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13 ATTORNEYS FOR PLAINTIFF

14 UNITED STATES DISTRICT COURT
15 DISTRICT OF ARIZONA

16 FEDERAL TRADE COMMISSION,

17 Plaintiff,

18 v.

19 LEON SAJA, individually and doing business as
20 SOUTHWEST PUBLISHING; DONALD L.
21 RITTA, individually and as an officer of Stealth
22 Publications, Inc.; and
23 STEALTH PUBLICATIONS, INC.,

24 Defendants.

Civ. No.

COMPLAINT FOR
PERMANENT INJUNCTION
AND OTHER EQUITABLE
RELIEF

24 Plaintiff, the Federal Trade Commission ("Commission"), for its complaint alleges as
25 follows:

26 1. The Commission brings this action under Section 13(b) of the Federal Trade
27 Commission Act ("FTC Act"), 15 U.S.C. § 53(b), to obtain preliminary and permanent injunctive
28 relief against the defendants to prevent them from engaging in unfair or deceptive acts or practices

1 in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and to obtain other equitable
2 relief, including rescission, restitution and disgorgement, as is necessary to redress injury to
3 consumers and the public interest resulting from defendants' violations of the FTC Act.
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6 **JURISDICTION AND VENUE**

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8 2. Subject matter jurisdiction is conferred upon this Court by 15 U.S.C. §§ 45(a) and
9 53(b) and 28 U.S.C. §§ 1331, 1337(a), and 1345.

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11 3. Venue in the United States District Court for the District of Arizona is proper
12 under 15 U.S.C. § 53(b), as amended by the FTC Act Amendments of 1994, Pub. L. No.
13 103-312, 108 Stat. 1691 and 28 U.S.C. § 1391(b) and (c).

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15 **THE PARTIES**
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1 several purportedly nonprofit entities, soliciting donations from consumers and small businesses
2 nationwide. Stealth transacts business in the District of Arizona.

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4 6. Donald L. Ritta ("Ritta") is the president of Stealth. Individually or in concert
5 with others, at all times material to this complaint, Ritta has formulated, directed and controlled
6 the policies, acts and practices of Stealth, including the acts and practices set forth in this
7 complaint. He resides and transacts business in the District of Arizona.
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10 7. Leon Saja ("Saja") is an individual doing business as Southwest Publishing
11 ("Southwest"), an unincorporated business entity with its office and principal place of business at
12 505 West Dunlap, Suites 1A and 2B, Phoenix, Arizona 85021. Southwest has also used mail
13 drops in other states, including, for example, 5223 Wisconsin Ave., N.W., Suites 281 and 301,
14 Washington, D.C. 20015. Saja is the sole owner of Southwest. Individually or in concert with
15 others, at all times material to this complaint, he has formulated, directed and controlled the
16 policies, acts and practices of Southwest, including the acts and practices set forth in this
17 complaint. Individually or in concert with others, including defendant Ritta, at all times material
18 to this complaint, Saja has formulated, directed, controlled or participated in the acts and
19 practices of defendant Stealth. Saja resides and transacts business in the District of Arizona.
20

21 **COMMERCE**

22 8. At all times relevant to this complaint, defendants have maintained a substantial
23 course of conduct in or affecting commerce, as "commerce" is defined in Section 4 of the FTC
24 Act, 15 U.S.C. § 44.
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DEFENDANTS' COURSE OF CONDUCT

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4 9. Since at least 1994, Southwest, through a nationwide network of telephone
5 fundraising rooms, has routinely made material misrepresentations to induce consumers and small
6 businesses to donate to various nonprofit organizations. Southwest has contracted to solicit on
7 behalf of these nonprofit and purportedly nonprofit groups, which include, but are not limited to,
8 the American Deputy Sheriffs' Association ("ADSA"), the International Union of Police
9 Associations ("IUPA"), United Fire Fighters of America ("UFFA"), Fire Fighters Association of
10 America ("FFAA"), Disabled Peace Officers of America ("DPOA"), National Reserve Peace
11 Officers of America ("NRPOA"), the National Association of Veteran Police Officers
12 ("NAVPO"), and the Nation's Missing Children Organization ("NMCO").

13
14 10. Typically, Southwest agrees to pay the organization a flat fee of \$1,000 or \$1,500
15 per week in exchange for the right to solicit in the organization's name, with the amount
16 increasing to as much as \$2,500 per week in the second or third years of its contract with the
17 organization. Any funds collected over that flat amount are retained by Southwest. Southwest
18 may also agree to print and distribute a quarterly or yearly publication for the organization in
19 which Southwest will print the names of individuals and small businesses who donate or sponsor
20 an advertisement. The contracts usually call for Southwest to use only "approved" scripts and
21 materials in soliciting the public. The contracts also authorize Southwest to open a bank account
22 in the organization's name, for the purpose of receiving donations.

23
24 11. In the resulting fundraising campaigns, Southwest and its telephone fundraising
25 rooms solicit individuals and small businesses to donate to these organizations. (Telephone
26 solicitors for Southwest and its telephone fundraising rooms will be collectively referred to as
27 "telefundors.") Southwest operates its own telephone fundraising room and also contracts with
28 other telephone fundraising rooms, including but not limited to defendant Stealth, to solicit on
behalf of its nonprofit clients. Individuals who agree over the telephone to make donations are

1 sent invoices in the name of the organization, and directed to make their checks payable to the
2 organization and return them in reply envelopes preprinted with the organization's name and,
3 typically, a mail drop address. Southwest deposits these checks in the account it establishes in the
4 organization's name. Businesses that agree to make a donation or sponsor an advertisement
5 typically are sent, in the name of the organization, a cash-on-delivery ("COD") package via
6 United Parcel Service for the amount of the donation or sponsorship. In many cases, businesses'
7 payments are returned directly to Southwest.
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10 12. While soliciting donations, Southwest's telefundlers, including but not limited to
11 telefundlers employed by defendant Stealth, frequently identify themselves falsely as law
12 enforcement officers calling on behalf of local, county or state law enforcement groups. The
13 impression that the caller is a local officer is reinforced to some donors by the telefundlers' claims
14 that they will send donors car window decals that purportedly will assist them if they are stopped
15 for traffic violations. The telefundlers also routinely misrepresent that contributions will directly
16 benefit the prospective donor's local law enforcement agency or fire department.
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18 13. In addition, Southwest's telefundlers, including but not limited to telefundlers
19 employed by defendant Stealth, misrepresent the purposes for which the donations will be used.
20 In soliciting for NMCO, for example, Southwest's telefundlers claim that donations will pay for
21 placing pictures of missing children on milk cartons or billboards, when in fact, NMCO does not
22 pay to place pictures of missing children on milk cartons or billboards. In soliciting for ADSA,
23 Southwest's telefundlers regularly misrepresent that contributions will be used to purchase
24 bulletproof vests for officers in the potential donor's local police or sheriff's department. In other
25 solicitations, telefundlers falsely claim that contributions will help support drug education
26 programs in the donors' local schools, or be used to pay death benefits to families of local law
27 enforcement officers. In some instances, the telefundlers have seized on the fundraising
28 opportunities created by local tragedies. For example, when an Anchorage, Alaska police officer
was killed in the line of duty, Southwest's telefundlers told Alaskan donors that their contributions

1 would benefit the family of the slain officer, when in fact they did not. Also, in many instances,
2 the telefundors falsely tell consumers that their donations are tax deductible.
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5 14. In numerous instances, when businesses have refused to sponsor an advertisement
6 or otherwise donate, the telefunder nonetheless sends the business a COD package, implying that
7 the business has authorized the charge. In some cases, unwitting businesses accept and pay the
8 COD charges, thinking the package relates to their business or that the COD charge was
9 approved by another employee, only to find that the package contains an unauthorized invoice.

10
11 15. Saja learns about the misrepresentations described above, as well as others, in
12 several ways: from his nonprofit clients, who often pass on to him complaints that they receive;
13 from law enforcement agencies that often call him to inquire about misrepresentations; from state
14 consumer protection officials who forward complaints to him; and from donors themselves who
15 call Southwest's 800 number.

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17 16. Generous individuals and businesses rely on the false promises of benefits to their
18 local communities and donate in response to Southwest's fundraising pleas, believing that their
19 donation will support the programs described to them and that their contributions are tax
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DEFENDANTS' VIOLATIONS OF THE FTC ACT

COUNT ONE

17. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants represent, expressly or by implication, that the caller is a member of a local law enforcement agency or fire department in the donor's state or local area. In truth and in fact, the caller is not a member of a local law enforcement agency or fire department in the donor's state or local area, but rather is a commissioned telephone solicitor.

18. The representation described in Paragraph 17 above 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).

COUNT TWO

19. In numerous instances, in connection with soliciting contributions from prospective donors by telephone, defendants represent, expressly or by implication, that donors' contributions

COUNT THREE

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4 21. In numerous instances, in connection with soliciting contributions from prospective
5 donors by telephone, defendants represent, expressly or by implication, that donors' contributions
6 will be used to support particular charitable programs, such as:

7 (a) purchasing particular equipment for law enforcement agencies or fire
8 departments, particularly those in the donors' state or local area;

9 (b) paying for death benefits or otherwise assisting the families of law
10 enforcement officers or fire fighters disabled or killed on the job, particularly those in the
11 donors' state or local area;

12 (c) supporting particular educational or training programs offered by law
13 enforcement agencies in the donors' state or local area, such as crime prevention or drug
14 education programs in schools; and

15 (d) paying to place pictures of missing children on milk cartons and billboards.

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17 22. In truth and in fact, in numerous instances, donors' contributions are not used to
18 support the particular charitable programs described by defendants and will not be used to:

19 (a) purchase particular equipment for law enforcement agencies or fire
20 departments, particularly those in the donors' state or local area;

21 (b) pay for death benefits or otherwise assist the families of law enforcement
22 officers or fire fighters disabled or killed on the job, particularly those in the donors' state
23 or local area;

24 (c) support particular educational or training programs offered by law
25 enforcement agencies in the donors' state or local area, such as crime prevention and drug
26 education programs in schools; and

27 (d) pay to place pictures of missing children on milk cartons and billboards.
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INJURY TO THE PUBLIC INTEREST

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28. Consumers, businesses and nonprofit organizations throughout the United States

1 of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains;
2 and

3 (4) Award the Commission the costs of bringing this action, as well as such other and
4 additional equitable relief as the Court may determine to be proper and just.
5

6 DATED: _____, 1997

7 Respectfully submitted,

8 STEPHEN CALKINS
9 General Counsel

10 CHARLES A. HARWOOD
11 Regional Director

12 _____
13 Tracy S. Thorleifson

14 _____
15 Mary T. Benfield

16 _____
17 Kathryn C. Decker

18 ATTORNEYS FOR PLAINTIFF
19 FEDERAL TRADE COMMISSION
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