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8 Attorneys for The People of the State of California

9  
10 IN THE UNITED STATES DISTRICT COURT  
11 FOR THE SOUTHERN DISTRICT OF CALIFORNIA

12 **THE PEOPLE OF THE STATE OF  
CALIFORNIA,**

13  
14 Plaintiff,

15 v.

16 **FAX.COM, INC., a Delaware Corporation;  
KEVIN KATZ, ERIC WILSON; and DOES 1-  
10,**

17 Defendants.  
18

**COMPLAINT FOR INJUNCTION,  
DAMAGES, CIVIL PENALTIES  
AND OTHER EQUITABLE RELIEF**

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16 KEVIN KATZ; ERIC WILSON; and DOES 1-  
17 10,**

18 Defendants.

**COMPLAINT FOR INJUNCTION,  
DAMAGES, CIVIL PENALTIES  
AND OTHER EQUITABLE RELIEF**

19  
20 1. Plaintiff, the People of the State of California, by its attorney Bill Lockyer, Attorney  
21 General of the State of California, brings this action pursuant to the Telephone Consumer Protection  
22 Act, 47 U.S.C. § 227 ("TCPA"), alleging that FAX.COM, INC., a Delaware corporation transacting  
23 business in California as a foreign corporation, and the officers and owners of FAX.COM, INC.,  
24 Defendants KEVIN KATZ and ERIC WILSON are each violating the TCPA. Plaintiff seeks a  
25 permanent injunction, damages, civil penalties, and other relief, based upon Defendants' violations  
26 of the TCPA in connection with the sending of unsolicited advertisements via telephone facsimile  
27 machines as well as the placing of unsolicited prerecorded telephone calls.

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1 2. Plaintiff, as part of the same case or controversy, also brings this action pursuant to the  
2 California Business & Professions Code § 17200, and California Business & Professions Code  
3 § 17500 alleging that Defendants, and each of them have violated such state laws.

4 JURISDICTION AND VENUE

5 3. This court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 1331 and 1337(a)  
6 and 47 U.S.C. § 227(f)(1) and it also has supplemental jurisdiction over the state claims pursuant  
7 to 28 U.S.C. § 1367.

8 4. Venue in this matter is proper in this judicial district pursuant to 28 U.S.C. § 1391(b),  
9 in that a substantial part of the events or omissions giving rise to the claim occurred in this judicial  
10 district. Venue is also proper in this judicial district pursuant to 47 U.S.C. § 227(f)(4), in that  
11 Defendants transact business in this district and violations of the TCPA and the California statutes  
12 are occurring in this district.

13 PARTIES

14 5. Plaintiff, by and through its attorney, Bill Lockyer, Attorney General of the State of  
15 California, is authorized by 47 U.S.C. § 227(f)(1) to file actions in federal district court to enjoin  
16 violations and enforce compliance with the TCPA on behalf of residents of the State of California  
17 and to obtain actual damages or damages of \$500 for each violation and up to treble that amount  
18 for each violation committed willfully or knowingly.

19 6. Plaintiff, by and through Bill Lockyer, Attorney General of the State of California, is  
20 authorized by California Business & Professions Code § 17204 and by California Business &  
21 Professions Code § 17535 to obtain injunctive relief to halt violations of and enforce compliance  
22 with California Business & Professions Code § 17200, and California Business & Professions  
23 Code § 17500, respectively.

24 7. Defendant FAX.COM, INC. (“FAX.COM”) is a Delaware corporation, whose physical  
25 and mailing address is 120 Columbia, Suite 500, Aliso Viejo, California 92656. Defendant  
26 FAX.COM is registered with the California Secretary of State as a foreign corporation to transact  
27 business in the State of California. The registered agent for service of process of FAX.COM is  
28 Charles Martin, 120 Columbia, Suite 500, Aliso Viejo, California 92656.

1 8. Defendants KEVIN KATZ and ERIC WILSON are officers and owners of FAX.COM  
2 and have the same business address as FAX.COM. KEVIN KATZ is the President of FAX.COM,  
3 and resides in Laguna Beach, California. ERIC WILSON is the Chief Technical Officer of  
4 FAX.COM, and resides in Sierra Madre, California. As officers and owners of FAX.COM,  
5 Defendants KATZ and WILSON have managed, controlled and directed the activities of  
6 Defendant FAX.COM complained of herein.

7 9. Whenever reference is made in this complaint to any act or transaction of a Defendant  
8 such allegation shall be deemed to mean that said Defendant and its owners, officers, directors,  
9 agents, employees, or representatives did or authorized such acts while engaged in the  
10 management, direction, or control of the affairs of the Defendant and while acting within the  
11 scope and course of their duties.

12 10. Whenever in this complaint reference is made to any act of any Defendant, such  
13 allegation shall be deemed to mean that said Defendant was acting (a) as a principal, (b) under  
14 express or implied agency, and/or (c) with actual or ostensible authority to perform the acts so  
15 alleged.

16 11. The true names and capacities, whether individual, corporate, or otherwise, of  
17 Defendants sued herein under the fictitious names of DOES 1 through 10, inclusive, are unknown  
18 to Plaintiff who therefore sues said Defendants by such fictitious names. Plaintiff will amend this  
19 complaint to show the true names of each when the same has been ascertained.

20 12. As used herein, the term "Defendants" means and includes Defendant FAX.COM,  
21 Defendant KEVIN KATZ, Defendant ERIC WILSON, and DOES 1-10.

#### 22 DEFENDANTS' BUSINESS PRACTICES

23 13. Since at least January 1, 2003, Defendants have been in the business of providing  
24 facsimile (sometimes hereafter "fax") advertising services and prerecorded telephone call services  
25 to their clients.

26 14. Defendants, in the fax advertising portion of their business, use a telephone facsimile  
27 machine, computer, or other device to transmit advertisements to telephone facsimile machines in  
28 the State of California. Defendants transmit millions of advertisements to telephone facsimile

1 machines on behalf of other businesses or entities (their clients) for a fee, a practice which is  
2 referred to as “faxblasting” or “junk faxing.” Defendants transmit these advertisements to the  
3 facsimile numbers they have gathered and stored in FAX.COM’s proprietary database.

4 15. Defendants acquire and store facsimile numbers for their proprietary database by  
5 purchasing other databases, by entering the facsimile numbers of those who request to be added  
6 to the database (which represent a negligible number of the fax numbers contained in the  
7 database), by uploading the facsimile numbers gathered by those clients who elect to use  
8 FAX.COM to faxblast, and by using computer auto-dialers.

9 16. Defendants’ primary method of gathering fax numbers is through the use of auto-dialers  
10 they have designed and named “Fax Casters.” The Fax Casters are programmed to: (a) transmit  
11 signals for the purpose of detecting fax machine lines; (b) record the number of any fax machine  
12 lines they find and transmit that information to the FAX.COM proprietary database; and (c)  
13 transmit faxes to numbers relayed to the Fax Casters by the FAX.COM Fax Broadcaster and/or  
14 the FAX.COM proprietary database. The Fax Casters operate twenty-four hours a day both  
15 gathering facsimile numbers and transmitting millions of advertisements to facsimile numbers in  
16 the FAX.COM proprietary database.

17 17. FAX.COM also uses a “Fax Broadcaster” to transmit facsimiles directly from their  
18 principal place of business in Aliso Viejo, California. The Fax Broadcaster is similar to the Fax  
19 Casters in that it has the capability to gather facsimile numbers and transmit facsimile  
20 advertisements to those numbers. The Fax Broadcaster, however, is a much larger computer  
21 system and houses the FAX.COM proprietary database. The fax numbers are stored in  
22 FAX.COM’s proprietary database such that they can be sorted using various criteria such as:  
23 radius from the advertiser, Zip Code, Metro Area, Area Code, County, State, and/or, in some  
24 instances, Standard Industry Code (“SIC”). Those who faxblast with FAX.COM are able to  
25 select the targets of their advertisements by choosing from among the aforementioned set of  
26 criteria. The Fax Broadcaster transmits the target lists of facsimile numbers via the Internet,  
27 and/or telephone line, and/or cable lines to the Fax Casters throughout the United States and  
28 Canada. FAX.COM does not obtain prior express permission to send the faxes prior to their

1 transmission, and the recipients who receive the transmissions in most instances do not have an  
2 established business relationship with either FAX.COM or the entities whose products, goods, or  
3 services are being advertised in the faxes received. In most instances, FAX.COM is not able to  
4 distinguish between a facsimile number located within a business establishment and a facsimile  
5 number that is located within a residence.

6 18. Defendants do not identify FAX.COM as the entity responsible for the fax sent on any  
7 part of the fax. Defendants' inclusion on the fax of a toll free removal number provides the  
8 consumer with little or no information as to the identity of the entity sending the fax and who the  
9 toll-free number belongs to is not reasonably ascertainable by most consumers. Further,  
10 Defendants do not identify FAX.COM as the entity responsible for sending the fax at any time  
11 during the opt-out telephone message a consumer hears when s/he calls the toll free removal  
12 number to request removal.

13 19. Most recipients receive multiple unsolicited fax advertisements from Defendants.  
14 Facsimile machines owned by the State of California are among those receiving unsolicited faxes  
15 from Defendants. The sending of these unsolicited advertisements to facsimile machines causes  
16 the recipients to pay for paper and toner, which otherwise would have been used to receive  
17 requested messages. In addition, receiving these unsolicited advertisements prevents other  
18 requested messages from being received and requires additional labor to handle the unrequested  
19 message. In the case of Defendants sending faxes to State-owned machines, the cost of materials  
20 and time is charged to the taxpayers of California. Moreover, Defendants' unsolicited faxes are  
21 bothersome, intrusive, and a harassment to recipients.

22 20. In addition to Faxblasting services, Defendants' business also consists of selling Voice  
23 Broadcasting services. Voice Broadcasting is designed to solicit response calls from consumers  
24 by sending unsolicited calls to consumers via an autodialer, computer or other device, and leaving  
25 a prerecorded message on an answering machine and/or with the individual answering the phone.  
26 These recorded telemarketing messages contain advertisements for products and/or services  
27 Defendants' clients wish to market to consumers. Recipients of these calls who are interested in  
28 the goods or services offered are instructed to call the number provided in the recorded message.

1 When a consumer returns the call s/he is then filtered through Defendants' call center, automated  
2 Interactive Voice Response System, or is connected directly to Defendants' client. Defendants  
3 initiate or cause the initiation of the Voice Broadcasting sending unsolicited telephone calls to  
4 consumers throughout California and the United States which contain prerecorded telephone  
5 messages for products and/or services including, but not limited to, vacation packages and home  
6 loans. The calls are initiated or caused to be initiated by Defendants to residential telephone lines  
7 without the prior express consent of the called party. The prerecorded messages do not begin  
8 with an unrecorded natural voice first informing the person answering the telephone of the name  
9 of the caller or the organization being represented, and either the address or telephone number of  
10 the caller, and are disseminated without obtaining the consent of the person receiving the call to  
11 listen to the prerecorded message.

12 VIOLATIONS

13 COUNT I

14 21. Paragraphs 1 through 20 are incorporated by reference herein as though set forth in full.

15 22. Defendants have violated the TCPA, 47 U.S.C. § 227(b)(1)(C), and 47 C.F.R.  
16 § 64.1200(a)(3), by engaging in a pattern or practice of sending unsolicited faxes, via facsimile  
17 machine, computer, or other device to facsimile machines located in California and specifically  
18 located in San Diego, California.

19 23. Defendants' violations are willful and knowing.

20 COUNT II

21 24. Paragraphs 1 through 20 are incorporated by reference herein as though set forth in full.

22 25. Defendants have violated the TCPA, 47 U.S.C. § 227(d), and 47 C.F.R. § 68.318(d),  
23 by engaging in a pattern or practice of sending faxes without including in the margin an  
24 identification of the business sending the fax and the number from which the fax was sent.

25 26. Defendants' violations are willful and knowing.

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27 ///

28 ///

1 COUNT III

2 27. Paragraphs 1 through 20 are incorporated by reference herein as though set forth in full.

3 28. Defendants have violated the TCPA, 47 U.S.C. § 227(b)(1)(B), and 47 C.F.R.  
4 § 64.1200(a)(2) by making or causing to be made, and continuing to make, telephone calls to  
5 residential telephone lines in California using an artificial or prerecorded voice to deliver a  
6 message without the prior express consent of the called party.

7 29. Defendants' violations are willful and knowing.

8 COUNT IV

9 30. Paragraphs 1 through 29 are incorporated by reference herein as though set forth in full.

10 31. Beginning at an exact date unknown to plaintiff and continuing to the present,  
11 Defendants have made or caused to be made, and continue to make, in violation of California  
12 Business & Professions Code § 17500, numerous untrue or misleading statements to the public in  
13 the State of California in an attempt to sell their services to their clients and to sell the products,  
14 goods or services of their clients to consumers in California. Such statements include, but are not  
15 limited to, the following:

16 a. Defendants represent, directly or by implication, that there is an agreement  
17 between Defendants and the recipients of the facsimiles sent by Defendants under which  
18 Defendants have the legal right to send such facsimile advertisements to such recipients,  
19 when in fact there is no such agreement.

20 b. Defendants represent, directly or by implication, that Defendants have obtained the  
21 consent of the facsimile recipients since, although offered the opportunity, the recipients  
22 have not chosen to opt-out of Defendants' proprietary database.

23 c. Defendants represent, directly or by implication, that they may legally send  
24 facsimile advertisements to persons from whom Defendants have not obtained express  
25 invitation or permission when in fact Defendants may not legally send such facsimile  
26 advertisements.

27 d. Defendants represent, directly or by implication, that Defendants will remove the  
28 recipient's facsimile number from their proprietary database when the recipient requests



1 removal, but in fact removal of the number does not occur; and/or if the number is removed,  
2 it is only temporarily removed.

3 e. Defendants have failed to disclose and/or have misrepresented the identity of the  
4 sender of the faxes in order to conceal FAX.COM's identity as the sender of the unsolicited  
5 faxes from the recipient of such faxes in that:

6 1. FAX.COM does not identify itself as the entity responsible for sending the fax  
7 on any part of the unsolicited fax;

8 2. FAX.COM does not identify itself in the opt-out telephone message  
9 recordings a consumer hears when s/he calls the opt-out number to request removal;

10 3. Defendants fail to include the facsimile number of the sender or the number  
11 the fax was sent from on the unsolicited facsimiles they send. Instead, Defendants often  
12 use the opt-out toll free telephone number as the sender's "sent from" number, instead  
13 of providing the actual "sent from" number. This number provides the consumer with  
14 little or no information as to the identity of the entity responsible for sending the fax  
15 since the subscriber information for the toll-free number is not readily available to the  
16 consumer. In other instances, there is no sender, or "sent from" number listed at all;

17 4. Defendants have varied the toll-free opt-out telephone numbers that are  
18 displayed on different unsolicited fax advertisements they send, which makes it more  
19 difficult for the recipient to identify that: a) FAX.COM is the sender of the fax; b) the  
20 recipient is receiving multiple faxes from Defendants; and/or c) the recipient's requests  
21 for removal are not being honored;

22 5. Defendants have varied the location and font size used to disclose the toll-free  
23 opt-out telephone numbers that are displayed on different unsolicited fax advertisements  
24 they send, which makes it more difficult for the recipient to locate the opt-out number  
25 and use it to identify Defendants as the senders of the faxes they receive;

26 ///

27 6. In many instances, the advertiser's name is also not identified in the text or  
28 body of the unsolicited fax advertisement Defendants send;

1           7. In some instances, Defendants have used an 800 number which does not  
2 belong to them as their toll free opt-out number.

3           f. Defendants represent, directly or by implication, that by agreeing to the “Your  
4 Permission Please” facsimile, a true and correct copy of which is attached hereto as Exhibit 1  
5 and incorporated herein by this reference as though set forth in full, which agreement  
6 Defendants claim they have if the recipient of the “Your Permission Please” facsimile does  
7 not respond to it with an objection, recipients will receive no more than one unsolicited  
8 facsimile per week from Defendants. This statement is untrue or misleading in that:

9           1. Defendants do not have the ability to keep track of the numbers of facsimile  
10 transmissions they send to each recipient;

11           2. Defendants often send more than one facsimile per week to each recipient;

12           3. Defendants vary the toll-free opt-out telephone numbers that are displayed on  
13 different unsolicited fax advertisements they send which makes it difficult, if not  
14 impossible, for the recipient to determine whether or not Defendants have honored the  
15 one fax per week promise.

16           g. Defendants represent, directly or by implication, in the “Your Permission Please”  
17 facsimile, see Exhibit 1, that the recipient can delete himself/herself from the program at any  
18 time by calling the toll-free number on the bottom of every fax FAX.COM sends out. This  
19 statement is untrue or misleading in that:

20           1. Recipients are unable to ascertain whether they have been removed from the  
21 program when they request to because Defendants do not identify FAX.COM by name  
22 on the unsolicited fax advertisements they send;

23           2. Recipients are unable to ascertain whether they have been removed from the  
24 program when they request to be because even when they call the toll free number opt  
25 out number and listen Defendants do not identify FAX.COM in the message;

26 ///

27           3. Recipients who request removal are not removed from FAX.COM’s  
28 proprietary database, or are only removed from the FAX.COM proprietary database

1 temporarily.

2 h. Defendants represent, directly or by implication, that Defendants have obtained the  
3 consent of the facsimile recipients since they claim to send unsolicited fax advertisements  
4 only to those recipients who have not objected to the “Your Permission Please” facsimile,  
5 Exhibit 1.

6 32. Defendants knew or should have known at the time the statements alleged in paragraph  
7 31 were made that they were untrue or misleading.

8 COUNT V

9 33. Paragraphs 1 through 32 of this complaint are incorporated herein as though set forth in  
10 full.

11 34. Beginning at an exact date unknown to plaintiff and continuing to the present,  
12 Defendants have engaged in unfair competition as defined in California Business & Professions  
13 Code § 17200. Such acts of unfair competition include, but are not limited to, the following acts  
14 or practices:

15 A. Defendants have violated the TCPA, 47 U.S.C. § 227(b)(1)(C) and 47 C.F.R. §  
16 64.1200(a)(3) which prohibit the use of any telephone facsimile machine, computer, or other  
17 device to send an unsolicited advertisement to a telephone facsimile machine without the  
18 prior express consent of the called party by committing the practices, inter alia, set forth in  
19 paragraph 21 of this complaint, which paragraph is incorporated herein as though set forth in  
20 full.

21 B. Defendants have violated the TCPA, 47 U.S.C. § 227 (d) and 47 C.F.R. §  
22 68.318(d) by engaging in a pattern or practice inter alia, as set forth in paragraph 24 of this  
23 complaint, which paragraph is incorporated herein as though set forth in full, of sending  
24 faxes without including in the margin an identification of the business sending the fax and the  
25 number from which the fax was sent.

26 ///

27 C. Defendants have violated the TCPA, 47 U.S.C. § 227(b)(1)(B) and C.F.R. §  
28 64.1200(a)(2) which prohibit the initiation of a telephone call to any residential telephone

1 line using an artificial or prerecorded voice to deliver a message without the prior express  
2 consent of the called party by committing the practices, inter alia, set forth in paragraph 27  
3 of this complaint, which paragraph is incorporated herein as though set forth in full.

4 D. Defendants have violated California Business & Professions Code § 17500 as  
5 alleged in paragraph 31 of this complaint, which paragraph is incorporated herein as though  
6 set forth in full.

7 E. Defendants have violated California Public Utilities Code § 2872, inter alia, by  
8 engaging in the practice of using an automatic dialing-announcing device in the state of  
9 California to place a call that is received by a telephone in California during the hours  
10 between 9 p.m. and 9 a.m. in violation of California Public Utilities Code § 2872, which  
11 prohibits such practice.

12 F. Defendants have established numerous toll-free opt-out numbers which a recipient  
13 of Defendants' unsolicited faxed documents may call to notify the sender not to fax the  
14 recipient any further unsolicited documents. Upon such notification by a recipient of his or  
15 her request not to receive any further unsolicited faxed documents, Defendants identify the  
16 recipient's fax number as a valid fax number and continue to fax or cause to be faxed  
17 unsolicited advertisements to that recipient at that fax number;

18 G. Defendants have varied the toll-free opt-out telephone numbers that are displayed  
19 on each advertisement, and the telephone facsimile machine numbers from which the  
20 advertisements are sent, which has the effect of making it more difficult for the recipient to  
21 determine whether or not Defendants have honored the recipient's request not to receive any  
22 more unsolicited faxed advertisements from Defendants.

23 H. Defendants, in violation of California Civil Code § 1770(a)(22), have made or  
24 caused to be made, and continue to make, telephone calls which deliver an unsolicited  
25 prerecorded message without an unrecorded, natural voice first informing the person  
26 answering the telephone of the name of the caller or the organization being represented, and  
27 either the address or telephone number of the caller, and without obtaining the consent of  
28 that person to listen to the prerecorded message.

1 I. When clients of Defendants who use their fax-blasting services are sued in  
2 California Small Claims Court for the dissemination of unsolicited facsimile advertisements  
3 by the recipients of those faxes, although Defendants are not named as parties in the suit,  
4 Defendants appear in court on behalf of their clients and falsely profess to be officers of  
5 and/or employed by such clients, when in fact they are not listed as officers on any corporate  
6 documents on file with the Secretary of State, and they do not receive any compensation as  
7 employees and thus Defendants are not legally able to represent such clients in Small Claims  
8 Court matters.

9 REMEDIES

10 35. The TCPA empowers this Court to grant to Plaintiff, in an action brought by the  
11 Attorney General of the State California, injunctive and other relief, and to award \$500 for each  
12 violation. Furthermore, if this Court finds that a defendant willfully or knowingly violated the  
13 TCPA or regulations promulgated pursuant to the TCPA, the Court may, in its discretion,  
14 increase the monetary award by up to three times the amount.

15 36. California Business & Professions Code §§ 17203, and 17535, provide that the  
16 Attorney General may seek and the Court may make such orders or judgments permanently  
17 restraining and enjoining Defendants, their successors, agents, representatives, employees, and all  
18 other persons who act under, by, through, or on behalf of any of them, or any of them, from doing  
19 any of the following acts:

20 (A) Making or disseminating any untrue or misleading statements in violation of  
21 California Business & Professions Code § 17500, relating to the dissemination of unsolicited  
22 fax advertisements, and/or the dissemination of prerecorded telephone message  
23 advertisements;

24 (B) Engaging in any acts of unfair competition in violation of California Business &  
25 Professions Code § 17200, relating to dissemination of unsolicited fax advertisements,  
26 and/or the dissemination of prerecorded telemarketing messages.

27  
28 37. Pursuant to California Business & Professions Code § 17206, the Court may assess

1 against each Defendant a civil penalty of \$2,500.00 for each violation of California Business &  
2 Professions Code § 17200.

3 38. Pursuant to California Business & Professions Code § 17536, the Court may assess  
4 against each Defendant a civil penalty of \$2,500.00 for each violation of California Business &  
5 Professions Code § 17500.

6 PRAYER FOR RELIEF

7 WHEREFORE, Plaintiff requests that this honorable Court:

8 A. Permanently enjoin Defendants from violating the TCPA;

9 B. Pursuant to California Business & Professions Code §§ 17203 and 17535, permanently  
10 restrain and enjoin Defendants, their successors, agents, representatives, employees, and all other  
11 persons who act under, by, through, or on behalf of any of them, or any of them, from doing any  
12 of the following acts:

13 (1) Making or disseminating any of the untrue or misleading statements alleged in  
14 paragraph 31 of this complaint and any other untrue or misleading statement in violation of  
15 California Business & Professions Code § 17500, relating to the dissemination of unsolicited  
16 fax advertisements, and/or the dissemination of prerecorded telephone message  
17 advertisements;

18 (2) Engaging in any of the acts of unfair competition set forth in paragraph 34 of this  
19 complaint and any other act of unfair competition in violation of California Business &  
20 Professions Code § 17200, relating to dissemination of unsolicited fax advertisements,  
21 and/or the dissemination of prerecorded telemarketing messages;

22 C. Award the People of the State of California, \$500 for each of Defendants' violations of  
23 the TCPA, and find that Defendants' actions were committed willfully and knowingly so as to  
24 justify an award equal to three times this amount, pursuant to 47 U.S.C. § 227;

25 D. Pursuant to California Business & Professions Code § 17206, assess each Defendant a  
26 civil penalty of \$2,500.00 for each violation of California Business & Professions Code § 17200,  
27 as proven at trial, but in an amount of not less than \$7,500,000.00;

28

1 E. Pursuant to California Business & Professions Code § 17536, assess each Defendant a  
2 civil penalty of \$2,500.00 for each violation of California Business & Professions Code § 17500,  
3 as proven at trial, but in an amount of not less than \$7,500,000.00;

4 F. Assess to Defendants all costs incurred by Plaintiff, as well as such other and additional  
5 relief as the Court may determine to be just and proper.

6 Dated: July 22, 2003

7 Respectfully submitted,

8 BILL LOCKYER  
Attorney General of the State of California

9 HERSCHEL T. ELKINS  
Senior Assistant Attorney General

10 ALBERT NORMAN SHELDEN  
11 SUSAN HENRICHSEN  
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