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**UNITED STATES DISTRICT COURT**

**CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

KATHY WU, an individual, and all  
those similarly situated,

Plaintiff,

v.

SUNRIDER CORPORATION dba  
SUNRIDER INTERNATIONAL, a  
Utah Corporation; TEI-FU CHEN, an  
individual; OI-LIN CHEN, an  
individual; and DOES 1-100;

Defendants.

Case No.

**NOTICE OF REMOVAL**

Action Filed: May 31, 2017

Trial Date: None Set

*[Declaration of Lee S. Brenner  
in Support of Notice of  
Removal and Rule 7.1  
Disclosure Statement and  
Notice of Interested Parties filed  
concurrently herewith]*

**NOTICE OF REMOVAL**

Defendant The Sunrider Corporation (“Sunrider”) respectfully files this Notice of Removal pursuant to 18 U.S.C. § 1441(a), removing the above-captioned action (the “Action”) from the Superior Court for the County of Los Angeles – Central District (the “Los Angeles Superior Court”) to the United States District Court for the Central District of California, on the following grounds:

**I. INTRODUCTION**

1. This action was commenced by plaintiff Kathy Wu (“Plaintiff”) on May 31, 2017, by the filing of the Class-Action Complaint (the “Complaint”) in *Kathy Wu v. Sunrider Corporation dba Sunrider International, et al.*, Case No. BC663303, in the Los Angeles Superior Court. True and correct copies of the Complaint, the summons civil cover sheet, and Notice Re: Court Order Regarding Newly Filed Class Action, which consist of all process, pleadings or orders served upon Defendants, are attached to this Notice of Removal as “Exhibit A” as required by 28 U.S.C. § 1446(a).

2. The Complaint alleges that Sunrider and two of its senior executives, Tei Fu Chen and his wife Oi-Lin Chen, violated the Racketeer Influenced and Corrupt Organizations Act (“RICO”), 18 U.S.C. § 1961 *et seq.*, by “willfully and intentionally violat[ing] and continu[ing] to violate RICO and California law with the goal of obtaining money, directly and indirectly, through a pattern of racketeering activities in violation of the mail and wire fraud statutes, 18 U.S.C. §§ 1341 and 1343, 18 U.S.C. § 1962(a) and California Penal Code § 327.” Comp. ¶¶ 7, 149 (note that there are two paragraphs numbered 149 in the Complaint).

3. Service of the Complaint was made on Sunrider on June 5, 2017.

4. Promptly after filing this Notice of Removal, Defendant will file written notice of the removal to Plaintiff through its attorneys of record in the

1 Action, as well as to the Clerk of the Los Angeles Superior Court, as required  
2 by 28 U.S.C. § 1446(d).

3 5. This Action may be removed to the United States District Court  
4 for the Central District of California on two grounds. First, the Complaint  
5 pleads a federal question and is removable on that basis pursuant to 28 U.S.C.  
6 § 1331 and 18 U.S.C. § 1964. Second, the Action’s claims on behalf of a  
7 putative nationwide class gives rise to jurisdiction pursuant to the Class  
8 Action Fairness Act of 2005 (“CAFA”). *See* 28 U.S.C. § 1332(d).

9 6. No admission of fact, law, liability or damages is intended by this  
10 Notice of Removal, and all defenses, affirmative defenses, objections, and  
11 motions hereby are reserved. Defendant does not waive, and expressly  
12 reserves, all rights, specifically including the rights to challenge: (a) Plaintiff’s  
13 standing, pursuant to Rule 12(b)(1); (b) whether Plaintiff has stated a claim  
14 upon which relief may be granted, pursuant to Rule 12(b)(6); and (c) the  
15 propriety of class certification pursuant to Rule 23.

16 **II. THE NOTICE OF REMOVAL IS TIMELY**

17 7. In accordance with 28 U.S.C. § 1446(b), Defendant is timely  
18 filing this Notice of Removal before the expiration of the 30-day period after  
19 having been served. The “thirty-day period . . . does not begin to run . . . until  
20 the defendant has been properly served under state law, or has agreed to waive  
21 service of process.” *Borchers v. Standard Fire Ins. Co.*, No C-10-1706 MMC,  
22 2010 WL 2608291, at \*2 (N.D. Cal. June 25, 2010). Plaintiff served Sunrider  
23 on June 5, 2017.

24 **III. THIS COURT HAS ORIGINAL § 1331 JURISDICTION**  
25 **OVER PLAINTIFF’S RICO CLAIM**

26 8. Federal question jurisdiction exists when an action presents a  
27 claim “arising under the Constitution, laws, or treaties of the United States.”

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1 28 U.S.C. § 1331. District courts have “original jurisdiction” in such cases.  
2 *Id.*

3 9. This Court has original jurisdiction over this Action because  
4 Plaintiff has alleged a claim under a federal statute, RICO, 18 U.S.C. § 1962.  
5 18 U.S.C. § 1964 states, in pertinent part, “Any person injured in his business  
6 or property by reason of a violation of section 1962 of this chapter may sue  
7 therefor in any appropriate United States district court.” Defendant does not  
8 dispute that RICO claims may be heard in state court, but that “merely  
9 mean[s] that state courts may hear RICO claims when parties do not seek to  
10 remove the case to federal court.” *Brewer v. Wells Fargo Bank, N.A.*, No. CV  
11 13-3207 DMG (VBK), 2013 WL 12110503, at \*4 (C.D. Cal. July 16, 2013)  
12 (denying motion to remand).

13 10. Accordingly, removal of this action is proper on the basis that,  
14 pursuant to 28 U.S.C. § 1331, this Court has federal question jurisdiction over  
15 Plaintiff’s claims<sup>1</sup>. That basis for removal suffices separate and apart from  
16 Defendant’s right to remove the case pursuant to CAFA.

17 **IV. THE COURT HAS ORIGINAL JURISDICTION OVER**  
18 **PLAINTIFF’S CLAIMS PURSUANT TO CAFA**

19 11. This Court has original jurisdiction over this action under CAFA.  
20 *See* 28 U.S.C. § 1332(d). CAFA grants district courts original jurisdiction  
21 over class actions filed under state law in which any member of a putative  
22 class is a citizen of a state different from any defendant and where the amount  
23 in controversy for the putative class members exceeds \$5,000,000, exclusive  
24 of interests and costs. *Id.* CAFA authorizes removal of all such actions  
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28 <sup>1</sup> Plaintiff purports to assert a claim under the federal “securities laws” but does not identify under which statute she is suing. Sunrider will seek to dismiss such claims, but is not seeking removal based on these allegations.

1 pursuant to 28 U.S.C. § 1446. This case meets all of CAFA’s requirements  
2 for removal.

3 12. This action is styled as a class action. *See* Compl. ¶¶ 7, 77-92.

4 **(a) Minimal Diversity Exists**

5 13. Minimal diversity exists under CAFA when any plaintiff, or  
6 prospective class-member, is diverse from any defendant. 28 U.S.C.  
7 § 1332(d)(2)(A).

8 14. Plaintiff seeks to represent a nationwide class—and, indeed, a  
9 *worldwide* class—defined as “persons who paid a start-up fee, an annual fee,  
10 purchased a Distributor Kit, and/or purchased products from Sunrider between  
11 March 9, 2010, to the present date, who lost money[.]” Compl. ¶¶ 77, 79.

12 15. Plaintiff also seeks to “represent a sub-class of all worldwide  
13 participants of Sunrider, defined as follows: persons residing in anywhere in  
14 the World who paid-start-up fees, product fees, purchased a Distributor Kit,  
15 and/or purchased products from Sunrider between March 9, 2010, to the  
16 present date, who lost money[.]” Compl. ¶ 81.

17 16. As alleged in the Complaint, at the time it was filed, Sunrider “is  
18 a Utah Corporation with its principal place of business in Torrance, CA[.]”  
19 Compl. ¶ 9. Defendants Tei Fu Chen and Oi-Lin Chen are alleged to reside in  
20 the County of Los Angeles, State of California. Compl. ¶¶ 10,11.

21 17. Because Plaintiff seeks to represent a class comprising residents  
22 from all 50 states, minimal diversity exists for purposes of removal under  
23 CAFA.

24 **(b) There Are at Least 100 Members in Plaintiff’s Putative**  
25 **Class**

26 18. CAFA requires the existence of at least 100 members in  
27 Plaintiff’s putative class. 28 U.S.C. § 1332(d)(5)(B).

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1           19. As noted above, Plaintiff seeks to represent a nationwide and  
2 worldwide class of persons who purchased Sunrider products from March 9,  
3 2010 until the present date. Compl. ¶¶ 77, 79, 81

4           20. Plaintiff further estimates that “the members of the Class are  
5 greater than 250,000, nationwide.” Compl. ¶ 85. That estimate is wrong, but  
6 Sunrider agrees that the putative class comprises well more than 100 persons.

7                           **(c) The Amount in Controversy Exceeds \$5 Million**

8           21. Notwithstanding Plaintiff’s failure to allege the total amount of  
9 monetary relief claimed, CAFA authorizes the removal of class actions in  
10 which the amount in controversy for all potential class members exceeds \$5  
11 million. *See* 28 U.S.C. § 1332(d). “[A] defendant’s notice of removal need  
12 include only a plausible allegation that the amount in controversy exceeds the  
13 jurisdictional threshold.” *Dart Cherokee Basin Operating Co., LLC v. Owens*,  
14 135 S.Ct. 547, 554 (2014).

15           22. Although Defendant denies Plaintiff’s claim of wrongdoing, the  
16 allegations in the Complaint, and the total amount of compensatory damages,  
17 punitive damages, attorneys’ fees, injunctive relief, and other monetary relief  
18 at issue in this action, on an aggregate, class-wide basis, would greatly exceed  
19 CAFA’s \$5 million jurisdictional minimum.

20           23. Plaintiff incorrectly alleges that, “[t]o sign up as a Sunrider  
21 IBO/distributor, an enrollee must pay a start-up kit fee of \$600.00, and further  
22 a distributor must pay a monthly fee of \$100.00 per month.” Compl. ¶ 31.

23           24. Assume Plaintiff is seeking, for example, \$1,800.00 in damages  
24 for persons who were Sunrider Independent Business Owners (“IBOs”) for at  
25 least one year—the alleged \$600.00 start-up kit fee, plus the alleged \$100.00  
26 purchases for each of 12 months—the class would need to have only 2,778  
27 members, less than 2% of the class sized alleged by Plaintiff. That does not  
28 include any potential trebling of damages, statutory damages, or Plaintiff’s

1 request for attorneys' fees, all of which may be included in the satisfaction of  
2 CAFA's jurisdictional threshold.

3 25. Accordingly, this case meets all of CAFA's requirements for  
4 removal, along with federal question removal, and is timely and properly  
5 removed by the filing of this Notice.

6 **V. CONCLUSION**

7 26. WHEREFORE, having provided notice as required by law, the  
8 above-captioned action should be removed from the Los Angeles County  
9 Superior Court.

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DATED: June 30, 2017

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By: /s/ Lee S. Brenner  
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*The Sunrider Corporation*