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9 UNITED STATES DISTRICT COURT
10 FOR THE DISTRICT OF ARIZONA

11 United States of America,

12 Plaintiff,

13 v.

14 Cutting Edge Marketing, LLC, an
15 Arizona limited liability company; Cutting
Edge Travel, LLC, an Arizona limited liability
16 company; and Jeffrey Cope, individually and
as an officer of Cutting Edge Marketing, LLC,
17 and Cutting Edge Travel, LLC,

18 Defendants.

**COMPLAINT FOR CIVIL
PENALTIES, PERMANENT
INJUNCTION, AND
OTHER RELIEF**

19
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
23 its complaint alleges:

24 1. Plaintiff brings this action under Sections 5(a), 5(m)(1)(A), 13(b), and 16(a) of the
25 FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A), 53(b), and 56(a), and Section 6 of the
26 Telemarketing and Consumer Fraud and Abuse Prevention Act (the “Telemarketing Act”), 15
27 U.S.C. § 6105, to obtain monetary civil penalties, a permanent injunction, and other equitable
28 relief for defendants’ violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the

1 FTC’s Telemarketing Sales Rule (the “TSR” or “Rule”), 16 C.F.R. Part 310, as amended by 68
2 Fed. Reg. 4580, 4669 (January 29, 2003).

3 **JURISDICTION AND VENUE**

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

7 3. Venue is proper in this District under 28 U.S.C. §§ 1391(b)-(c) and 1395(a), and
8 15 U.S.C. § 53(b).

9 **DEFENDANTS**

10 4. Defendant Cutting Edge Marketing, LLC, is an Arizona limited liability company
11 with its principal place of business at 1400 South McClintock Drive, No.13, Tempe, Arizona
12 85281. Cutting Edge Marketing is a seller of travel and vacation services to consumers that has
13 caused telemarketers, such as Defendant Cutting Edge Travel, LLC, to call consumers to induce
14 the purchase of the travel and vacation services of Cutting Edge Marketing. Cutting Edge
15 Marketing transacts or has transacted business in this District.

16 5. Defendant Cutting Edge Travel, LLC, is an Arizona limited liability company
17 with its principal place of business at 1400 South McClintock Drive, No. 4, Tempe, Arizona
18 85281. Defendant Cutting Edge Travel is a telemarketer that initiates outbound telephone calls
19 to induce consumers to purchase travel or vacation services from Cutting Edge Marketing and
20 others. Cutting Edge Travel transacts or has transacted business in this District.

21 6. Defendant Jeffrey Cope is the sole owner and officer of both Cutting Edge
22 Marketing and Cutting Edge Travel. In connection with the matters alleged herein, he resides
23 or has transacted business in this District. At all times material to this complaint, acting alone
24 or in concert with others, he has formulated, directed, controlled, or participated in the acts and
25 practices of both companies, including the acts and practices set forth in this complaint.

1 **THE TELEMARKETING SALES RULE**

2 **AND THE NATIONAL DO NOT CALL REGISTRY**

3 7. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive
4 telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101-6108, in
5 1994. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule (the “Original
6 TSR”), 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29,
7 2003, the FTC amended the TSR by issuing a Statement of Basis and Purpose (“SBP”) and the
8 final amended TSR (the “Amended TSR”). 68 Fed. Reg. 4580, 4669.

9 8. Among other things, the Amended TSR established a “do-not-call” registry,
10 maintained by the Commission (the “National Do Not Call Registry” or “Registry”), of
11 consumers who do not wish to receive certain types of telemarketing calls. Consumers can
12 register their telephone numbers on the Registry without charge either through a toll-free
13 telephone call or over the Internet at donotcall.gov.

14 9. Consumers who receive telemarketing calls to their registered numbers can
15 complain of Registry violations the same way they registered, through a toll-free telephone call
16 or over the Internet at donotcall.gov, or by otherwise contacting law enforcement authorities.

17 10. Since October 17, 2003, sellers and telemarketers have been prohibited from
18 calling numbers on the Registry in violation of the Amended TSR. 16 C.F.R.
19 § 310.4(b)(1)(iii)(B).

20 11. Since September 2, 2003, sellers, telemarketers, and other permitted organizations
21 have been able to access the Registry over the Internet at telemarketing.donotcall.gov to
22 download the registered numbers.

23 12. Since October 17, 2003, sellers and telemarketers have been generally prohibited
24 from calling any telephone number within a given area code unless the seller first has paid the
25 annual fee for access to the telephone numbers within that area code that are included in the
26 National Do Not Call Registry. 16 C.F.R.§ 310.8(a) and (b).

27 13. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and
28

1 Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an
2 unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the
3 FTC Act, 15 U.S.C. § 45(a).

4 **DEFENDANTS' BUSINESS ACTIVITIES**

5 14. Defendants are “sellers” or “telemarketers” engaged in “telemarketing,” as
6 defined by the Amended TSR, 16 C.F.R. § 310.2.

7 15. Cutting Edge Marketing is a seller of travel and vacation services to consumers.
8 Cutting Edge Marketing has caused telemarketers, such as Defendant Cutting Edge Travel, to
9 call consumers in the United States to induce the purchase of travel and vacation services from
10 Cutting Edge Marketing.

11 16. Cutting Edge Travel is a telemarketer that initiates outbound telephone calls to
12 consumers in the United States to induce the purchase of Cutting Edge Marketing’s services.

13 17. Defendants have engaged in telemarketing by a plan, program, or campaign
14 conducted to induce the purchase of travel and vacation services by use of one or more
15 telephones and which involves more than one interstate telephone call.

16 18. On or after October 17, 2003, defendants have called hundreds of thousands of
17 consumers’ telephone numbers that are on the National Do Not Call Registry.

18 19. At all times relevant to this complaint, defendants have maintained a substantial
19 course of trade or business in the offering for sale and sale of goods or services via the
20 telephone, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15
21 U.S.C. § 44.

22 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

23 **Violating the National Do Not Call Registry**

24 20. In numerous instances, in connection with telemarketing, defendants engaged in
25 or caused others to engage in initiating an outbound telephone call to a person’s telephone
26 number on the National Do Not Call Registry in violation of the TSR, 16 C.F.R.
27 § 310.4(b)(1)(iii)(B).

1 **CONSUMER INJURY**

2 21. Consumers in the United States have suffered and will suffer injury as a result of
3 defendants' violations of the TSR. Absent injunctive relief by this Court, defendants are likely
4 to continue to injure consumers and harm the public interest.

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

6 22. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant
7 injunctive and other ancillary relief to prevent and remedy any violation of any provision of
8 law enforced by the FTC.

9 23. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by
10 Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. § 2461, as
11 amended, and as implemented by 16 C.F.R. § 1.98(d) (1997), authorizes this Court to award
12 monetary civil penalties of not more than \$11,000 for each violation of the TSR. Defendants'
13 violations of the TSR were committed with the knowledge required by Section 5(m)(1)(A) of
14 the FTC Act, 15 U.S.C. § 45(m)(1)(A).

15 24. This Court, in the exercise of its equitable jurisdiction, may award ancillary relief
16 to remedy injury caused by defendants' violations of the Rule and the FTC Act.

17 **PRAYER FOR RELIEF**

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

- 21 A. Enter judgment against defendants and in favor of plaintiff for each violation alleged in
22 this complaint;
- 23 B. Award plaintiff monetary civil penalties from each defendant for every violation of the
24 TSR;
- 25 C. Permanently enjoin defendants from violating the TSR and the FTC Act; and
- 26 D. Award plaintiff such other and additional relief as the Court may determine to be just
27 and proper.
- 28

1 Respectfully submitted this 22nd day of September, 2005.

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