WILLIAM E. KOVACIC General Counsel Barbara Y.K. Chun (Cal. Bar No. 186907) Federal Trade Commission 10877 Wilshire Blvd., Ste. 700 Los Angeles, CA 90024

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

THE PARTIES

- 4. Plaintiff, the Federal Trade Commission, is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41 et seq. The Commission 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 Commission may initiate federal district court proceedings by its own attorneys to enjoin violations of the FTC Act to secure such equitable relief as may be appropriate in each case, including restitution for injured consumers. 15 U.S.C. § 53(b).
- 5. Defendant ArtMart Publications, Inc. ("ArtMart"), is a California corporation with its principal place of business at 21133 Victory Blvd., #215, Canoga Park, California. ArtMart transacts or has transacted business in the Central District of California.
- 6. Defendant Arthur Nidetz is an officer, director, and sole shareholder of Defendant ArtMart Publications, Inc. At all times material to this complaint, acting alone or in concert with others, he has formulated, directed, controlled, or participated in the acts and practices of ArtMart, including the acts and practices set forth in this complaint. He resides in, and transacts or has transacted business in, the Central District of California.

COMMERCE

7. 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' COURSE OF CONDUCT

- 8. Since at least 1998 and continuing thereafter,
 Defendants have engaged in a plan, program or campaign to sell
 advertising space and advertisements in various publications to
 numerous businesses, governmental entities, schools and nonprofit
 organizations (referred to herein as "consumers") throughout the
 United States. Defendants have used, inter alia, interstate
 telephone calls and the United States mails to carry out their
 plan, program or campaign.
- 9. Defendants' publications include, without limitation,

 Black American Digest, Black American Journal, Veterans Voice and

 Saludos Amigos, each of which is, by its title, ostensibly

 oriented toward a specific demographic group, such as a particular

 ethnic or social group or community.
- 10. The advertisements that Defendants publish typically do not focus on the products or services that are sold or offered by the businesses or other organizations featured in the advertisements. Instead, the theme of the advertisements is the organization's commitment to equal opportunity principles and to the particular demographic group to which the publication is seemingly directed. For example, the following text appears in the Fall 2000 issue of Saludos Amigos:

"We Proudly Salute The Spanish Community

[name, address of company] Equal Opportunity

Employer Regardless of Race, Creed, Color,

Gender, Age, Religion, National Origin,
Veteran Status or Disability"

- 11. The cost of Defendants' advertisements typically ranges from \$500 to \$5,000. Circulation of each of Defendants' publications is relatively small, ranging from 1,500 to 3,000. Defendants in fact do not sell subscriptions. They merely send their publications to various organizations, primarily to various schools, colleges and universities across the country. Circulation or dissemination of Defendants' publications is not targeted to the demographic group to which the title of the publication refers.
- 12. Defendants' scheme consists of various illegitimate methods of obtaining payment from consumers. Frequently, consumers receive an invoice from Defendants without having had any prior contact with Defendants. The Defendants misrepresent on invoices that they send to consumers that the consumer owes money to Defendants for one or more advertisements that the consumer in fact had never agreed to place. In some instances, the first invoice is stamped "Past Due." Often Defendants, through their telemarketers, place a follow-up call after sending a consumer an invoice and misrepresent that a current or former manager had already purchased the advertisements that have been, or are soon to be, published and that Defendants are simply collecting payment for the advertisements. In some instances Defendants have obtained the name of a current or former manager and use that name to create the appearance of having communicated with that person.
- 13. By using such titles as Black American Digest, Saludos Amigos and Veterans Voice, Defendants misrepresent, expressly or

by implication, that the publications are directed to and reach members of the specific demographic group to which the titles refer. Defendants do not disclose to purchasers of the advertising that their advertisements will not likely be read by or widely distributed to members of the specific demographic group seemingly targeted by the publication.

VIOLATIONS OF SECTION 5 OF THE FTC ACT COUNT I

Misrepresentations that Consumers Owe Money

- 14. In numerous instances, in connection with the sale, offering for sale, or marketing of advertisements to businesses, governmental entities, schools, and/or nonprofit organizations, Defendants have represented, expressly or by implication, that the business, governmental entity, school, or nonprofit organization has purchased or agreed to purchase and place advertisements in one or more of Defendants' publications, and therefore owes money to Defendants.
- 15. In truth and in fact, in numerous instances, businesses, governmental entities, schools, or nonprofit organizations to which Defendants have made this representation have not purchased or agreed to purchase and place advertisements in one or more of Defendants' publications, and do not owe money to Defendants.
- 16. Therefore, Defendants' representations as set forth in Paragraph 14 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).

COUNT II

Misrepresentation of Readership

- 17. In numerous instances, in connection with the sale, offering for sale, or marketing of advertisements in publications that bear such titles as *Black American Digest*, *Saludos Amigos* and *Veterans Voice*, Defendants have represented, expressly or by implication, that circulation or dissemination of the publication is targeted to the specific demographic group to which the title of the publication refers.
- 18. In truth and in fact, circulation or dissemination of Defendants' publications is not targeted to the specific demographic group to which the title of the publication refers.
- 19. Therefore, Defendants' representation as set forth in Paragraph 17 is false and misleading and constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

CONSUMER INJURY

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to prevent and remedy any violations of any provision of law enforced by the Commission. This Court, in the exercise of its equitable jurisdiction, may award other ancillary relief to remedy injury caused by Defendants' law violations. PRAYER FOR RELIEF WHEREFORE, plaintiff Federal Trade Commission requests, pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and the Court's own equitable powers, that the Court: Award plaintiff such temporary and preliminary 2.

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- 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;
- Permanently enjoin Defendants from violating the FTC Act as alleged herein;
- 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
- 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:,	2003	

Barbara Y.K. Chun Attorney for Plaintiff Federal Trade Commission

Respectfully Submitted,