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7 UNITED STATES DISTRICT COURT  
8 DISTRICT OF ARIZONA  
9

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 PLANET EARTH SATELLITE, INC.,  
also doing business as TEICHERT  
14 MARKETING, and

15 THOMAS TEICHERT, individually  
and as an officer of PLANET EARTH  
16 SATELLITE, INC.,

17 Defendants.  
18

Case No.:

COMPLAINT FOR CIVIL  
PENALTIES, PERMANENT  
INJUNCTION AND OTHER  
EQUITABLE RELIEF

19  
20 Plaintiff, the United States of America, acting upon notification and  
21 authorization to the Attorney General by the Federal Trade Commission (“FTC” or  
22 “Commission”), pursuant to Section 16(a)(1) of the Federal Trade Commission Act  
23 (“FTC Act”), 15 U.S.C. § 56(a)(1) alleges:

24 1. Plaintiff, the United States of America, brings this action under Sections 5(a),  
25 5(m)(1)(A), 13(b), 16(a) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A),  
26 53(b), 56(a) and 57b, and Section 6 of the Telemarketing and Consumer Fraud and  
27 Abuse Prevention Act (the “Telemarketing Act”), 15 U.S.C. § 6105, to obtain  
28 monetary civil penalties, a permanent injunction, and other equitable relief against

1 Defendants for violations of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), and the  
2 FTC's Telemarketing Sales Rule (the "TSR" or "Rule"), 16 C.F.R. Part 310, as  
3 amended by 68 Fed. Reg. 4580, 4669 (January 29, 2003).

#### 4 JURISDICTION AND VENUE

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

8 3. Venue is proper in this District under 28 U.S.C. §§ 1391 (b)-(c) and 1395(a), and  
9 15 U.S.C. § 53(b).

#### 10 DEFENDANTS

11 4. Defendant Planet Earth Satellite, Inc. ("Planet Earth") is an Arizona corporation  
12 with its principal place of business at 1641 East Briarwood Terrace, Phoenix,  
13 Arizona 85048, and transacts or has transacted business in this district.

14 5. Defendant Thomas Teichert is an officer of Planet Earth Satellite. Acting alone  
15 or in concert with others, he has formulated, directed, controlled or participated in  
16 the acts or practices set forth in this complaint.

#### 17 THE TELEMARKETING SALES RULE 18 AND THE NATIONAL DO NOT CALL REGISTRY

19 6. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive  
20 telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C.

21 §§ 6101-6108, in 1994. On August 16, 1995, the FTC adopted the Telemarketing  
22 Sales Rule (the "Original TSR"), 16 C.F.R. Part 310, which became effective on  
23 December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a  
24 Statement of Basis and Purpose ("SBP") and the final amended TSR (the "Amended  
25 TSR"). 68 Fed. Reg. 4580, 4669.

26 7. Among other things, the Amended TSR established a "do not call" registry,  
27 maintained by the Commission (the "National Do Not Call Registry" or "Registry"),  
28

1 of consumers who do not wish to receive certain types of telemarketing calls.  
2 Consumers can register their telephone numbers on the Registry without charge  
3 either through a toll-free telephone call or over the Internet at [www.donotcall.gov](http://www.donotcall.gov).

4 8. Consumers who receive telemarketing calls to their registered numbers can  
5 complain of Registry violations the same way they registered: through a toll-free  
6 telephone call or over the Internet, or by otherwise contacting law enforcement  
7 authorities.

8 9. A “seller” is any person who, in connection with a telemarketing transaction,  
9 provides, offers to provide, or arranges for others to provide goods or services to the  
10 customer in exchange for consideration. 16 C.F.R. § 310.2(z).

11 10. A “telemarketer” is any person who, in connection with telemarketing, initiates  
12 or receives telephone calls to or from a customer or donor. 16 C.F.R. § 310.2(bb).

13 11. Since September 2, 2003, sellers, telemarketers, and other permitted  
14 organizations have been able to access the Registry over the Internet at  
15 [telemarketing.donotcall.gov](http://telemarketing.donotcall.gov) to download the registered numbers.

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

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

23 14. Defendants are “seller[s]” and/or “telemarketer[s]” engaged in “telemarketing,”  
24 as defined by the Amended TSR, 16 C.F.R. § 310.2.

#### 25 **DEFENDANTS’ BUSINESS ACTIVITIES**

26 15. Defendant Planet Earth is a telemarketer of Dish Network satellite television  
27 programming on behalf of EchoStar Satellite LLC. EchoStar is a seller of Dish  
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1 Network satellite television programming to consumers throughout the United  
2 States.

3 16. Since on or about October 1, 2003, Defendant Planet Earth has engaged in  
4 telemarketing on behalf of EchoStar.

5 17. Since on or about October 17, 2003, Defendant Planet Earth has directly, or  
6 through intermediaries, placed outbound calls to telephone numbers on the National  
7 Do Not Call Registry.

8 18. Defendants have engaged in telemarketing by a plan, program, or campaign  
9 conducted to induce the purchase of goods or services by use of one or more  
10 telephones and which involves more than one interstate call.

11 19. At all times relevant to this complaint Defendants have maintained a substantial  
12 course of trade or business in the offering for sale and sale of goods or services via  
13 the telephone in or affecting commerce as "commerce" is defined in Section 4 of the  
14 FTC Act, 15 U.S.C. § 44.

15 **COUNT ONE**

16 **VIOLATIONS OF THE TELEMARKETING SALES RULE**

17 20. In numerous instances, in connection with telemarketing, Defendants engaged  
18 in or caused a telemarketer to engage in initiating an outbound telephone call to a  
19 person's telephone number on the National Do Not Call Registry in violation of the  
20 TSR, 16 C.F.R. § 310.4(b)(1)(iii)(B).

21 **CONSUMER INJURY**

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

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

26 22. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant  
27 injunctive and other ancillary relief to prevent and remedy any violation of any

1 provision of law enforced by the FTC.

2 23. Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. § 45(m)(1)(A), as modified by  
3 Section 4 of the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C.  
4 § 2461, as amended, and as implemented by 16 C.F.R. § 1.98(d) (2007), authorizes  
5 this Court to award monetary civil penalties of not more than \$11,000 for each  
6 violation of the TSR. Defendants' violations of the TSR were committed with the  
7 knowledge required by Section 5(m)(1)(A) of the FTC Act, 15 U.S.C. §  
8 45(m)(1)(A).

9 24. This Court, in the exercise of its equitable jurisdiction, may award ancillary  
10 relief to remedy injury caused by Defendants' violations of the Rule and the FTC  
11 Act.

12 **PRAYER FOR RELIEF**

13 WHEREFORE, Plaintiff requests that this Court, as authorized by Sections  
14 5(a), 5(m)(1)(A), 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 45(a), 45(m)(1)(A),  
15 53(b) and 57b, and pursuant to its own equitable powers:

- 16 1. Enter judgment against Defendants and in favor of Plaintiff for each violation
- 17 alleged in this complaint;
- 18 2. Award Plaintiff, the United States of America, monetary civil penalties from
- 19 Defendants for every violation of the TSR;
- 20 3. Permanently enjoin Defendants from violating the TSR and the FTC Act;
- 21 4. Order Defendants to pay the costs of this action; and

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1 5. Award Plaintiff such other and additional relief as the Court may determine to be  
2 just and proper.

3 Dated: \_\_\_\_\_ July, 10, 2008

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Respectfully submitted,

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OF COUNSEL:

FOR THE UNITED STATES OF  
AMERICA:

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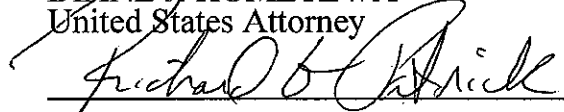
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