec” to the FTC or entities that
13 forward complaints to the FTC, such as the Better Business Bureau of Los Angeles
14 and Silicon Valley (“BBB”). The vast majority of these complaints state that one
15 or more of the following occurred: (1) Kleritec sent and/or billed for merchandise
16 that the consumer’s organization or business did not request or consent to
17 purchase; (2) Kleritec obtained consumers’ consent to receive and pay for goods
18 without first disclosing the total cost and the quantity of the goods that were the
19 subject of the sales offer; or (3) Kleritec obtained consumers’ consent to receive
20 and pay for goods without disclosing all material conditions to purchase or receive
21 the goods, such as by failing to disclose that the price of an initial shipment was
22 discounted and would be increased if the consumer did not agree to receive one or
23 more additional shipments. The BBB has given Kleritec an “F” rating, the lowest
24 rating it assigns, because of the high number of unresolved complaints.

25
26 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

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

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

3 **COUNT I**

4 **Misrepresentations to Induce Payment for Defendants' Goods**

5 20. In numerous instances, in connection with the marketing, sale,
6 offering for sale, or distribution of merchandise to small businesses and other
7 organizations, Defendants have represented, directly or indirectly, expressly or by
8 implication, through, *inter alia*, telephone calls, invoices, packing slips, or
9 shipment of goods, that consumers ordered the goods that were shipped and/or
10 billed to the consumers by Defendants.

11 21. In truth and in fact, in numerous instances in which Defendants have
12 made the representations set forth in Paragraph 20 of this Complaint, consumers
13 did not order the goods that were shipped and/or billed to them by Defendants.

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

17 **COUNT II**

18 **Failure to Disclose**

19 23. In numerous instances, in connection with the marketing, sale,
20 offering for sale, or distribution of merchandise to small businesses and other
21 organizations, Defendants have represented, expressly or by implication, that
22 Defendants are offering a package of goods for use in connection with the
23 consumers' business at a particular price.

24 24. In numerous instances, Defendants have failed to disclose, or failed to
25 disclose adequately, to consumers material terms and conditions of their offer,
26 including:

- 27 a. The total amount Defendants will charge consumers;
28 b. The quantity of materials consumers will receive; and

1 c. All material restrictions, limitations, or conditions to purchase,
2 receive, or use the goods that are the subject of the sales offer.

3 25. The Defendants' failure to disclose, or disclose adequately, the
4 material information described in Paragraph 24, in light of the representation
5 described in Paragraph 23 above, constitutes a deceptive act or practice in violation
6 of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

7
8 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

9 26. Congress directed the FTC to prescribe rules prohibiting abusive and
10 deceptive telemarketing acts or practices pursuant to the Telemarketing Act,
11 15 U.S.C. §§ 6101-6108, in 1994. The FTC adopted the original TSR in 1995,
12 extensively amended it in 2003, and amended certain sections thereafter.

13 27. Telephone calls between a telemarketer and a business, made to
14 induce the retail sale of nondurable office or cleaning supplies, are subject to the
15 TSR's prohibitions against deceptive telemarketing acts or practices. 16 C.F.R.
16 § 310.6(b)(7). In its Statement of Basis and Purpose for the TSR, the Commission
17 explained:

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

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

24 28. It is a deceptive telemarketing act or practice, and a violation of the
25 TSR, for any seller or telemarketer to make a false or misleading statement to
26 induce a person to pay for goods or services or to induce a charitable contribution.
27 16 C.F.R. § 310.3(a)(4).

1 **COUNT IV**

2 **Failure to Disclose Total Costs, Quantity, or Material Conditions**
3 **in Connection with Telemarketing**

4 34. In numerous instances, in connection with the telemarketing of
5 nondurable office and cleaning supplies, Defendants have failed to disclose
6 truthfully, in a clear and conspicuous manner, before a customer consents to pay
7 (1) the total costs to purchase, receive, or use, or the quantity of, the goods that are
8 the subject of the sales offer; or (2) all material restrictions, limitations, or
9 conditions to purchase, receive, or use the goods or services that are the subject of
10 the sales offer.

11 35. Defendants' acts and practices as described in Paragraph 34 are
12 deceptive telemarketing acts or practices that violate the TSR, 16 C.F.R.
13 § 310.3(a)(1) (i)-(ii).

14
15 **VIOLATIONS OF THE UNORDERED MERCHANDISE STATUTE**

16 36. The Unordered Merchandise Statute, 39 U.S.C. § 3009, generally
17 prohibits mailing unordered merchandise, unless such merchandise is clearly and
18 conspicuously marked as a free sample, or is mailed by a charitable organization
19 soliciting contributions. The statute also prohibits mailing consumers bills for
20 unordered merchandise or dunning communications.

21 37. In accordance with Section (a) of the Unordered Merchandise Statute,
22 39 U.S.C. § 3009(a), a violation of the Unordered Merchandise Statute constitutes
23 an unfair method of competition and an unfair trade practice, in violation of
24 Section 5(a)(1) of the FTC Act, 15 U.S.C. § 45(a)(1).

25 **COUNT V**

26 **Sending and Billing for Unordered Merchandise**

27 38. In numerous instances, in connection with the marketing of
28 merchandise to businesses and non-profit organizations, Defendants, who are not a

1 charitable organization soliciting contributions, have shipped merchandise without
2 the prior express request or consent of the recipients, or without identifying the
3 products as free samples, thereby violating subsection (a) of the Unordered
4 Merchandise Statute, 39 U.S.C. § 3009(a).

5 39. In numerous instances, in connection with the marketing of
6 merchandise as described in Paragraph 38, Defendants have mailed to the
7 recipients of such goods one or more bills or dunning communications for such
8 goods, thereby violating subsections (a) and (c) of the Unordered Merchandise
9 Statute, 39 U.S.C. § 3009(a) and (c).

10 40. Defendants' practices, as alleged in Paragraphs 38 and 39, are
11 therefore unfair trade practices that violate Section 5(a)(1) of the FTC Act,
12 15 U.S.C. § 45(a)(1).

13 **CONSUMER INJURY**

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

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

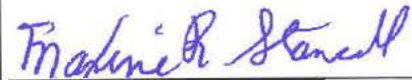
21 42. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
22 to grant injunctive and such other relief as the Court may deem appropriate to halt
23 and redress violations of any provision of law enforced by the FTC. This Court, in
24 the exercise of its equitable jurisdiction, may award ancillary relief, including
25 rescission or reformation of contracts, restitution, the refund of monies paid, and
26 the disgorgement of ill-gotten monies, to prevent and remedy any violation of any
27 provision of law enforced by the FTC.
28

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

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4 Dated: January 26, 2016

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6 Respectfully submitted,

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