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RECEIVED
 FEDERAL DISTRICT COURT
 CENTRAL DISTRICT OF CALIF.
 LOS ANGELES
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FILED

10 **IN THE UNITED STATES DISTRICT COURT**
 11 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
 12 **WESTERN DIVISION**

13 UNITED STATES OF AMERICA,

14 Plaintiff,

15 v.

16 We The People Forms And Service Centers
 USA, Inc., a California corporation,

17 Defendant.

CV 04 10075 GHK
 Civ. No.

FMOX

18 **COMPLAINT FOR CIVIL PENALTIES, PERMANENT INJUNCTION, AND**
 19 **OTHER EQUITABLE RELIEF**

20 Plaintiff, the United States of America, acting upon notification and authorization to the
 21 Attorney General by the Federal Trade Commission ("FTC" or "Commission"), pursuant to
 22 Section 16(a)(1) of the Federal Trade Commission Act ("FTC Act"), 15 U.S.C. § 56(a)(1), for its
 23 complaint alleges:

24 1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), 16(a), and 19 of the
 25 FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53b, 56(a), and 57b, to secure civil penalties, a
 26 permanent injunction, and other equitable relief for defendant's violations of the FTC's Trade
 27

28 Complaint

1 Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and
2 Business Opportunity Ventures" (the "Franchise Rule," or "the Rule"), 16 C.F.R. Part 436, and
3 Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

4 JURISDICTION AND VENUE

5 2. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331,
6 1337(a), 1345, and 1355, and 15 U.S.C. §§ 45(m)(1)(A), 53(b), 56(a), and 57b. This action arises
7 under 15 U.S.C. § 45(a).

8 3. Venue in the United States District Court for the Central District of California is proper
9 under 28 U.S.C. §§ 1391(b)-(c) and 1395(a), and 15 U.S.C. § 53(b).

10 DEFENDANT

11 4. Defendant We The People Forms And Service Centers USA, Inc. ("We The People"), is a
12 California corporation with its principal place of business at 1501 State Street, Santa Barbara,
13 California 93101. We The People sells franchises enabling purchasers to operate an independent
14 legal document preparation service franchise. We The People transacts or has transacted business
15 in the Central District of California.

16 COMMERCE

17 5. At all times relevant to this complaint, the defendant has maintained a substantial course of
18 trade in the offering for sale and sale of legal document preparation services franchises, in or
19 affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

20 DEFENDANT'S BUSINESS ACTIVITIES

21 6. Since 1996, We The People has offered the public the opportunity to purchase a legal
22 document preparation franchise. Among other things, We The People franchisees provide legal
23 documents to customers who choose to represent themselves in "basic, uncontested legal matters."
24 According to We The People, an "uncontested legal matter" is a legal dispute or transaction that is
25 not opposed by another party to or person interested in that legal matter. These may include
26 bankruptcy petitions, divorce petitions, wills, and trusts.

1 7. We The People furnishes its franchisees with legal document workbooks. Franchisees
2 instruct consumers to insert the required information into the appropriate workbooks. We The
3 People franchisees then forward the completed workbooks to a We The People documentation
4 preparation center, along with a purchase order. The documentation preparation center prepares
5 and returns a completed legal document to the franchisee's We The People service center, ready
6 for the customer's pick-up. Customers can either file their own legal documents with the
7 appropriate court or may purchase filing services from the We The People franchisee.

8 THE FRANCHISE RULE

9 8. The business package sold by We The People are franchises, as "franchise" is defined in
10 Section 436.2(a) of the Franchise Rule, 16 C.F.R. § 436.2(a).

11 9. The Franchise Rule requires a franchisor to provide prospective franchisees with a
12 complete and accurate basic disclosure document containing twenty categories of information,
13 including information about the franchisor and its principals, the terms and conditions under which
14 the franchise operates, and certain prior litigation. 16 C.F.R. § 436.1(a)(1)-(a)(20). The pre-sale
15 disclosure of this information required by the Rule enables a prospective franchisee to contact
16 prior purchasers and take other steps to assess the potential risks involved in the purchase of the
17 franchise.

18 10. As a matter of policy, the FTC has authorized franchisors to comply with the Franchise
19 Rule by furnishing prospective franchisees with disclosures in a format known as the Uniform
20 Franchise Offering Circular ("UFOC"). Authorization to use the UFOC format to comply with the
21 Rule's disclosures requirements was first granted by the Commission in the Final Interpretive
22 Guides to the Rule, 44 Fed. Reg. 49,966, 49,970-71, and expressly requires adherence to the
23 UFOC disclosure requirements in their "entirety." This conditional authorization has been ratified
24 by the Commission following subsequent amendments to the UFOC requirements by the North
25 American Securities Administrators Association, most recently on December 30, 1993.
26 58 Fed. Reg. 69,224. The defendant has elected to use the UFOC disclosure format.

1 11. Among other required disclosures, the Franchise Rule requires a franchisor to disclose
2 whether it is "subject to any currently effective State or Federal agency or court injunctive or
3 restrictive order, or is a party to a proceeding currently pending in which such order is sought,
4 relating to or affecting franchise activities . . . or involving fraud (including violation of any
5 franchise law, or unfair or deceptive practices law)." 16 C.F.R. § 436.1(a)(4)(iii). The same
6 disclosures are required by Item 3 of the UFOC Guidelines.

7 12. Item 1 of the UFOC Guidelines also requires franchisors to disclose, in general terms "any
8 regulations specific to the industry in which the franchise business operates."

9 13. We The People has been named as a defendant in at least three lawsuits in connection with
10 the preparation of bankruptcy petitions, which must be filed to commence a bankruptcy case.

11 A. On or about March 22, 2002, the United States Trustee for the Northern District of
12 Illinois filed a complaint to permanently enjoin We The People from preparing bankruptcy
13 petitions pursuant to § 110(j)(2)(B) of the Bankruptcy Code, 11 U.S.C. §§ 101 *et seq.* *United*
14 *States Trustee v. Donald Karel (In re Poders)*, Adv. Pro. No. 02A00277 (Bankr. N.D. Ill. 2002).
15 Among the counts set forth in the complaint, the United States Trustee alleges that We The People
16 engaged in fraudulent and deceptive conduct in the advertising of its legal services (Count II) and
17 engaged in fraudulent and deceptive conduct through the unauthorized practice of law (Count III).

18 B. On or about November 21, 2002, the United States Trustee for Region Four filed a
19 complaint to permanently enjoin We The People, among other defendants, from engaging in
20 conduct in violation of 11 U.S.C. § 110 and from acting as bankruptcy petition preparers pursuant
21 to 11 U.S.C. § 110. *W. Clarkson McDow, Jr. United States Trustee for Region Four v. We The*
22 *People Forms and Service Centers U.S.A., Inc. (In re Douglas)*, Adv. Pro. No. 02-5899-JS
23 (Bankr. D. Md. 2002). Among the counts set forth in the complaint, the United States Trustee for
24 Region Four alleges that We The People, in connection with the preparation of bankruptcy
25 documents, has engaged in fraudulent, unfair, or deceptive conduct in violation of 11 U.S.C.
26 §§ 110(j)(1)-(2) through the unauthorized practice of law (Count I).

1 C. On or about March 20, 2003, a North Carolina Bankruptcy Court, upon motions
2 filed by the Bankruptcy Administrator, found that We The People engaged in unfair or deceptive
3 conduct in violation of 11 U.S.C. § 110 in connection with preparation of a bankruptcy petition. *In*
4 *re Moore*, 290 B.R. 287 (Bankr. E.D.N.C. 2003). Among other defendants, We The People was
5 enjoined from providing "Customer Information Workbook, Bankruptcy Overview, Step by Step
6 Guide to the Bankruptcy Workbook, and Tips on Filing a Chapter 7 Bankruptcy to their customers
7 in connection with bankruptcy preparation services."

8 14. The defendant's most recent UFOC, issued on April 20, 2003, fails to reference each of the
9 above-noted suits in which We The People is named as a defendant and charged with fraudulent
10 and unfair and deceptive practices in violation of 11 U.S.C. § 110.

11 15. The defendant's most recent UFOC, issued on April 20, 2003, fails to reference in Item 1
12 the specific requirements set out at 11 U.S.C. § 110 for the preparation of bankruptcy petitions by
13 preparers other than an attorney or an employee of any attorney.

14 16. Pursuant to Section 18(d)(3) of the FTC Act, 15 U.S.C. 57a(d)(3), and 16 C.F.R. § 436.1,
15 violations of the Franchise Rule constitute unfair or deceptive acts or practices in or affecting
16 commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

17 VIOLATIONS OF THE FRANCHISE RULE

18 COUNT I

19 17. Paragraphs 1 through 16 are incorporated herein by reference.

20 18. In connection with the offering and sale of franchises, as "franchise" is defined in Section
21 436.2(a) of the Franchise Rule, defendant furnished prospective franchisees with UFOC
22 documents that failed to contain all required disclosures, including, but not limited to:

- 23 (A) regulations specific to the industry in which the franchise business operates (as
24 required by Item 1); and
25 (B) all current government injunctive orders in which it is named a party and pending
26 actions in which such orders are sought (as required by Item 3).

1 Therefore, the defendant failed to provide prospective franchisees with complete and accurate
2 franchise disclosure documents, in violation of Section 436.1(a) of the Franchise Rule.

3 **CONSUMER INJURY**

4 19. Franchisees in the United States have suffered or will suffer substantial monetary loss as a
5 result of the defendant's violation of the Franchise Rule and FTC Act. Absent injunctive relief by
6 the Court, defendant is likely to continue to injure franchisees and harm the public interest in the
7 offer and sale of franchises.

8 **THIS COURT'S POWER TO GRANT RELIEF**

9 20. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive
10 and other ancillary relief, including consumer redress, disgorgement, and restitution, to prevent
11 and remedy any violations of any provision of law enforced by the Federal Trade Commission.

12 21. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by Section 4 of
13 the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as amended, and
14 as implemented by 16 C.F.R. § 1.98(d)(1997), authorizes this Court to award civil penalties of not
15 more than \$11,000 for each violation of the Franchise Rule occurring after November 20, 1996.

16 22. Section 19 of the FTC Act, 15 U.S.C. § 57b, authorizes this Court to grant such relief as the
17 Court finds necessary to redress injury to consumers or other persons resulting from defendant's
18 violations of the Franchise Rule, including the rescission and reformation of contracts, and the
19 refund of money.

20 23. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief to
21 remedy injury caused by the defendant's violations of the Franchise Rule and the FTC Act.

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PRAYER FOR RELIEF

WHEREFORE, plaintiff requests that this Court, as authorized by Sections 5(a), 5(m)(1)(A), 13b, and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 57b, and pursuant to its own equitable powers:

1. Enter judgment against the defendant and in favor of the plaintiff for the violation alleged in this complaint;

2. Permanently enjoin the defendant from violating the Franchise Rule and the FTC Act;

3. Award plaintiff monetary civil penalties for every violation of the Franchise Rule;

4. Award such relief as the Court finds necessary to redress injury to consumers resulting from the defendant's violations of the Franchise Rule and the FTC Act, including but not limited to, rescission of contracts, the refund of monies paid, and the disgorgement of ill-gotten gains; and

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1 5. Award plaintiff the costs of bringing this action, as well as such other and
2 additional relief as the Court may determine to be just and proper.

4 DATED: December 10, 2004 FOR THE UNITED STATES OF AMERICA:

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