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8 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

9 IN AND FOR THE COUNTY OF MARICOPA

10 STATE OF ARIZONA, *ex rel.* TERRY
11 GODDARD, Attorney General,

12 Plaintiff,

13 -vs-

14 U.S.D.W., Inc., an Arizona corporation;
15 CURTIS WINLOCK AND ROSEMARY
16 WINLOCK, husband and wife; DALE J.
17 KIKTA, a single man,

18 Defendants.

Case No: _____

COMPLAINT FOR INJUNCTION AND
OTHER EQUITABLE RELIEF

18 Plaintiff, State of Arizona, ("the State"), alleges:

19 1. This action is brought pursuant to the Arizona Consumer Fraud Act, A.R.S. § 44-
20 1521, *et seq.*, the Telephone Solicitations Act, A.R.S. § 44-1271, *et seq.*, and the Solicitation of
21 Funds for Charitable Purposes Act, A.R.S. § 44-6551, *et seq.* The State seeks restitution, civil
22 penalties, injunctive relief, costs and attorneys' fees and other relief to prevent the unlawful acts
23 and practices alleged in this complaint.

24 2. The Superior Court of Maricopa County has jurisdiction to enter appropriate orders,
25 both prior to and following a determination of liability pursuant to A.R.S. 44-1528.

26 ///

1 **PARTIES**

2 3. Plaintiff is the State of Arizona, *ex rel.* Terry Goddard, the Attorney General, who
3 is authorized pursuant to the Arizona Consumer Fraud Act to maintain this action.

4 4. Defendant U.S.D.W., Inc., an Arizona corporation, is a telemarketing operation
5 with a principal business address of 3302 W. Thomas Road, Suite 5 in Phoenix, Arizona.

6 5. Defendant Curtis Winlock, a resident of Arizona, is an officer/director of
7 Defendant U.S.D.W., Inc. and, as such, continually directs, manages and controls the general
8 operations of the company. Additionally, Defendant Winlock supervises, directs and controls
9 the business policies, practices and activities of Defendant U.S.D.W., Inc., including the acts
10 and practices set forth in this complaint.

11 6. Defendant Rosemary Winlock, a resident of Arizona, at all times relevant hereto,
12 was and now is married to defendant Curtis Winlock and is named in this Complaint solely for
13 community property purposes.

14 7. Defendant Dale J. Kikta, a resident of Arizona, is a manager of Defendant
15 U.S.D.W., Inc. and, as such, continually directs, manages and controls the general operations of
16 the company, including the supervision of telemarketers who are employed by the company.

17 8. Whenever in this Complaint reference is made to any act of a Defendant or
18 Defendants, such reference shall be deemed to mean the personal acts of the Defendants or the
19 acts of the Defendants' officers, shareholders, directors, employees, agents or other
20 representatives, acting within the scope of their employment or authority.

21 **DEFENDANTS' BUSINESS PRACTICES**

22 9. Defendants operate a telemarketing business, employing telemarketers to make
23 unsolicited telephone calls to consumers nationwide in an effort to sell household goods, such as
24 light bulbs and garbage bags.

25 10. When telephoning potential customers, Defendants' telemarketers make numerous
26 false, misleading and fraudulent statements and misrepresentations designed to induce the

1 purchase of Defendants' products, including, but not limited to:

2 A. U.S.D.W., Inc. is a charitable organization which has the primary purpose
3 of providing employment opportunities to homeless individuals, disabled veterans,
4 handicapped workers and disabled/disadvantaged individuals;

5 B. Monies generated by the sale of Defendants' products directly support the
6 homeless, disabled veterans, handicapped and disabled/disadvantaged individuals;

7 C. The proceeds from the sale of Defendants' products are donated to various
8 charitable entities, including shelters that house battered women.

9 11. Defendants fail to advise consumers that Defendant U.S.D.W., Inc. is a for-profit
10 corporation. Instead, Defendants lead consumers to believe that Defendant U.S.D.W., Inc. is a
11 charitable organization established for a benevolent purpose.

12 12. Defendants' telemarketers typically target senior citizens, many of whom suffer
13 from mental infirmities and are incapable of making a rational decision as to whether to
14 purchase defendants' products. Defendants attempt to confuse elderly consumers, oftentimes
15 claiming that they are calling to confirm a "pre-approved purchase" when, in fact, the consumer
16 previously did not agreed to purchase any goods from Defendants. Defendants also tell
17 consumers that they call only once every year or two when, in fact, they continuously call the
18 same consumers, using different business names when identifying themselves.

19 13. Defendants repeatedly call potential customers, sometimes several times a day,
20 even though the customer instructs Defendants to stop calling. In some instances, defendants tell
21 potential customers that they will not stop calling unless the customer makes a purchase.

22 14. Defendants charge consumers many times the actual cost of defendants for their
23 products. Defendants misrepresent that their products are "longer lasting" or "more durable"
24 than similar products sold at local retail outlets.

25 15. After consumers agree to purchase products, Defendants ship the product to
26 consumers along with an invoice which consumers are asked to pay. Defendants threaten

1 consumers with collection efforts if the consumer refuses to pay for the products.

2 **FIRST CLAIM FOR RELIEF**

3 VIOLATION OF THE ARIZONA CONSUMER FRAUD ACT

4 16. Plaintiff realleges the allegations contained in paragraphs 1 through 15 of this
5 Complaint.

6 17. The above-described actions constitute deceptive acts and practices, fraud, false
7 pretenses, false promises, misrepresentations and the concealment, suppression or omission of
8 material facts with the intent that others rely upon such concealment, suppression or omission in
9 violation of A.R.S. § 44-1522(A).

10 **SECOND CLAIM FOR RELIEF**

11 VIOLATION OF THE ARIZONA TELEPHONE SOLICITATIONS ACT

12 18. Plaintiff realleges the allegations contained in paragraphs 1 through 17 of this
13 Complaint.

14 19. Defendants conducted "telephone solicitation sales" as defined under the Arizona
15 Telephone Solicitations Act., A.R.S. § 44-1271, *et seq.* In so doing, the State alleges that
16 Defendants failed to comply with the following mandates of the Act:

17 A. Defendants conducted telephone solicitations without having filed a
18 verified registration statement with the Arizona Secretary of State as set forth in
19 A.R.S. § 44-1272;

20 B. Defendants conducted telephone solicitations without having filed a bond in
21 the amount of one hundred thousand dollars (\$100,000.00) with the Arizona State
22 Treasurer as required by A.R.S. § 44-1274;

23 C. Defendants conducted telephone solicitations without providing the required
24 disclosures and notice of cancellation to consumers as required by A.R.S. § 44-1276. In
25 some instances, Defendants did not honor consumers' right to cancel or their requests for
26 refunds as mandated by A.R.S. § 44-1276.C;

1 D. Defendants continued to initiate outbound telephone calls to persons even though said
2 individuals previously stated a desire not to receive outbound telephone calls from
3 Defendants.

4 **THIRD CLAIM FOR RELIEF**
5 VIOLATION OF THE SOLICITATION OF FUNDS FOR
6 CHARITABLE PURPOSES ACT

7 20. Plaintiff realleges the allegations contained in paragraphs 1 through 19 of this
8 Complaint.

9 21. Defendants represented that they were established for a benevolent purpose as
10 provided under the Solicitation of Funds for Charitable Purposes Act, A.R.S. § 44-6551, *et seq.*,
11 when, in fact, Defendant U.S.D.W., Inc. is a for-profit corporation.

12 22. Defendants failed to file a registration statement with the Arizona Secretary of
13 State, as required under A.R.S. § 44-6552, before soliciting contributions from consumers.

14 **THIRD CLAIM FOR RELIEF**

15 23. Plaintiff realleges the allegations contained in paragraphs 1 through 22 of this
16 Complaint.

17 24. While engaging in the acts and practices alleged in this Complaint, Defendants were
18 at all times acting willfully as defined by A.R.S. § 44-1522(B).

19 WHEREFORE, Plaintiff, State of Arizona, *ex rel.* Terry Goddard, Attorney General,
20 respectfully requests that the Court:

21 1. Enter an order for a permanent injunction prohibiting the defendants from
22 engaging in the unlawful practices and acts specified in this Complaint.

23 2. Enter an order requiring the defendants to restore to all persons any monies which
24 may have been acquired by any practice alleged herein to be in violation of the Arizona
25 Consumer Fraud Act pursuant to A.R.S. § 44-1528(A).

26 3. Enter an order requiring defendants to pay to the State of Arizona a civil penalty

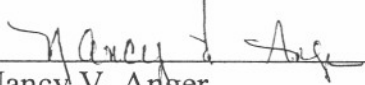
1 of Ten Thousand Dollars (\$10,000.00) for each violation of the Arizona Consumer Fraud Act
2 pursuant to A.R.S. § 44-1531.

3 4. Enter an order requiring defendants to reimburse the Attorney General for the
4 costs of investigation and reasonable attorneys' fees pursuant to A.R.S. § 44-1534.

5 5. Order such other and further relief as the Court deems just and proper.
6

7 RESPECTFULLY SUBMITTED this 15th day of May, 2008.

8 Terry Goddard
9 Attorney General

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11 Nancy V. Anger
12 Assistant Attorney General
13 Attorneys for Plaintiff
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