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**EXEMPT FROM FILING FEES PURSUANT
TO GOVERNMENT CODE § 6103**

Attorneys for Plaintiff, the People of the State of California

**IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES**

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiffs,

v.

YOURTRAVELBIZ.COM, aka YTB.COM, a
Delaware corporation; YTB TRAVEL NETWORK,
INC., a Delaware corporation; YTB TRAVEL
NETWORK OF ILLINOIS, INC., an Illinois
corporation; J. LLOYD TOMER, an individual, J.
SCOTT TOMER, an individual, J. KIM SORENSEN,
an individual; ANDREW CAUTHEN, an individual;
and DOES 1-100, INCLUSIVE,

Defendants.

Case No.:

COMPLAINT FOR PERMANENT
INJUNCTION, CIVIL PENALTIES,
RESTITUTION AND OTHER
EQUITABLE RELIEF.

VERIFIED ANSWER REQUIRED
PURSUANT TO CALIFORNIA
CODE OF CIVIL PROCEDURE
SECTION 446

1 The People of the State of California allege on information and belief as follows:

2 **INTRODUCTION**

3 1. Defendants operate an unlawful endless chain scheme (pyramid scheme) that
4 relies on untrue and misleading representations and unlawful, unfair, and fraudulent business
5 practices that include violations of laws regulating the sale of seller assisted marketing plans,
6 franchises, and travel discount plans.

7 2. While Defendants purport to be in the business of selling travel, their real
8 business is the operation of a pyramid scheme that relies on the sale of essentially worthless
9 websites they refer to as “online travel agencies.” For the opportunity to own and operate an
10 online travel agency, consumers pay Defendants over \$1,000 per year.

11 3. To entice consumers to participate in their scheme, Defendants make untrue or
12 misleading claims that consumers can become millionaires and receive special travel discounts
13 offered only to professional travel agents. However, in 2007, consumers paid over \$103 million
14 to Defendants for websites, but made only \$13 million in travel commissions in a business
15 Defendants advertised as the “easiest way to make money” and earn “serious income” without
16 any selling. Of the more than 200,000 consumers who purchased or maintained Defendants’
17 websites during 2007, 62% failed to earn a single travel commission -- not even on their own
18 personal travel. The typical participant made no money on the sale of travel. Furthermore, the
19 typical annual travel commission earned was less than the cost of just one month for a consumer
20 to maintain his or her website. Even among those California residents who participated in
21 Defendants’ program for at least one year from April 1, 2006 to March 31, 2007, and who paid
22 Defendants at least \$1,000, 45 percent did not sell any travel and 61 percent made less income
23 on the sale of travel than the cost of one month’s use of their website.

24 4. While the vast majority of consumers made nothing selling travel, Defendants
25 generated 73% of their net revenue of over \$141 million dollars from the sale of websites and
26 monthly fees. Another 10% was generated through the sale to consumers of training and
27 marketing materials. Only 14.5% of Defendants’ net revenue were generated from the sale of
28 travel. In short, Defendants sell an illegal pyramid scheme that uses the minor, incidental sale of

1 travel as a front for their scheme.

2 **JURISDICTION AND VENUE**

3 5. The People are represented by Edmund G. Brown Jr., the Attorney General of the
4 State of California, who is authorized to bring this unfair competition and untrue or misleading
5 advertising action in this court by Business and Professions Code sections 17206 and 17536.

6 6. Venue in this court is proper pursuant to Code of Civil Procedure section 393
7 because the alleged violations occurred in Los Angeles County and throughout the State of
8 California.

9 **DEFENDANTS**

10 7. Defendant YourTravelBiz.com, Inc. (YTB Marketing) sells business
11 opportunities it refers to as “online travel agencies” via a multilevel marketing commission
12 structure. YTB Travel Network, Inc. (YTB Travel) and its subsidiary YTB Travel Network of
13 Illinois, Inc. (YTB Illinois) collect and pay sales and travel commissions. Defendant J. Lloyd
14 “Coach” Tomer is a founder of YTB Marketing, YTB Travel, and YTB Illinois. Defendant J.
15 Scott Tomer is a founder of the corporate defendants and the former chief executive officer of
16 YTB Marketing. Defendant J. Kim Sorensen is a founder of the corporate defendants and
17 President of YTB Travel. Defendant Andrew Cauthen is the President and chief executive
18 officer of YTB Marketing.

19 8. Plaintiff is unaware of the true names and capacities of the defendants sued herein
20 as DOES 1 through 100, inclusive, and therefore, pursuant to section 474 of the Code of Civil
21 Procedure, sues these defendants by such fictitious names. Defendants DOES 1 through 100 are
22 responsible in some manner for the activities alleged herein and each was acting as an agent for
23 the others. The People will amend this Complaint to add the true names of DOES 1 through 100
24 once they are ascertained. Whenever reference is made to Defendants, such reference shall
25 include all defendants including DOES 1 through 100.

26 9. At all relevant times, each of the Defendants acted as a principal, agent,
27 representative, or employee of each of the other Defendants and acted within the course and
28 scope of said agency or representation or employment, and with the permission and ratification

1 of each of the other Defendants.

2 10. At all relevant times, each Defendant knew or realized that the other Defendants
3 were engaging in or planned to engage in the violations of law alleged in this complaint.
4 Knowing or realizing that other Defendants were engaging in such unlawful conduct, each
5 Defendant nevertheless facilitated the commission of those unlawful acts. Each Defendant
6 intended to, and did, encourage, facilitate, or assist in the commission of the unlawful acts, and
7 thereby aided and abetted the other Defendants in the unlawful conduct.

8 11. Defendants have also engaged in a conspiracy, common enterprise, and common
9 course of conduct, the purpose of which is and was to engage in the violations of law alleged in
10 this complaint. The conspiracy, common enterprise, and common course of conduct continue to
11 the present.

12 **FIRST CAUSE OF ACTION**

13 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17200**

14 **(Unfair Competition)**

15 12. Plaintiff realleges and incorporates herein by this reference paragraphs 1 through
16 11, inclusive, as through set forth here in full.

17 13. Defendants have engaged in unlawful, fraudulent, or unfair acts or practices in the
18 conduct of a business, which acts or practices constitute unfair competition within the meaning
19 of Section 17200 of the Business and Professions Code. Defendants' acts or practices include,
20 but are not limited to:

21 a. Defendants operate an illegal endless chain scheme in violation of
22 California Penal Code section 327 in that consumers pay Defendants hundreds and/or
23 thousands of dollars each for online travel agencies and related materials for the chance
24 to receive commissions and bonuses from Defendants as a result of consumers'
25 recruitment of new participants to purchase and sell such online travel agencies.^{1/}

27 1. California Penal Code section 327 defines an "endless chain" as:
28 "[A]ny scheme for the disposal or distribution of property whereby a participant pays a
valuable consideration for the chance to receive compensation for introducing one or more

1 b. Defendants engage in violations of the Seller Assisted Marketing Plan
2 (SAMP) Act², Civil Code section 1812.200 *et seq.*, as set forth below:

3 (1) Defendants charge consumers a total initial payment exceeding
4 \$500 but less than \$50,000, for their own “online travel agency” and represent,
5 explicitly and implicitly, that consumers can earn well in excess of the amount
6 charged by Defendants, and that there is a significant market for the purchase of
7 travel through these online travel agencies.

8 (2) Defendants, in violation of Civil Code section 1812.203(a), have
9 solicited and sold their SAMP to California residents, and advertised and made
10 representations about Defendants’ SAMP without first having obtained a “Notice
11 of Filing” from the Attorney General.

12 (3) Defendants, in violation of Civil Code sections 1812.205 and
13 1812.206, have failed to provide required disclosures for SAMPs.

14 (4) Defendants’ contracts, in violation of Civil Code section 1812.207,
15 provide that Illinois law, not California law, governs Defendants’ SAMP sold to
16 California residents.

17 (5) Defendants, in violation of Civil Code section 1812.209

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19 additional persons into participation in the scheme or for the chance to receive compensation
20 when a person introduced by the participant introduces a new participant.”

21 2. California Civil Code section 1812.201(a), in pertinent part, defines a SAMP as:
22 “[A]ny sale or lease or offer to sell or lease any product, equipment, supplies, or services that
23 requires a total initial payment exceeding five hundred dollars (\$500), but requires an initial cash
24 payment of less than fifty thousand dollars (\$50,000), that will aid a purchaser or will be used by
25 or on behalf of the purchaser in connection with or incidental to beginning, maintaining, or
operating a business when the seller assisted marketing plan seller has advertised or in any other
26 manner solicited the purchase or lease of the seller assisted marketing plan and done any of the
27 following acts:

28 “(1) Represented that the purchaser will earn, is likely to earn, or can earn an
amount in excess of the initial payment paid by the purchaser for participation in the
seller assisted marketing plan.

 “(2) Represented that there is a market for the product, equipment, supplies, or
services . . . sold or leased or offered for sale or lease to the purchaser by the seller
assisted marketing plan seller....”

1 subsections (a), (c), (d), (e), (h), and (i), fail to include required terms in their
2 contract.

3 c. Defendants, in violation of Corporations Code Section 31110^{3/}, sell an
4 online travel agency franchise without having registered the offering with the Department
5 of Corporations.

6 d. Defendants operate a “travel card mill” to permit and encourage
7 consumers to hold themselves out as sellers of travel through the use of credentials
8 purporting to identify them as professional travel agents who sell travel and are thus
9 eligible for discounts, upgrades, or other courtesies.

10 e. Defendants, in violation of Business and Professions Code section
11 17550.26, sell a Travel Discount Business Program to consumers ineligible to join and
12 without making required disclosures.

13 f. Defendants, in violation of California Business and Professions Code
14 section 17550.27, sell a Travel Discount Program that illegally requires an annual charge
15 in excess of \$150 and that fails to provide purchasers their right of cancellation.

16 g. Defendants, in violation of California Business and Professions Code
17 section 17500 *et seq.*, make untrue or misleading representations and fail to make
18 material disclosures.

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23 3. Corporations Code section 31005 defines a “Franchise” as a contract or agreement by
24 which:

- 25 “(1) A franchisee is granted the right to engage in the business of offering,
26 selling or distributing goods or services under a marketing plan or system prescribed in
27 substantial part by a franchisor;
28 (2) The operation of the franchisee’s business pursuant to such plan or system
is substantially associated with the franchisor’s trademark, service mark, trade name,
logotype, advertising or other commercial symbol designating the franchisor or its
affiliate; and
(3) The franchisee is required to pay, directly or indirectly, a franchise fee.

1 **SECOND CAUSE OF ACTION**

2 **VIOLATIONS OF BUSINESS AND PROFESSIONS CODE SECTION 17500**

3 **(Untrue or False Advertising)**

4 14. Plaintiff realleges and incorporates herein by this reference paragraphs 1 through
5 13, inclusive, as though set forth here in full.

6 15. Defendants, with the intent to induce members of the public to purchase their
7 products and services, have made and caused to be made representations concerning the products
8 and services and concerning circumstances and matters of fact connected with the proposed
9 performance or disposition thereof, which Defendants knew, or by the exercise of reasonable
10 care should have known, were untrue or misleading at the time they were made. Such
11 misrepresentations include, but are not limited to, the following:

12 a. Purchasers of Defendants' business opportunity will easily make hundreds
13 or thousands of dollars in travel commissions with little or no selling, when in fact only a
14 tiny fraction of their consumers actually earn enough money to offset the required fees;

15 b. Sale of travel to friends and family alone will earn consumers travel
16 commissions of hundreds or thousands of dollars, when in fact the median annual travel
17 commission actually earned is \$0;

18 c. Minimal effort by the consumer will earn thousands of dollars in travel
19 commissions and increased effort by the consumer can earn \$5,000 to \$10,000 in travel
20 when in fact almost no consumers manage to earn such amounts through the sale of
21 travel;

22 d. Using examples of large travel sales commissions and earnings to induce
23 consumers to believe they can earn significant income through the sale of travel, when in
24 fact the typical consumer sells no travel in a 12-month period and earns nothing from the
25 sale of travel;

26 e. Referring travel agents will receive valuable travel discounts worth
27 hundreds or thousands of dollars, when in fact many vendors and suppliers refuse to
28 honor Defendants' travel credentials;

1 f. The financial benefits of Defendants' business opportunity will easily
2 offset the cost of the fees consumers pay, when in fact the vast majority of consumers
3 lose money;

4 g. Defendants operate a legitimate business, when in fact it is an illegal
5 pyramid scheme; and

6 h. Consumers are guaranteed substantial earnings if they purchase certain
7 marketing materials from Defendants, when in fact few consumers earn a profit and the
8 vast majority lose money to Defendants.

9 i. Defendants' business has experienced "spectacular" growth and will
10 continue to grow, when in fact the attrition rate of participants is extraordinarily high,
11 and as with all pyramid schemes, the advertised growth is unsustainable.

12 j. Defendants have sold millions of dollars of travel, when in fact much of
13 their travel sales is their own participants' personal travel or travel sold to other
14 participants in their endless chain scheme.

15 **PRAYER FOR RELIEF**

16 WHEREFORE, the People pray for judgment as follows:

17 1. Pursuant to Business and Professions Code sections 17203 and 17535, that all
18 Defendants, their successors, agents, representatives, employees, and all persons who act in
19 concert with them be permanently enjoined from making any untrue or misleading statements or
20 committing any acts of unfair competition;

21 2. Pursuant to Business and Professions Code sections 17206 and 17536, that the
22 Court assess a civil penalty of \$2,500 against each Defendant for each violation of Business and
23 Professions Code sections 17200 and 17500 alleged in the Complaint, in an amount of at least
24 \$15,000,000;

25 3. Pursuant to Business and Professions Code sections 17203 and 17535, that
26 Defendants be ordered to give full restitution to all California consumers who purchased their
27 SAMP or franchise in a total amount of at least \$10,000,000;

28 4. For such other and further relief the Court deems just and proper; and

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5. That the People recover their costs of suit.

DATED: August ____, 2008

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ALBERT NORMAN SHELDEN
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