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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA

12 AKI BERRY, CHERYL HAYTON,)
13 TIFFANY SCHEFFER,)

14 Plaintiffs,)

15 vs.)

16 LULAROE, LLC d/b/a LuLaRoe, a)
17 California Limited Liability Company,)
18 LLR, Inc., a Wyoming Corporation, and)
19 DOES 1 through 100, inclusive,)

20 Defendants.)

Case No.:

CLASS ACTION COMPLAINT AND
DEMAND FOR JURY TRIAL

**1. Endless Chain Scheme; California
Penal Code §327and California Civil
Code § 1689.2**

2. RICO 18 U.S.C. § 1962(a)

3. RICO 18 U.S.C. § 1962(c)

4. RICO 18 U.S.C. § 1962(d)

**5. Unfair and Deceptive Practices Claims
Under Cal. Bus. & Prof. Code § 17200, et
seq.**

**6. False Advertising California Business
and Professions Code § 17500, et seq.**

23 1. Plaintiffs Aki Berry, Tiffany Scheffer, and Cheryl Hayton bring this class action
24 lawsuit on behalf of themselves and on behalf of all persons who were LuLaRoe consultants
25 from 2013 until present under California’s Endless Chain Scheme Law (California’s Penal Code
26 § 327 and California Civil Code § 1689.2), the Racketeer Influenced and Corrupt Organizations
27 Act, 18 U.S.C. § 1961 et seq.; California’s Unfair Competition Law (Business and Professions
28 Code Section 17200 et seq.), False Advertising (Business and Professions Code § 17500) against

1 Defendant Lularoe, LLC d/b/a LuLaRoe, a California Limited Liability Company, Defendant
2 LLR, Inc., a Wyoming Corporation, and DOES 1-100 (collectively “Defendants”) for the
3 operation and promotion of an inherently fraudulent pyramid scheme and/or endless chain
4 scheme.

5 2. Plaintiffs were unknowingly recruited into Defendants’ pyramid scheme through
6 manipulation and misinformation. Recruits were told that the opportunity entailed “part-time
7 work for full time pay.” This was not the case. Once consultants signed up, they were pressured
8 to invest and reinvest by purchasing Defendants’ clothing products – regardless of whether they
9 were able to sell their inventory. Plaintiffs were inundated with the slogan “buy more sell more”
10 and were told they would recoup their investments through retail sales and recruitment.
11 Plaintiffs and tens of thousands of other consultants never even made a profit – they were duped
12 by Defendants’ endless chain scheme that only profited a few and only made payments to
13 consultants based on how much product those consultants and their recruits purchased on a
14 regular basis.

15 3. Defendants allowed their scheme to grow at an exponential rate such that it
16 peaked and began to implode within a few short years. Defendants achieved such rapid growth
17 by enticing consultants with social media posts boasting large bonus checks and other lavish
18 material possessions, which were “because of LLR.” Consultants were told they could “attain
19 financial freedom” by recruiting others to become retail consultants for Defendants’ “business”
20 and by having those consultants purchase (and continue to purchase) inventory from Defendants.
21 Plaintiffs and tens of thousands of other consultants were told they could attain such financial
22 freedom as long as they (and the recruited consultants beneath them) continued to buy inventory
23 from Defendants. None of Defendants’ bonus payments to their consultants depended upon an
24 actual sale to a consumer - the checks were solely based on inventory purchased by consultants.

25 4. Believing Defendants’ representations, and not realizing they were being pulled
26 into an endless chain scheme, Plaintiffs and a vast multitude of other consultants signed
27 agreements with Defendants to become LuLaRoe consultants. Each sent in many thousands of
28 dollars to purchase Defendants products and were pressured to ask others to do the same.

1 10. Plaintiff Cheryl Hayton is and at all relevant times was an individual who resides
2 in Sacramento County, California. Plaintiff Cheryl Hayton entered into a LLR, Inc. Independent
3 Consultant Program Application and Agreement with Defendants and became a LuLaRoe
4 consultant in or about April 2016.

5 11. Defendant Lularoe, LLC d/b/a LuLaRoe is and at all material times was a
6 California Limited Liability Company located at 1375 Sampson Avenue in Corona, California.

7 12. Defendant LLR, Inc. is and at all material times was a Wyoming Corporation with
8 its principal place of business located at 416 Double Eagle Ranch Road, Thayne, Wyoming
9 83127.

10 13. The true names and capacities of Defendants sued herein as DOES 1 through 100,
11 inclusive, are currently unknown to Plaintiffs, who therefore sue such Defendants by such
12 fictitious names. Each of the Defendants designated herein as a DOE is legally responsible in
13 some manner for the unlawful acts referred to herein. Plaintiffs will seek leave of Court to
14 amend this Complaint to reflect the true names and capacities of the Defendants designated
15 herein as DOES when such identities become known.

16 14. DOES 1-50 were at all relevant times, primary beneficiaries and promoters of the
17 LuLaRoe pyramid and/or endless chain scheme.

18 15. Based upon information and belief, it is alleged that at all times mentioned herein,
19 each and every Defendant and DOE was acting as an agent and/or employee and/or joint venture
20 and/or co-conspirator of each of the other Defendants and DOES, and at all times mentioned was
21 acting within the course and scope of said agency and/or employment and/or joint venture and/or
22 conspiracy with the full knowledge, permission, consent and ratification of each of the other
23 Defendants and DOES. In of addition, each of the acts and/or omissions of each Defendant and
24 DOE alleged herein were made known to, and ratified by, each of the other Defendants and
25 DOES.

26 **JURISDICTION AND VENUE**

27 16. The Court has jurisdiction under the Class Action Fairness Act of 2005, 28 U.S.C.
28 §1332(d)(2), because the suit is a class action, the parties are minimally diverse, and the amount

1 in controversy exceeds \$5,000,000, excluding interest and costs. The Court has supplemental
2 jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. §1367(a).

3 17. This Court has personal jurisdiction over Defendants, because Defendant Lularoe,
4 LLC d/b/a LuLaRoe is headquartered in this District; Defendants do a substantial amount of
5 business in California, including in this District; are authorized to conduct business in California,
6 including in this District; and have intentionally availed themselves of the laws and markets of
7 this District through the promotion, sale, marketing, and/or distribution of their products and
8 services.

9 18. Venue is proper in this district under 28 U.S.C. §1391(a)(1) and (a)(2) because a
10 substantial part of the events or omissions giving rise to this claim occurred in this district.
11 Venue is also proper under 18 U.S.C. §1965(a), because Defendants transact a substantial
12 amount of its business in this District and have a law and forum selection clause in certain of its
13 "LuLaRoe Independent Consultant Program Application and Agreement[s]" which selects the
14 Central District of California as the venue.

15 THE LAW AGAINST PYRAMID SCHEMES

16 19. In *Webster v. Omnitrition Int'l, Inc.*, the Ninth Circuit adopted the "Koscot test"
17 for determining what constitutes a pyramid scheme:

18 Pyramid schemes are "[s]uch contrivances. . . characterized by the
19 payment by participants of money to the company in return for
20 which they receive (1) the right to sell a product and (2) the right
21 to receive in return for recruiting other participants into the
22 program rewards which are unrelated to sale of the product to
23 ultimate users."

24 *Webster v. Omnitrition Int'l, Inc.*, 79 F.3d 776, 781 (9th Cir. 1996) ("*Omnitrition*") quoting *In re*
25 *Koscot Interplanetary, Inc.*, 86 F.T.C. 1106, 1181 (1975), aff'd mem. sub nom. ("*Koscot*").

26 20. The second element of the *Koscot* test is the determining element for a pyramid
27 scheme:

28 The satisfaction of the second element of the *Koscot* test is the *sine*
qua non of a pyramid scheme: "As is apparent, the presence of this
second element, recruitment with rewards unrelated to product
sales, is nothing more than an elaborate chain letter device in
which individuals who pay a valuable consideration with the

1 expectation of recouping it to some degree via recruitment are
2 bound to be disappointed.”

3 Omnitrition, 79 F.3d at 782. The Ninth Circuit held that “the operation of a pyramid scheme
4 constitutes fraud for purposes of several federal antifraud statutes.” *Id.*

5 21. A multi-level sales organization where members obtain monetary benefits
6 primarily from the recruitment of new members rather than from selling goods to bona fide
7 consumers is an endless chain scheme. Endless chain schemes are inherently deceptive because
8 most participants are doomed to failure, even if some retail sales occur:

9 “The promise of lucrative rewards for recruiting others tends to
10 induce participants to focus on the recruitment side of the business
11 at the expense of their retail marketing efforts, making it unlikely
12 that meaningful opportunities for retail sales will occur.” Thus, the
13 fact that some retail sales occur does not mitigate the unlawful
14 nature of the overall arrangement.

15 *Omnitrition*, 79 F.3d at 782, citing *In re Ger-Ro-Mar Inc.*, 84 F.T.C. 95, 148-49 (1974), rev’d on
16 other grounds, 518 F.2d 33 (2d Cir. 1975).

17 22. “Like chain letters, pyramid schemes may make money for those at the top of the
18 chain or pyramid, but ‘must end up disappointing those at the bottom who can find no recruits.’”
19 *Omnitrition*, 79 F.3d at 781 (quoting *Koscot*, 86 F.T.C. 1106, 1181 (1975), aff’d mem. sub nom.,
20 *Turner v. F.T.C.*, 580 F.2d 701 (D.C. Cir. 1978)).

21 23. Endless chain schemes are inherently fraudulent by nature because the futility of
22 the plan is not apparent to the participant:

23 Misrepresentations, knowledge and intent follow from the
24 inherently fraudulent nature of a pyramia scheme as a matter of
25 law. As to justifiable reliance, the very reasons for the per se
26 illegality of Endless Chain schemes is their inherent deceptiveness
27 and the fact that the “futility” of the plan is not “apparent to the
28 consumer participant.”

Omnitrition, 79 .3d at 788 (citations omitted).

24 24. Section 327 of the California Penal Code prohibits endless chains:

25 Every person who contrives, prepares, sets up, proposes, or
26 operates any endless chain is guilty of a public offense, and is
27 punishable by imprisonment in the county jail not exceeding one
28 year or in state prison for 16 months, two, or three years.

1 As used in this section, an “endless chain” means any scheme for
2 the disposal or distribution of property whereby a participant pays
3 a valuable consideration for the chance to receive compensation
4 for introducing one or more additional persons into participation in
5 the scheme or for the chance to receive compensation when a
6 person introduced by the participant introduces a new participant.

7 Compensation as used in this section, does not mean or include
8 payment based upon sales made to persons who are not
9 participants in the scheme and who are not purchasing in order to
10 participate in the scheme.

11 25. Section 1689.2 of the California Civil Code provides:

12 A participant in an endless chain scheme, as defined in Section 327
13 of the Penal Code, may rescind the contract upon which the
14 scheme is based, and may recover all consideration paid pursuant
15 to the scheme, less any amounts paid or consideration provided to
16 the participant pursuant to the scheme.

17 **FACTUAL ALLEGATIONS DEMONSTRATING LULAROE’S SCHEME**

18 26. The LuLaRoe brand was created in 2012 by Deanne Brady and her husband Mark
19 Stidham, and is currently based in Corona, California. In 2013 the company grew to 10
20 employees, 145 distributors, and \$3 million in sales.

21 27. Defendants, among other things, advertise, market, manufacture, distribute, and
22 sell LuLaRoe brand clothing which includes shirts, dresses, skirts, leggings and other clothing
23 products through a chain of independent distributors (referred to as “consultants”) who are
24 expected to continuously purchase the clothing. Defendants provide compensation to consultants
25 through bonuses payments that are based on that consultant’s recruitment of additional
26 consultants who are also expected to make continuous purchases and so on and so on.

27 28. After commencing the scheme in 2013, LuLaRoe continued to grow
28 exponentially by aggressively recruiting consultants to sell products directly, often through
social media. LuLaRoe reported sales of approximately \$1 billion in 2016. By 2017, there were
approximately 80,000 LuLaRoe consultants.

29 29. LuLaRoe sets forth the following message at its website “www.lularoe.com” in
the section entitled “Join the Movement”:

Becoming a LuLaRoe Fashion Retailer can provide you
opportunity to have the means, the time, and the flexibility to

1 pursue your passions and to more fully enjoy the company of those
2 you love. It can be the way by which you overcome a set back or
3 finally get beyond “just making ends meet.” It can restore or
4 improve confidence in both your appearance and your abilities and
5 it will provide immense satisfaction as you help others to find such
6 confidence in themselves. As a LuLaRoe Retailer you will become
7 part of a team of driven individuals who are writing their own
8 stories. They are enjoying their work. They are building new
9 relationships with positive and successful people. They are
10 becoming more confident, empowered individuals. They are
11 making significant income all by scheduling and co-hosting
12 LuLaRoe Pop-Up Boutiques. And you can, too.

13 There is also a link on the page which purports to reveal a “retailer map;” however, as of
14 October 2017, the link suspiciously produced the following message:

15 We couldn't find the page you were looking for. This is either
16 because:

17 •There is an error in the URL entered into your web browser.
18 Please check the URL and try again.

19 •The page you are looking for has been moved or deleted.

20 You can return to our homepage by clicking here, or you can try
21 searching for the content you are seeking by clicking here.

22 Thus, the number of consultants is concealed.

23 30. LuLaRoe clothing can only be purchased through consultants. The consultants
24 are required to purchase an initial inventory (as well as required to consistently replenish
25 inventory) directly from LuLaRoe. Consultants are required to resell the items for
26 approximately a 40% markup and are generally forbidden to advertise lower prices. LuLaRoe
27 consultants are required to purchase an initial inventory of clothing and marketing materials
28 which cost between \$4,925 and \$9,000. Consultants are also encouraged to buy business cards,
advertising materials, hangers, storage, website programs, etc. to support their “business.”

31. LuLaRoe consultants have zero control or choice regarding what patterns are on
the fabric of products shipped to them from Defendants when ordering their inventories. They
receive whatever patterns Defendants decide to send them. Presumably, this is because the end
goal for Defendants was never primarily about sales to consumers. In fact, as the number of

1 consultants purchasing inventory continued to grow exponentially, the quality of the LuLaRoe
2 products and patterns deteriorated significantly.

3 32. When consultants would receive obvious pattern defects (mismatched seams,
4 upside down patterns, mismatch leg lengths, etc.), the consultants would not be permitted to
5 return those items as “defects.” Instead, the consultants were told things like “it’s part of the
6 charm” and “everything sells.” Such products would simply pile up in the consultants inventory.

7 33. Consultants are told they can make money in two ways: 1. by recouping from
8 consumers the money they spent ordering the LuLaRoe clothing from Defendants via sales
9 (“also known as pop up parties”), and 2. by way of bonuses (commission) based on the
10 inventory purchased from LuLaRoe by the consultants “down line.” A consultant’s “down line”
11 is comprised of the individuals the consultant recruits (as consultant) to purchase inventory.

12 34. The LuLaRoe bonuses (the commission payments) and purchasing large
13 quantities of inventory are the primary way consultants are told they can make money. The
14 Leadership Bonus Plan includes that “Retention [of consultants] will be driven by creating an
15 emotional, as well as financial, tie to LuLaRoe.” To strengthen such ties, Defendants exerted
16 control over the consultants by disallowing criticisms and/or public speech about any negative
17 experiences through non-disparagement and indemnification clauses. Specifically, the non-
18 disparagement clause stated that “negative comments. . .serve no purpose other than to sour the
19 enthusiasm of other LLR Independent Fashion Consultants.” Moreover, consultants were
20 contractually forbidden - via a three-year, nationwide non-competition clause - from recruiting
21 any LuLaRoe consultants to “for another direct selling, MLM, or network marketing business.”

22 35. In other words, Defendants make profits *not* from their consultants sales to
23 consumers, but solely from the purchase of inventory by consultants. Consultants are pressured
24 to recruit and create a “downline.” Those consultants with a “down line” are paid bonuses not
25 by the actual number of LuLaRoe items sold, if any, by their “down line” consultants, but by
26 their *inventory purchases* from LuLaRoe.

27 36. There are different levels of bonus payments depending on how many new
28 consultants are recruited into a consultant’s downline. Those levels include Sponsor, Trainer,

1 Coach, and Mentor. At each level, the amount of inventory that a consultant is responsible for
2 ensuring is purchased from LulaRoe (by her down line) increases and the pressure to do
3 whatever it takes to make the inventory purchase goals intensifies.

4 37. This is because consultants with a downline can only receive bonus payments if
5 everyone in their downline continues to repeatedly buy inventory from LulaRoe. Actual sales of
6 the product to consumers is not a factor. For example, LulaRoe's Leadership Bonus plan from
7 2014 states:

8 Any Fashion Consultant may sponsor other people into the
9 business, however, in order to receive a bonus on the Personal
10 Volume of those you sponsored you must order and pay for 175
11 pieces in the calendar month for which the bonus is calculated.

12 ***

13 A Trainer must qualify with 250 pieces (100 of which must be
14 generated by their personal orders), at least three Personally
15 Sponsored Fashion Consultants, with a total of ten Fashion
16 Consultants in their team and 1,750 Total Group pieces ordered
17 and paid for. As a Trainer you may earn qualification points by
18 helping your Personally Sponsored Fashion Consultants order and
19 pay for 175 pieces for the month. For each Personally Sponsored
20 Fashion Consultant who orders and pays for 175 pieces, the
21 Trainer's personal qualification requirement will be reduced by 50
22 pieces. For example, a Trainer who has three Personally
23 Sponsored Fashion Consultants who order and pay for 175 items
24 each, will earn 150 pieces towards their total and must then order
25 and pay for at least 100 personal pieces to qualify for the Trainer
26 Bonus. Your own pieces do not count towards the Group Piece
27 total. The trainer's personal qualification requirement will be
28 reduced by 50 pieces.

38. In order to drive money up the pyramid, the consultants are intensely pressured by
their up line to buy more inventory with any money they recoup from their initial investment for
at least their first year of selling LuLaRoe products. In fact, consultants are instructed to keep
around \$20,000 worth of inventory on hand, and are inundated with the phrase "buy more, sell
more." These incentives mean new consultants (at the bottom of the pyramid and in over
saturated markets) are aggressively pressured to continue purchasing wholesale inventory even
when the inventory they have is not selling, is unlikely to sell, or is piling up in their garage.

1 39. When consultants could not afford to purchase inventory, Defendants and their
2 representatives encouraged them to borrow money, get loans, take out credit cards, and some
3 were even asked to sell their breast milk to attain funds to purchase inventory.

4 40. Defendants created incentives and challenges to the consultants to recruit and to
5 purchase more and more inventory. Defendants would entice consultants by awarding prizes
6 (for example, pre-paid cruises and designer purses) to consultants who purchased the most
7 inventory – *regardless* of their actual sales to consumers.

8 41. One incentive offered by Defendants was for a cruise that took place in February
9 2015. To qualify for the cruise the consultants were told:

10 Remember you ONLY have to order 400 pieces a month for four
11 consecutive months to qualify!!

12 ***

13 As a Leader and Fashion Consultant in the business, please do all
14 you can to uplift and support your group to get on the cruise.

15 42. Consultants were further misled, as Defendants and its representatives directed
16 certain consultants to post images of themselves on social media flaunting new designer purses,
17 cars, homes, and other purported evidence of their success with the hashtag “#becauseofLLR.”
18 Those individuals posted pictures of large bonus checks. (i.e. \$30,000, \$100,000 etc.) Such
19 postings were blatantly geared toward recruitment and not actual sales of the product.

20 43. While retail sales did occur, Defendant’s illegal business model was not
21 dependent on any actual sales. Defendants’ predominant and aggressive focus of attaining its
22 revenue based solely on the purchase of inventory by consultants (rather than their sales) and by
23 conditioning the bonuses paid to consultants on minimum inventory purchases (for both the
24 consultant and their downline), the vast majority of consultants sitting at the bottom of
25 Defendants’ pyramid were and remain destined for failure and unable to turn any profit. Some
26 resulted in financial ruin due to the pressure to max out credit cards and to take loans to purchase
27 inventory.

28 **PLAINTIFFS’ INDIVIDUAL ALLEGATIONS**

A. Plaintiff Aki Berry

1 44. Plaintiff Aki Berry signed up to purchase LuLaRoe products in October 2015 and
2 invested approximately \$5,500. She then spent additional monies on supplies, including but not
3 limited to hangers, portable clothing racks, shipping supplies, shipping program, scales, etc.

4 45. Plaintiff Berry pulled money from her savings and investments to become a
5 consultant. Plaintiff Berry was told by Defendants and its representatives that the company was
6 not a pyramid scheme.

7 46. Plaintiff Berry was not able to choose the patterns that would appear on the
8 clothing products / inventory she purchased from Defendants. She received whatever patterns
9 Defendants chose to send her. This practice left her with a significant amount of inventory that
10 she was unable to sell to consumers.

11 47. Plaintiff Berry was told by Defendants that she would make her investment back
12 within a few weeks to a month. She was also instructed to consistently purchase new inventory
13 because “the more you buy, the more you sell.” She was pressured by Defendants and its
14 representatives to purchase inventory weekly and to use any money she obtained from selling the
15 products to purchase more inventory.

16 48. Oftentimes, Plaintiff Berry would be presented with challenges or incentives that
17 would provide prizes to consultants, for example, who purchased the most inventory in a
18 particular period or, as another example, who purchased more inventory than they had purchased
19 the previous week. Plaintiff Berry was also aware that cruises were being offered to consultants
20 who purchased the most inventory.

21 49. Plaintiff Berry is not aware of any challenges, prizes, or incentives presented to
22 consultants for actually selling any inventory to consumers.

23 50. Plaintiff Berry saw a plethora of recruitment videos and postings by Defendants
24 and their representatives online. Those videos represented that consultants could make
25 significant income by recruiting consultants and continuing to purchase large amounts of
26 inventory. The consistent theme presented was to buy inventory. Consultants were told that
27 they should have at least 10 items in every size in all styles. This was purportedly the “magic
28 number” of inventory.

1 51. Plaintiff Berry was aware of approximately six individuals in her up-line (but
2 there were likely more), and she recruited approximately 12 other individuals during her time as
3 a consultant. (Only one of which she believes is still a consultant for Defendants.) However,
4 Plaintiff Berry could not make any money off of her recruit's inventory purchases, unless she
5 "qualified" by continuing to purchase more inventory herself. Defendants' pyramid structure
6 encouraged Plaintiff Berry to pressure her recruit to purchase inventory, because the more
7 inventory her recruit purchased, it would decrease the amount of inventory that she (and her
8 upline) would have to purchase to "qualify" for bonuses based on the inventory purchases of the
9 down line.

10 52. Plaintiff Berry faced great challenges selling Defendants' products. The market
11 had simply become too saturated with consultants who were trying to move the inventory they
12 were perpetually purchasing. She resigned in or about June of 2017.

13 53. Plaintiff Berry had no choice but to quit the company or she would continue to
14 lose money purchasing inventory over which she had no control and could not sell. She was
15 unable to attain a net recovery of her investments in Defendants' products, despite her efforts.

16 **B. Plaintiff Tiffany Scheffer**

17 54. Plaintiff Tiffany Scheffer signed up to purchase LuLaRoe products in or about
18 April of 2016 and invested approximately \$5,900 to purchase her initial inventory. She then
19 spent thousands more on supplies, including but not limited to hangers, portable clothing racks,
20 shipping supplies, shipping program, scales, etc.

21 55. Plaintiff Scheffer pulled money from her savings and investments to become a
22 consultant. Plaintiff Scheffer was told by Defendants and its representatives that the company
23 was not a pyramid scheme.

24 56. Plaintiff Scheffer was not able to choose the patterns that would appear on the
25 clothing products / inventory she purchased from Defendants. She received whatever patterns
26 Defendants chose to send her. This practice left her with a significant amount of inventory that
27 she was unable to sell to consumers.

1 57. Plaintiff Scheffer was told by Defendants that she would make her investment
2 back within the first one to three months, but was instructed to invest any money she made back
3 into purchasing inventory. She was also instructed to consistently purchase new inventory
4 because “the more you buy, the more you sell.” She was pressured by Defendants and its
5 representatives to purchase inventory weekly and to use any money she obtained from selling the
6 products to purchase more inventory.

7 58. Oftentimes, Plaintiff Scheffer would be presented with challenges or incentives
8 that would provide prizes to consultants, for example, who purchased the most inventory in a
9 particular period or, as another example, who purchased more inventory than they had purchased
10 the previous week. Plaintiff Scheffer was also aware that cruises were being offered to
11 consultants who purchased the most inventory.

12 59. Plaintiff Scheffer is not aware of any challenges, prizes, or incentives presented to
13 consultants for actually selling any inventory to consumers.

14 60. Plaintiff Scheffer saw a plethora of recruitment videos and postings by
15 Defendants and their representatives online. Those videos represented that consultants could
16 make significant income by recruiting consultants and continuing to purchase large amounts of
17 inventory. The consistent theme presented was to buy inventory. Consultants were told that
18 they should have at least 10 items in every size in all styles. This was purportedly the “magic
19 number” of inventory.

20 61. Plaintiff Scheffer was aware of approximately six individuals in her up-line (but
21 there were likely more), and she recruited one other consultant, Cheryl Hayton. However,
22 Plaintiff Scheffer could not make any money off of her recruit’s inventory purchases, unless she
23 “qualified” by continuing to purchase more inventory herself. Defendants’ pyramid structure
24 encouraged Plaintiff Scheffer to pressure her recruit to purchase inventory, because the more
25 inventory her recruit purchased, it would decrease the amount of inventory that she (and her
26 upline) would have to purchase to “qualify” for bonuses based on the inventory purchases of the
27 down line.

1 62. Plaintiff Scheffer faced great challenges selling Defendants' products. The
2 market had simply become too saturated with consultants who were trying to move the inventory
3 they were perpetually purchasing. She resigned in or about May 2017.

4 63. Plaintiff Scheffer had no choice but to quit the company or she would continue to
5 lose money purchasing inventory over which she had no control and could not sell. She was
6 unable to attain a net recovery of her investments in Defendants' products, despite her efforts.

7 **C. Plaintiff Cheryl Hayton**

8 64. Plaintiff Cheryl Hayton signed up to purchase LuLaRoe products in or about
9 April of 2016 and invested approximately \$6,000 to purchase her initial inventory. She then
10 spent thousands more on supplies, including but not limited to hangers, portable clothing racks,
11 shipping supplies, shipping program, scales, etc.

12 65. Plaintiff Hayton pulled money from her savings to become a consultant. Plaintiff
13 Hayton was told by Defendants and its representatives that the company was not a pyramid
14 scheme.

15 66. Plaintiff Hayton was not able to choose the patterns that would appear on the
16 clothing products / inventory she purchased from Defendants. She received whatever patterns
17 Defendants chose to send her. This practice left her with a significant amount of inventory that
18 she was unable to sell to consumers.

19 67. Plaintiff Hayton was told by Defendants that she would make her investment back
20 within a few months working part time. She was also instructed to consistently purchase new
21 inventory because "the more you buy, the more you sell." She was pressured by Defendants and
22 its representatives to purchase inventory weekly and to use any money she obtained from selling
23 the products to purchase more inventory.

24 68. Oftentimes, Plaintiff Hayton would be presented with challenges or incentives
25 that would provide prizes to consultants, for example, who purchased the most inventory in a
26 particular period or, as another example, who purchased more inventory than they had purchased
27 the previous week. Plaintiff Hayton was also aware that cruises were being offered to
28 consultants who purchased the most inventory.

1 77. Plaintiffs seek to pursue a private attorney general action for injunctive relief for
2 themselves and all members of the class who agreed to a choice of law of California, and
3 Plaintiffs satisfy the standing and class action requirements.

4 78. The members of the class number are well into the tens of thousands and joinder
5 of all Class Members in a single action is impracticable.

6 79. The members of the class will be easily ascertained because all class members
7 have written contracts with Defendants, which Defendants have preserved.

8 80. There are questions of law and/or fact common to the class and subclass,
9 including but not limited to:

- 10 a. Whether Defendants were (and for how long) or are currently operating an
11 unlawful scheme;
- 12 b. Whether consultants paid money to Defendants for (1) the right to sell a
13 product and (2) the right to receive, in return for recruiting others, rewards
14 which were unrelated to the sale of the product to retail consumers;
- 15 c. Whether consultants were required to make an initial investment;
- 16 d. Whether Defendants had a buy-back rule and enforced it;
- 17 e. Whether Defendants' Sales and Marketing Plan was or is an endless chain
18 under California state law;
- 19 f. Whether Defendants omitted to inform Plaintiffs and the Class Members
20 that they were entering into an illegal scheme where an overwhelming
21 number of participants lose money;
- 22 g. Whether the Statements of Average Gross Compensation distributed by
23 Defendants were deceptive and/or misleading;
- 24 h. Whether Defendants' business model primarily incentivizes the payment
25 of compensation facially unrelated to the sale of the product to ultimate
26 users, because it is paid on the amount of inventory/product purchased by
27 downline consultants rather than on actual sales to consumers;

- 1 i. Whether Defendants engaged in acts of mail and/or wire fraud in direct
- 2 violation of RICO;
- 3 j. To what extent the conduct injured Plaintiffs and the Class Members;
- 4 k. Whether Defendants' conduct constitutes an unlawful, unfair and/or
- 5 deceptive trade practice under California state law;
- 6 l. Whether Defendants' conduct constitutes unfair competition under
- 7 California state law; and
- 8 m. Whether Defendants' conduct constitutes false advertising under
- 9 California state law.

10 81. These and other questions of law and/or fact are common to the class and
11 predominate over any question affecting only individual class members.

12 82. Plaintiffs' claims are typical of the claims of the class in that Plaintiffs' were
13 consultants for Defendants and were unable to earn any profit because of the illegal scheme set
14 forth herein.

15 83. Plaintiffs will fairly and adequately represent the interests of the class.

16 84. Plaintiffs' claims are typical of those of the class. Plaintiffs' interests are fully
17 aligned with those of the class, and Plaintiffs have retained counsel experienced and skilled in
18 complex class action litigation.

19 85. Class action treatment is superior to the alternatives for the fair and efficient
20 adjudication of the controversy alleged, because such treatment will allow many
21 similarly-situated persons to pursue their common claims in a single forum simultaneously,
22 efficiently and without unnecessary duplication of evidence, effort, and expense that numerous
23 individual actions would engender.

24 86. Plaintiffs know of no difficulty likely to be encountered in the management of this
25 case that would preclude its maintenance as a class action.

26 **FIRST CLAIM FOR RELIEF**
27 **(Endless Chain Scheme; California Penal Code §327and California Civil Code § 1689.2)**
28 **[Against All Defendants]**

87. Plaintiffs incorporate all previous allegations as if fully set forth herein.

1 88. California Penal Code § 327 renders endless chain schemes illegal.

2 89. Section 1689.2 of the California Civil Code provides:

3 A participant in an endless chain scheme, as defined in Section 327
4 of the Penal Code, may rescind the contract upon which the
5 scheme is based, and may recover all consideration paid pursuant
to the scheme, less any amounts paid or consideration provided to
the participant pursuant to the scheme.

6 90. Defendants are operating an endless chain scheme.

7 91. Plaintiffs and the Class Members have suffered an injury in fact and have lost
8 money or property as the result of Defendants' business acts, omissions, and practices.

9 92. Plaintiffs and the class are entitled to recover all consideration paid under the
10 scheme, less any amounts paid or consideration provided to the participant under the scheme.

11 **SECOND CLAIM FOR RELIEF**
12 **(RICO 18 U.S.C. § 1962(a))**
13 **[Against All Defendants]**

13 93. Plaintiffs incorporate all previous allegations as if fully set forth herein.

14 94. Violation of California Penal Code §327 is punishable by imprisonment for over
15 one year, violation of California Penal Code §327 can provide the basis for a RICO predicate act
16 of racketeering.

17 95. Defendants and others willfully and intentionally violated and continue to violate
18 RICO and California law with the goal of obtaining money, directly and indirectly, through a
19 pattern of racketeering activities in violation of the mail and wire fraud statutes, 18 U.S.C. §§
20 1341 and 1343, 18 U.S.C. 1962(a), and California Penal Code §327.

21 96. Defendants and are engaged in activities affecting federal interstate and foreign
22 commerce and are entities capable of holding a legal or beneficial interest in property.
23 Defendants are "persons," as that term is defined by 18 U.S.C. §1961(3).

24 97. Defendants make up the "LuLaRoe Enterprise" as an association of entities and
25 individuals associated in fact to operate an illegal pyramid scheme. The LuLaRoe Enterprise is
26 not a legal entity within the meaning of "enterprise" as defined in 18 U.S.C. § 1961(4).
27 Defendants have been members of the LuLaRoe Enterprise from at least May 2013 and
28

1 continuing until the present. Defendants are separate entities from the LuLaRoe Enterprise and
2 play separate and distinct roles in the operation of the LuLaRoe Enterprise.

3 98. From at least 2013 and continuing until the present, within the Central District of
4 California and elsewhere, Defendants, in association with each other did knowingly, willfully
5 and unlawfully conduct and participate, directly and indirectly, in the conduct of the
6 affairs of the LuLaRoe Enterprise through a pattern of racketeering activity.

7 99. From at least 2013 and continuing until the present, Defendants, with each other,
8 executed a *per se* scheme to defraud through a pattern of racketeering made up of distinct acts of
9 mail and wire fraud under 18 U.S.C. §§ 1341 and 1343. Defendants engaged in and affected
10 interstate and foreign trade. Defendants transacted business through the instrumentalities of
11 interstate commerce such as telephones, facsimile machines, the internet, email, and the United
12 States mail and interstate commercial carrier to communicate in furtherance of the activities of
13 the LuLaRoe Enterprise. Defendants advertise, market, and sell products and services
14 throughout the United States. The operation of the enterprise has continued over several years,
15 including activities in every state, and has affected and damaged, and continues to affect and
16 damage, commercial activity.

17 100. To further the goals of the LuLaRoe Enterprise, which were to (1) earn money
18 through fraudulent means, (2) entice individuals to become LuLaRoe consultants, (3) entice
19 consultants to purchase “inventory” from LuLaRoe; (4) entice existing consultants to recruit
20 others to become LuLaRoe consultants and profit off those recruits’ inventory purchases of
21 LuLaRoe products, and (5) reap large profits for themselves based on false representations,
22 Defendants engaged in various forms of illegal activity, including (a) mail fraud, (b) wire fraud,
23 and (c) conspiracy.

24 101. The pattern of racketeering activity alleged is distinct from the LuLaRoe
25 Enterprise. Each act of racketeering activity is distinct from the LuLaRoe Enterprise in that each
26 is a separate offense committed by an entity or individual while the LuLaRoe Enterprise is an
27 association of entities and individuals. The LuLaRoe Enterprise has an ongoing structure and/or
28 organization supported by personnel and/or associates with continuing functions or duties.

1 102. The racketeering acts set out herein, and others, all had the same pattern and
2 similar purpose of defrauding Plaintiffs and the class members for the benefit of the LuLaRoe
3 Enterprise and its members. Each racketeering act was related, had a similar purpose, involved
4 the same or similar participants and methods of commission and had similar results affecting
5 Plaintiffs and the Class Members. The racketeering acts of mail and wire fraud were also related
6 to each other in that they were part of the LuLaRoe Enterprise's goal to fraudulently induce
7 Plaintiffs and the Class Members to join the illegal scheme, purchase products, and recruit others
8 to join the pyramid scheme.

9 103. Defendants' wrongful conduct has been and remains part of LuLaRoe
10 Enterprise's ongoing way of doing business and constitutes a continuing threat. Without the
11 repeated acts of mail and wire fraud, the LuLaRoe Enterprise's fraudulent scheme would not
12 have succeeded.

13 104. Revenue gained from the pattern of racketeering activity, which constitutes a
14 significant portion of the total income of Defendants, was reinvested in the operations of the
15 LuLaRoe Enterprise for the following purposes: (a) to expand the operations of the LuLaRoe
16 Enterprise through additional false and misleading advertising and promotional materials aimed
17 at recruiting new consultants; (b) to facilitate the execution of the illegal scheme; and (c) to
18 convince current consultants to recruit new consultants and purchase LuLaRoe products.

19 105. Plaintiffs and the Class Members were injured by the reinvestment of the
20 racketeering income into the LuLaRoe Enterprise because they invested millions of dollars of
21 their own money through their purchasing of LuLaRoe products, all of which were packaged and
22 shipped throughout the United States.

23 106. In connection with promoting and executing their illegal scheme, members of the
24 LuLaRoe Enterprise knowingly and recklessly placed and caused to be placed in the United
25 States mail or by interstate commercial carrier, or took or received therefrom, matters or things
26 to be sent to or delivered by the United States mail or by interstate commercial carrier
27 comprising, among other things product, invoices, letters, promotional materials, brochures,
28 products and checks to Plaintiffs and Class Members and received communications between and

1 among themselves through the United States mail, in all fifty states and the District of Columbia.
2 It was reasonably foreseeable that these mailings or receipts would take place in furtherance of
3 the fraudulent scheme.

4 107. In connection with promoting and executing their illegal scheme, members of the
5 LuLaRoe Enterprise engaged in wire fraud, in violation of 18 U.S.C. § 1343, by, among other
6 things, knowingly and recklessly transmitting or causing to be transmitted with wire
7 communications, in interstate and foreign trade, materials promoting the illegal LuLaRoe
8 Pyramid on internet web sites, email, facsimile, telephone, and text messages, including
9 promotional materials, registration information, product information, and invoices. Defendants
10 maintain websites and social media profiles on the internet where LuLaRoe consultants can and
11 do buy products and are given inducements to continue working as consultants within the
12 LuLaRoe Pyramid. LuLaRoe maintains various websites hosting promotional videos featuring
13 the promotion of the unlawful scheme and other materials promoting the illegal scheme.
14 LuLaRoe sent and received these interstate wire communications to and from all fifty states and
15 the District of Columbia.

16 108. Each Defendant has promoted the LuLaRoe Pyramid and LuLaRoe Enterprise.
17 Each use of the mail or wire by Defendants was and is done in furtherance of the LuLaRoe
18 Pyramid is an act of racketeering.

19 **THIRD CLAIM FOR RELIEF**
20 **(RICO 18 U.S.C. § 1962(c))**
[Against All Defendants]

21 109. Plaintiffs incorporate all previous allegations as if fully set forth herein.

22 110. Defendants are associated with the LuLaRoe Enterprise. In violation of 18 U.S.C.
23 § 1962(c), Defendants conducted and/or participated in the conduct of the affairs of the LuLaRoe
24 Enterprise, including participation in activities in furtherance of Defendants' fraudulent scheme,
25 through the pattern of racketeering activity earlier alleged.

26 111. As a direct and proximate result of Defendants' violation of 18 U.S.C. § 1962(c),
27 Plaintiffs and the Class Members were induced to, and did, become distributors in the LuLaRoe
28 Pyramid scheme and purchased multi-millions of dollars of the LuLaRoe products and recruited

1 others to do the same. Plaintiffs and the Class Members were injured by Defendants' unlawful
2 conduct. The funds used to buy LuLaRoe products constitute property of Plaintiffs and the Class
3 Members within the meaning of 18 U.S.C. § 1964(c).

4 112. Under 18 U.S.C. § 1964(c), Plaintiffs and the Class Members are entitled to treble
5 their damages, plus interest, costs and attorney's fees.

6 **FOURTH CLAIM FOR RELIEF**
7 **(RICO 18 U.S.C. § 1962(d))**
8 **[Against All Defendants]**

9 113. Plaintiffs incorporate all previous allegations as if fully set forth herein.

10 114. Defendants agreed to work together in a symbiotic relationship to carry on the
11 illegal scheme. Under that agreement, Defendants and others conspired to violate 18 U.S.C. §
12 1962(a) and (c), in violation of 18 U.S.C. § 1962(d).

13 115. As a direct and proximate result of Defendants' violation of 18 U.S.C. § 1962(d),
14 Plaintiffs and the Class Members were injured by Defendants' unlawful conduct. The funds used
15 to buy LuLaRoe products constitute property of Plaintiffs and the Class Members under 18
16 U.S.C. § 1964(c).

17 116. Under 18 U.S.C. § 1964(c), Plaintiffs and the Class Members are entitled to treble
18 their damages, plus interest, costs and attorney's fees.

19 **FIFTH CLAIM FOR RELIEF**
20 **(Unfair and Deceptive Practices Claims Under Cal. Bus. & Prof. Code § 17200, et seq.)**
21 **[Against All Defendants]**

22 117. Plaintiffs incorporate all previous allegations as if fully set forth herein.

23 118. Plaintiffs bring this cause of action on behalf of themselves and on behalf of all
24 other LuLaRoe consultants in the class who signed an agreement with Defendants governed by
25 California law.

26 119. Defendants have engaged in constant and continuous illegal, unfair, and
27 fraudulent business acts or practices, and unfair, deceptive, false and misleading advertising
28 within the meaning of the California Business and Professions Code § 17200, et seq. The acts or
practices alleged constitute a pattern of behavior, pursued as wrongful business practice that has
victimized and continues to victimize thousands of consumers.

1 120. Under California Business and Professions Code § 17200, an “unlawful” business
2 practice violates California law. Defendants’ business practices are illegal because they involve
3 the creation and promotion of an illegal pyramid scheme or “endless chain” under California
4 law. Defendants are engaged in an illegal pyramid scheme or “endless chain” as defined under
5 California Penal Code § 327. Defendants utilize this illegal pyramid scheme with the intent,
6 directly or indirectly to dispose of property, in LuLaRoe products, and to convince distributors to
7 recruit others to do the same.

8 121. Under California Business and Professions Code § 17200, an “unfair” business
9 practice includes a practice that offends an established public policy, or that is immoral,
10 unethical, oppressive, unscrupulous or substantially injurious to consumers. Defendants’
11 promotion and operation of an illegal pyramid scheme is unethical, oppressive, and unscrupulous
12 in that Defendants are duping consumers out of millions of dollars through the illegal pyramid
13 scheme.

14 122. Under California Business and Professions Code § 17200, a “fraudulent” business
15 practice is likely to deceive the public. Defendants’ business practice is fraudulent in that they
16 have deceived and continue to deceive the public by misrepresenting their business. Defendants
17 have made numerous misrepresentations about the income that a consultant can realize by
18 becoming a consultant and participating in the scheme and have failed to inform the public they
19 are operating an illegal pyramid scheme. Plaintiffs and the Class Members have relied, and
20 continue to rely on Defendants’ misrepresentations and omissions to their detriment.

21 123. Because of these unlawful acts, Defendants have reaped and continues to reap
22 unfair benefits and illegal profits at the expenses of Plaintiffs and the Class Members.
23 Defendants should be made to disgorge these ill-gotten gains and return to Plaintiffs and the
24 Class Members the wrongfully taken revenue.

25 124. Defendants’ unlawful, unfair and fraudulent acts and/or omissions will not be
26 completely and finally stopped without orders of an injunctive nature. Under California
27 Business and Professions Code section 17203, Plaintiffs seek a judicial order of an equitable
28 nature against all Defendants, including, but not limited to, an order declaring such practices as

1 complained of to be unlawful, unfair, fraudulent and/or deceptive, and enjoining them from
2 undertaking any further unfair, unlawful, fraudulent and/or deceptive acts or omissions related to
3 operating the illegal pyramid scheme. Plaintiffs also seek restitution, disgorgement, and any
4 other appropriate equitable relief.

5 **SIXTH CLAIM FOR RELIEF**
6 **False Advertising (California Business and Professions Code § 17500, et seq.)**
7 **[Against All Defendants]**

8 125. Plaintiffs incorporate all previous allegations as if fully set forth herein.

9 126. Plaintiffs bring this cause of action on behalf of themselves and on behalf of all
10 other LuLaRoe consultants in the class who signed an agreement with LuLaRoe governed by
11 California law.

12 127. Defendants' business acts, false advertisements and materially misleading
13 omissions constitute unfair trade practices and false advertising, in violation of the California
14 Business and Professions Code § 17500, et seq.

15 128. Defendants engaged in false, unfair and misleading business practices, consisting
16 of false advertising and materially misleading omissions likely to deceive the public and include,
17 but are not limited to:

- 18 a. Defendants failing to disclose to consumers that they were
19 entering into an illegal pyramid scheme;
- 20 b. Defendants misrepresenting the money that a consultant
21 would earn;
- 22 c. Defendants' marketing and promotion of the illegal
23 pyramid scheme constitutes misleading, unfair, and
24 fraudulent advertising in connection with their false
25 advertising to induce consumers to purchase products and
26 join the illegal pyramid scheme. Defendants knew or
27 should have known, in exercising reasonable care, that the
28 statements they were making were untrue or misleading
and deceived members of the public. Defendants knew or
should have known, in exercising reasonable care, that
distributors, including Plaintiffs, would rely, and relied on
Defendants' misrepresentations and omissions.

129. Because of Defendants' untrue and/or misleading representations, Defendants
wrongfully acquired money from Plaintiffs and the Class Members to which it was not entitled.
The Court should order Defendants to disgorge, for the benefit of Plaintiffs and the Class

1 Members their profits and compensation and/or make restitution to Plaintiffs and the Class
2 Members.

3 130. Under California Business and Professions Code section 17535, Plaintiffs and the
4 Class Members seek a judicial order directing Defendants to cease and desist with all false
5 advertising related to the Defendants' illegal pyramid scheme and any such other injunctive
6 relief as the Court finds just and appropriate. Plaintiffs also seek restitution, disgorgement, and
7 any other appropriate equitable relief.

8 **PRAYER FOR RELIEF**

9 The named Plaintiffs and the Class Members request the following relief:

- 10 a. Certification of the class;
- 11 b. A jury trial and judgment against Defendants;
- 12 c. Damages for the financial losses incurred by Plaintiffs and the Class
13 Members because of Defendants' conduct and for injury to their business
14 and property, all because of Defendants' violations of § 1964(a), (c) and
15 (d) and that such sum be trebled under 18 U.S.C. § 1964(c);
- 16 d. Restitution, disgorgement of monies, and any other appropriate equitable
17 relief;
- 18 e. Temporary and permanent injunctive relief enjoining Defendants working
19 in concert from further unfair, unlawful, fraudulent and/or deceptive acts,
20 including, but not limited to, false advertising;
- 21 f. The cost of suit, including reasonable attorneys' fees under 18 U.S.C. 25 §
22 1964(c) and under California Code of Civil Procedure § 1021.5 and
23 otherwise by law;
- 24 g. For general, compensatory and exemplary damages in an amount yet to be
25 ascertained; and

26 //

27 //

28 //

1 h. For such other damages, relief and pre- and post-judgment interest as the
2 Court may deem just and proper.

3 For the purposes of due process and as required by the Federal Rules of Civil Procedure,
4 Plaintiffs and the Class make a demand in this matter, which they set at \$1 Billion. This is
5 understood to be a reservation of rights for default-judgment purposes, and reflects, among other
6 things, that the applicable law allows for disgorgement and restitution. Plaintiffs and the Class
7 highlight that Defendants enrolled at least 80,000 individuals, each of whom paid at least \$5,000
8 to participate in the pyramid scheme, and many of whom thereafter paid repeatedly additional
9 funds to Defendants. This demand may be increased or decreased according to proof in
10 accordance with applicable law.

11 Date: October 23, 2017

CLAYEO C. ARNOLD
A Professional Law Corporation

13 By: /s/ Joshua H. Watson
14 JOSHUA H. WATSON
15 Attorney for Plaintiffs

16 **DEMAND FOR JURY TRIAL**

17 Plaintiffs and the Class demand trial by jury for all claims in which a jury is permitted.
18

19 Date: October 23, 2017

CLAYEO C. ARNOLD
A Professional Law Corporation

21 By: /s/ Joshua H. Watson
22 JOSHUA H. WATSON
23 Attorney for Plaintiffs
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