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DEFENDANTS

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2 6. Defendant **Health Care One LLC** (“Health Care One”), also doing
3 business as “HealthcareOne,” “Americans4 Healthcare,” “Citizens4Healthcare,”
4 “American Eagle Healthcare,” “EasyLife Healthcare,” “Elite Healthcare,” “Global
5 Healthcare,” and “Republic Healthcare,” is an Arizona limited liability company
6 with its principal place of business at 3220 S. Fair Lane, Suite 12, Tempe, Arizona
7 85282. Health Care One transacts or has transacted business in this district and
8 throughout the United States. At all times material to this Complaint, acting alone or
9 in concert with others, Health Care One has advertised, marketed, distributed or sold
10 a healthcare discount program to consumers throughout the United States.

11 7. Defendant **Americans4Healthcare Inc.** (“Americans4Healthcare”) is a
12 Delaware corporation with its principal place of business in Newport Beach,
13 California. Americans4Healthcare transacts or has transacted business in this district
14 and throughout the United States. At all times material to this Complaint, acting
15 alone or in concert with others, Americans4Healthcare has advertised, marketed,
16 distributed or sold a healthcare discount program to consumers throughout the
17 United States.

18 8. Defendant **Michael Jay Ellman** (“Ellman”) is the managing member of
19 Health Care One and the sole director of Americans4Healthcare. At all times
20 material to this Complaint, acting alone or in concert with others, he has formulated,
21 directed, controlled, had the authority to control, or participated in the acts and
22 practices of Health Care One and Americans4Healthcare, including the acts and
23 practices set forth in this Complaint. Ellman resides in this district and, in
24 connection with the matters alleged herein, transacts or has transacted business in
25 this district and throughout the United States.

26 9. Defendant **Elite Business Solutions, Inc.** (“Elite Business Solutions”),
27 also doing business as “Elite Healthcare,” “Easy Life Healthcare,” and “Republic
28 Healthcare,” is a Nevada corporation with its principal place of business consisting

1 of a private mail box located at Pacific Mail, 17595 Harvard Avenue, Suite C2150,
2 Irvine, California 92614. Elite Business Solutions transacts or has transacted
3 business in this district and throughout the United States. At all times material to
4 this Complaint, acting alone or in concert with others, Elite Business Solutions has
5 advertised, marketed, distributed or sold a healthcare discount program to consumers
6 throughout the United States.

7 10. Defendant **Robert Daniel Freeman**, also known as Dan Freeman
8 (“Freeman”), is the president, secretary, treasurer, and owner of Elite Business
9 Solutions. At all times material to this Complaint, acting alone or in concert with
10 others, he has formulated, directed, controlled, had the authority to control, or
11 participated in the acts and practices of Elite Business Solutions, including the acts
12 and practices set forth in this Complaint. Freeman resides in this district and is t

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DEFENDANTS' UNLAWFUL BUSINESS PRACTICES

13. Since 2006, Health Care One has been a seller and marketer of a

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1 to health insurance.

- 2 b. In one of its typical television commercials, Health Care One states as
3 follows:

4 *The New York Times* reported that having no insurance leads to
5 poor health and lack of early detection of potentially fatal
6 conditions. Stop putting your health at risk. Start protecting
7 yourself and your family today.

- 8 c. One of the television commercials for Americans4Healthcare and
9 Health Care One (identifying itself in the commercials as “Citizens 4
10 Healthcare”) begins with the following announcement: “*We interrupt*
11 *this program with an important health care bulletin.*” It then shows a
12 video of a portion of President Obama’s September 9, 2009 remarks on
13 healthcare to a joint session of Congress, in which the President states:
14 “. . . and show the American people that we can still do what we were
15 sent here to do. Now’s the time to deliver on health care.” An
16 unidentified announcer then states that there is “*immediate availability*”
17 of a healthcare plan “*for all uninsured Americans.*”

18 21. Health Care One’s radio commercials also convey the impression that
19 Health Care One’s program is health insurance. One radio commercial describes
20 Health Care One’s program as a “national family health care plan.” The radio
21 commercial begins by announcing: “*Good news for uninsured Americans – now a*
22 *national family health care plan for under three dollars a day.*” Both the television
23 and radio commercials lead consumers to reasonably believe that the program being
24 offered is health insurance.

25 22. Health insurance generally involves an arrangement between an
26 insurance company and a consumer in which the insurance company agrees to pay a
27 substantial portion of the healthcare expenses that the consumer might incur in
28 exchange for payment from the consumer. Under Health Care One’s program, in

1 contrast, the consumer pays Defendants for access to purportedly pre-negotiated
2 discounts on healthcare services and products. Health Care One does not pay the
3 healthcare providers any portion of the consumer’s healthcare expenses. The
4 consumer is responsible for paying the healthcare providers the entire discounted fee.

5 23. Healthcare One’s program is not health insurance, a fact that many
6 consumers do not realize until after they pay the enrollment fees, receive written
7 program materials in the form of a pamphlet and “membership cards” in the mail,
8 and review those materials. The pamphlet includes the following disclosure: “THIS
9 PLAN IS NOT HEALTH INSURANCE.”

10 **Representations that Health Car t**
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1 healthcare to a joint session of Congress, in which the President states: “. . . and
2 *show the American people that we can still do what we were sent here to do. Now’s*
3 *the time to deliver on healthcare.*” An announcer then breaks in to offer limited but
4 *“immediate availability of an affordable healthcare discount plan for all uninsured*
5 *Americans.”* This narration is accompanied by images of President Obama, the
6 American bald eagle, and the Capitol Building.

7 26. Citizens 4 Healthcare’s television commercial goes even further, by
8 implying that it has been authorized by the federal government to offer Health Care
9 One’s program. The commercial begins with the announcement: *“Breaking*
10 *Healthcare News - This is a Healthcare Alert for all uninsured Americans.”* It then
11 features a different excerpt of President Obama’s September 9, 2009 remarks to
12 Congress, in which the President states: *“No American should be without healthcare.*
13 *. . . No one should go broke because they get sick. That is heartbreaking, it is wrong*
14 *and no one should be treated that way in the United States of America.”* A
15 spokesperson then breaks in, to announce t

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should be treated that way

1 discounted healthcare services from their current doctors through Health Care One's
2 program.

3 37. Defendants' telemarketers als
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1 website, as of February 2010, states its “Guarantee” as follows:

2 100% Satisfaction or Your M

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1 **Ellman's Role**

2 43. Ellman is the managing member of Health Care One. He holds himself
3 out as Health Care One's president and chief executive officer. He has entered into
4 contracts on Health Care One's behalf. Ellman controls Health Care One's bank
5 accounts. He is also Health Care One's contact person for responding to consumer
6 complaints filed with the Better Business Bureau.

7 44. Ellman arranged for the incorporation of Americans4Healthcare and is
8 the company's sole director.

9 45. Ellman controls the television advertising, radio advertising, and
10 telemarketing operations of Health Care One, Americans4Healthcare, and Citizens 4
11 Healthcare. Through a partnership under his control, Ellman is the registration
12 contact for many of the Internet domain names used by Defendants, including
13 www.healthcareone.com, www.americans4healthcare.com, www.a4hrx.com,
14 www.citizens4healthcare.com, and www.republichealthcare.com.

15 46. Ellman is jointly and severally liable for the conduct of Health Care One
16 and Americans4Healthcare because he has the authority to control and direct the
17 companies' activities; has participated in those activities; and has had knowledge of
18 the companies' misrepresentations and other misconduct.

19 **Freeman's Role**

20 47. Freeman is the owner and sole officer and director of Elite Business
21 Solutions. He has entered into contracts on Elite Business Solutions' behalf. He
22 controls financial accounts in the name of Elite Business Solutions doing business as
23 "Easy Life Healthcare," "Elite Healthcare," and "Republic Healthcare." He controls
24 Elite Business Solutions' telemarketing operations, including serving as the contact
25 person for the telephone service provider of Elite Business Solutions' telephone
26 lines. He has also recorded fictitious business name statements in Orange County,
27 California, for Elite Business Solutions to do business as "Elite Healthcare Group"
28 and "Republic Healthcare." Freeman is the registration contact for Elite Business

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1 52. In truth and in fact:

2 a. ~~the program is not health insurance;~~ ^{1995 F.R. 54} b. F.

3 b. the program is not affiliated with or endorsed or sponsored by the
4 federal government;

5 c. enrollment in the program does not result in substantial healthcare
6 savings to the consumers;

7 d. consumers are not able to obtain program benefits from consumers'
8 current healthcare providers and from other healthcare providers in the
9 consumers' local communities; and

10 e. Defendants do not provide a full refund and retain a substantial
11 processing fee if the consumer submits a cancellation request before the
12 thirty-day trial period expires.

13 53. Therefore, Defendants' representations as set forth in Paragraph 51 are
14 false and misleading and constitute deceptive acts or practices in violation of Section
15 5(a) of the FTC Act, 15 U.S.C. § 45(a).

16 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

17 54. The FTC promulgated the Telemarketing Sales Rule, 16 C.F.R. Part
18 310, pursuant to Section 6102(a) of the Telemarketing Act, 15 U.S.C. § 6102(a).
19 The Rule became effective on December 31, 1995, and was amended in 2003.

20 55. Section 310.3(a) of the Telemarketing Sales Rule prohibits
21 telemarketers and sellers from, *inter alia*, misrepresenting, directly or by implication,
22 in the sale of goods or services:

23 a. any material aspect of the performance, efficacy, nature, or central
24 characteristics of goods or services that are the subject of a sales offer
25 (16 C.F.R. § 310.3(a)(2)(iii)); and

26 b. any material aspect of the nature or terms of the seller's r
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1 as those terms are defined in the amended Telemarketing Sales Rule (16 C.F.R.
2 §§ 310.2(z), (bb), and (cc)).

3 57. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c)
4 and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR
5 constitutes an unfair or deceptive act or practice in or affecting commerce, in
6 violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

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8 **Count 2: Misrepresentations relating to material aspects of**
9 **Health Care One's national healthcare discount program**

10 58. In numerous instances, in connection with the telemarketing of Health
11 Care One's national healthcare discount program, Defendants have misrepresented,
12 directly or by implication, material aspects of the performance, efficacy, nature, or
13 central characteristics of the program, including that:

- 14 a. the program is health insurance;
- 15 b. enrollment in the program will result in substantial healthcare savings to
16 the consumer; or
- 17 c. consumers will be able to obtain program benefits from consumers'
18 current healthcare providers and from other healthcare providers in the
19 consumers' local communities,

20 thereby violating Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii).

21 **Count 3: Misrepresentations regarding**
22 **refund or cancellation policies**

23 59. In numerous instances, in connection with the telemarketing of Health
24 Care One's national healthcare discount program, Defendants have misrepresented,
25 directly or by implication, material aspects of the nature or terms of the seller's
26 refund or cancellation policies, including that Defendants will provide a full refund,
27 subject to no or only a nominal processing fee, if the consumer submits a
28 cancellation request before the thirty-day trial period expires, thereby violating
Section 310.3(a)(2)(iv) of the TSR, 16 C.F.R. § 310.3(a)(2)(iv).

1 **CONSUMER INJURY**

2 60. Consumers have suffered and will continue to suffer substantial injury
3 as a result of Defendants’ violations of the FTC Act and the TSR. In addition,
4 Defendants have been unjustly enriched as a result of their unlawful acts or practices.
5 Absent injunctive relief by this Court, Defendants are likely to continue to injure
6 consumers, reap unjust enrichment, and harm the public interest.

7 **THIS COURT’S POWER TO GRANT RELIEF**

8 61. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court
9 to grant injunctive and such other relief as the Court may deem appropriate to halt
10 and redress violations of any provision of law enforced by the FTC. The Court, in
11 the exercise of its equitable jurisdiction, may award ancillary relief, including
12 rescission or reformation of contracts, restitution, the refund of monies paid, and the
13 disgorgement of ill-gotten monies, to prevent and remedy any violation of any
14 provision of law enforced by the FTC.

15 62. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the
16 Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as
17 the Court finds necessary to redress injury to consumers resulting from Defendants’
18 violations of the Telemarketing Sales Rule, including rescission or reformation of
19 contracts, and the refund of money.

20 **PRAYER FOR RELIEF**

21 63. Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC
22 Act, 15 U.S.C. §§ 53(b) and 57b, Section 6(b) of the Telemarketing Act, 15 U.S.C.
23 § 6105(b), and the Court’s own equitable powers, requests that the Court:

- 24 a. Award Plaintiff such preliminary injunctive and ancillary relief as may
25 be necessary to avert the likelihood of consumer injury during the
26 pendency of this action and to preserve the possibility of effective final
27 relief, including but not limited to a temporary restraining order, a
28 preliminary injunction, an order freezing assets, immediate access to

