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

3 11. The cost of Defendants' advertisements typically ranges
4 from \$500 to \$5,000. Circulation of each of Defendants'
5 publications is relatively small, ranging from 1,500 to 3,000.
6 Defendants in fact do not sell subscriptions. They merely send
7 their publications to various organizations, primarily to various
8 schools, colleges and universities across the country.
9 Circulation or dissemination of Defendants' publications is not
10 targeted to the demographic group to which the title of the
11 publication refers.

12 12. Defendants' scheme consists of various illegitimate
13 methods of obtaining payment from consumers. Frequently,
14 consumers receive an invoice from Defendants without having had
15 any prior contact with Defendants. The Defendants misrepresent on
16 invoices that they send to consumers that the consumer owes money
17 to Defendants for one or more advertisements that the consumer in
18 fact had never agreed to place. In some instances, the first
19 invoice is stamped "Past Due." Often Defendants, through their
20 telemarketers, place a follow-up call after sending a consumer an
21 invoice and misrepresent that a current or former manager had
22 already purchased the advertisements that have been, or are soon
23 to be, published and that Defendants are simply collecting payment
24 for the advertisements. In some instances Defendants have
25 obtained the name of a current or former manager and use that name
26 to create the appearance of having communicated with that person.

27 13. By using such titles as *Black American Digest*, *Saludos*
28 *Amigos* and *Veterans Voice*, Defendants misrepresent, expressly or

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

7 **VIOLATIONS OF SECTION 5 OF THE FTC ACT**

8 **COUNT I**

9 **Misrepresentations that Consumers Owe Money**

10 14. In numerous instances, in connection with the sale,
11 offering for sale, or marketing of advertisements to businesses,
12 governmental entities, schools, and/or nonprofit organizations,
13 Defendants have represented, expressly or by implication, that the
14 business, governmental entity, school, or nonprofit organization
15 has purchased or agreed to purchase and place advertisements in
16 one or more of Defendants' publications, and therefore owes money
17 to Defendants.

18 15. In truth and in fact, in numerous instances, businesses,
19 governmental entities, schools, or nonprofit organizations to
20 which Defendants have made this representation have not purchased
21 or agreed to purchase and place advertisements in one or more of
22 Defendants' publications, and do not owe money to Defendants.

23 16. Therefore, Defendants' representations as set forth in
24 Paragraph 14 are false and misleading and constitute deceptive
25 acts or practices in violation of Section 5(a) of the FTC Act, 15
26 U.S.C. § 45(a).

1 COUNT II

2 **Misrepresentation of Readership**

3 17. In numerous instances, in connection with the sale,
4 offering for sale, or marketing of advertisements in publications
5 that bear such titles as *Black American Digest*, *Saludos Amigos* and
6 *Veterans Voice*, Defendants have represented, expressly or by
7 implication, that circulation or dissemination of the publication
8 is targeted to the specific demographic group to which the title
9 of the publication refers.

10 18. In truth and in fact, circulation or dissemination of
11 Defendants' publications is not targeted to the specific
12 demographic group to which the title of the publication refers.

13 19. Therefore, Defendants' representation as set forth in
14 Paragraph 17 is false and misleading and constitutes a deceptive
15 act or practice in violation of Section 5(a) of the FTC Act, 15
16 U.S.C. § 45(a).

17 **CONSUMER INJURY**

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1 to prevent and remedy any violations of any provision of law
2 enforced by the Commission.

3 22. This Court, in the exercise of its equitable
4 jurisdiction, may award other ancillary relief to remedy injury
5 caused by Defendants' law violations.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, plaintiff Federal Trade Commission requests,
8 pursuant to Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), and
9 the Court's own equitable powers, that the Court:

10 1. Award plaintiff such temporary and preliminary
11 injunctive and ancillary relief as may be necessary to avert the
12 likelihood of consumer injury during the pendency of this action
13 and to preserve the possibility of effective final relief;

14 2. Permanently enjoin Defendants from violating the FTC Act
15 as alleged herein;

16 3. Award such relief as the Court finds necessary to
17 redress injury to consumers resulting from Defendants' violations
18 of the FTC Act, including but not limited to rescission or
19 reformation of contracts, restitution, the refund of monies paid,
20 and the disgorgement of ill-gotten monies; and

21 4. Award plaintiff the costs of bringing this action, as
22 well as such other and additional relief as the Court may
23 determine to be just and proper.

24 Respectfully Submitted,

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26 Dated: _____, 2003

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