

1 JAMES T. HANNINK (131747)
jhannink@sdlaw.com
2 ZACH P. DOSTART (255071)
zdostart@sdlaw.com
3 DOSTART HANNINK LLP
4225 Executive Square, Suite 600
4 La Jolla, California 92037-1475
Tel: 858-623-4200
5 Fax: 858-623-4299

6 Attorneys for Plaintiff

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8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF SAN DIEGO
10

11 LAURIE GORE and CYNTHIA TATE,
individually and on behalf of all others
12 similarly situated,

13 Plaintiffs,

14 vs.

15 POTPOURRI GROUP, INC., a Delaware
16 corporation; CLARUS COMMERCE LLC,
a Connecticut limited liability company;
17 and DOES 2-50, inclusive,

18 Defendants.
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CASE NO. 37-2020-00019745-CU-BT-CTL

CLASS ACTION

SECOND AMENDED COMPLAINT FOR:

(1) FALSE ADVERTISING (BASED ON
VIOLATION OF THE CALIFORNIA
AUTOMATIC RENEWAL LAW)
[Bus. & Prof. Code, § 17535 & § 17600 et
seq.]; and

(2) UNFAIR COMPETITION
[Bus. & Prof. Code, § 17200 et seq.].

1 **INTRODUCTION**

2 1. This class action complaint alleges that defendants Potpourri Group, Inc. (“PGI”)
3 and Clarus Commerce LLC (“Clarus”) violate California law in connection with automatically
4 renewing membership programs for PGI’s various brands. Together, PGI and Clarus present offers
5 to California consumers regarding an automatic renewal or continuous service program without
6 providing “clear and conspicuous” disclosures of “automatic renewal offer terms,” as mandated by
7 California law; post charges to consumers’ credit or debit cards for purported membership charges
8 without first obtaining the consumers’ affirmative consent to an agreement containing the requisite
9 clear and conspicuous disclosures; and fail to provide an acknowledgment that includes the required
10 clear and conspicuous disclosures. This course of conduct gives rise to restitution and injunctive
11 relief pursuant to the general remedies provision of the False Advertising Law, Bus. & Prof. Code
12 § 17535, based on violation of the California Automatic Renewal Law (Bus. & Prof. Code, § 17600
13 et seq.) (“ARL”); violates the Consumers Legal Remedies Act (Civ. Code, § 1750 et seq.)
14 (“CLRA”); and violates the Unfair Competition Law (Bus. & Prof. Code, § 17200 et seq.) (“UCL”).

15 **THE PARTIES**

16 2. Plaintiff Laurie Gore (“Plaintiff”) is an individual residing in San Diego County,
17 California.

18 3. Defendant Potpourri Group, Inc. is a Delaware corporation that does business in San
19 Diego County, including the marketing of clothing and other merchandise and the dissemination
20 and conveyance of offers for its VIP membership program.

21 4. Defendant Clarus Commerce LLC is the true name of the entity previously sued
22 herein under the fictitious name DOE 1. Clarus is a limited liability company organized under the
23 laws of Connecticut and does business in San Diego County, including but not limited to the
24 dissemination and conveyance of offers for the automatically renewing or continuous service
25 membership programs.

26 5. Plaintiff does not know the names of the defendants sued as DOES 2 through 50 but
27 will amend this complaint when that information becomes known. Plaintiff alleges on information
28 and belief that each of the DOE defendants is affiliated with one or more of the named defendants

1 in some respect and is in some manner responsible for the wrongdoing alleged herein, either as a
2 direct participant, or as the principal, agent, successor, alter ego, or co-conspirator of or with one or
3 more of the other defendants. For ease of reference, Plaintiff will refer to the named defendants and
4 the DOE defendants collectively as “Defendants.”

5 6. Venue is proper in this judicial district. Neither PGI nor Clarus has designated a
6 principal office in California, and therefore venue is proper in any county designated by Plaintiff.

7 **BACKGROUND**

8 7. PGI markets and sells apparel and a variety of other merchandise. PGI describes itself
9 as “one of the most successful multi-brand direct-to-consumer merchants in America, serving
10 millions of customers a year.” PGI’s brands include, without limitation, *Cuddledown*, *NorthStyle*,
11 *The Pyramid Collection*, *Serengeti*, *In The Company Of Dogs*, *Magellan’s*, *Catalog Favorites*,
12 *Young Explorers*, *Back In The Saddle*, *Whatever Works*, *Country Store*, *Potpourri*, *Expressions*,
13 *Nature’s Jewelry*, *The Stitchery*, *SageFinds*, *TravelSmith*, and *Chadwicks*.

14 8. PGI has a VIP membership program for each of the foregoing brands (the “PGI VIP
15 membership program”). Consumers who are enrolled in a PGI VIP membership program qualify
16 for certain benefits including free or rebated shipping and 10% discount on purchases.

17 9. Clarus is a company that specializes in the design, development, and implementation
18 of loyalty programs. As described on its website, Clarus “launch[es] and maintain[s] premium
19 loyalty programs for some of the world’s most recognizable brands.” (See
20 <https://www.claruscommerce.com/premium-loyalty-programs/premium-loyalty-101/> [last accessed
21 January 11, 2021].) Pursuant to a contract between PGI and Clarus, those companies work together
22 and assist each other to advertise and operate the various PGI VIP membership programs.

23 10. After enrolling a consumer in a PGI VIP membership program, Defendants thereafter
24 post charges to the consumer’s credit or debit card in the amount of \$14.95 each and every month.
25 However, Defendants fail to provide the clear and conspicuous disclosures of automatic renewal
26 offer terms as mandated by California law.

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1 a manner that clearly calls attention to the language.” (§ 17601(c).) In the case of an audio
2 disclosure, “clear and conspicuous” means “in a volume and cadence sufficient to be readily audible
3 and understandable.” (*Id.*) The statute defines “automatic renewal offer terms” to mean the “clear
4 and conspicuous” disclosure of the following: (a) that the subscription or purchasing agreement will
5 continue until the consumer cancels; (b) the description of the cancellation policy that applies to the
6 offer; (c) the recurring charges that will be charged to the consumer’s credit or debit card or payment
7 account with a third party as part of the automatic renewal plan or arrangement, and that the amount
8 of the charge may change, if that is the case, and the amount to which the charge will change, if
9 known; (d) the length of the automatic renewal term or that the service is continuous, unless the
10 length of the term is chosen by the consumer; and (e) the minimum purchase obligation, if any.
11 (§ 17601(b).)

12 (2) Charge the consumer’s credit or debit card, or the consumer’s account with a
13 third party, for an automatic renewal or continuous service without first obtaining the consumer’s
14 affirmative consent to the agreement containing the automatic renewal offer terms or continuous
15 service offer terms, including the terms of an automatic renewal offer or continuous service offer
16 that is made at a promotional or discounted price for a limited period of time. (§ 17602(a)(2).)

17 (3) Fail to provide an acknowledgment that includes the automatic renewal or
18 continuous service offer terms, cancellation policy, and information regarding how to cancel in a
19 manner that is capable of being retained by the consumer. (§ 17602(a)(3).) If the offer includes a
20 free trial, the business must also disclose in the acknowledgment how to cancel and allow the
21 consumer to cancel before the consumer pays for the goods or services. (*Ibid.*) Section 17602(b)
22 requires that the acknowledgment specified in § 17602(a)(3) include a toll-free telephone number,
23 electronic mail address, a postal address if the seller directly bills the consumer, or it shall provide
24 another cost-effective, timely, and easy-to-use mechanism for cancellation.

25 14. Violation of the ARL gives rise to restitution and injunctive relief under the general
26 remedies provision of the False Advertising Law, § 17535, as well as under the remedies provision
27 of the UCL, § 17203. (See § 17604(a) (“[A]ll available civil remedies that apply to a violation of
28 this article may be employed.”).)

1 **CONSUMER COMPLAINTS ABOUT UNAUTHORIZED CHARGES**

2 15. Many consumers report that, after making a purchase through a PGI brand, they were
3 enrolled in and charged for a PGI VIP membership program without their consent. For example,
4 customer reviews of PGI posted on the Better Business Bureau (“BBB”) website include the
5 following complaints (copied verbatim):

6 **Complaint Type: Billing/Collection Issues (August 8, 2020).** I purchase an item
7 from Northstyle over a year ago and without my knowledge I was enrolled in the VIP
8 club, and for at least the past 14 months my credit card (***** *) has
9 been charged \$14.95 without my consent. I just checked my card charges and
discovered these charges. I immediately canceled my VIP membership and then I
wrote to Northstyle requesting a refund of the \$209.30 that was surreptitiously taken
from me. I have yet to hear from them.

10 (A true and correct printout of that complaint is attached as Exhibit 3.)

11 **Complaint Type: Billing/Collection Issues (July 22, 2020).** I have been ripped off
12 and robbed since May 2019 on a monthly basis. I was innocently mis-led and made
13 to join a club I never wanted or asked for. The only way I knew was by reviewing
14 my monthly credit card charges. I have been charged \$14.95 every single month by
15 this evil company that is being run by crooks and criminals. Please escalate this
matter to DOJ, FBI and ** State Attorney. PLEASE HELP. This company needs to
be put out of business, they should not exist or do business in any state or any country
PERIOD. Owners of this company should go to jail.

16 (A true and correct printout of that complaint is attached as Exhibit 4.)

17 **Complaint Type: Billing/Collection Issues (May 28, 2020).** I am writing this letter
18 to challenge some fraudulent charges to my debit card. On December 12, 2019, I
19 ordered a Christmas gift from a company called PGI*Favorites/Catalog Favorites
20 Potpourri Group Inc. *** ***** ** *****
21 ***** I was subsequently informed that the item was backordered. It did
22 not arrive until March 15, 2020. That was when they hit my account for \$28.56 -
23 which I am not disputing. I am, however, disputing the \$14.95 charges on my account
24 on January 14, 2020, February 12, 2020 and April 6, 2020. These unauthorized
25 fraudulent charges totaled \$44.85. On April 12, 2020, I contacted the company at
26 ***** to complain about the unauthorized fraudulent
27 charges. In their response on April 23, 2020, they said “This charge is for a
membership fee for our VIP program that you joined after your last order.” “This
program is free for Catalog Favorites customers for 30 days after the order. After the
free trial, if you did not cancel, there is a membership fee of \$14.95 per month. If
you are not satisfied with the program, please visit ***** to
cancel. You can also call us at ***** to cancel your membership. I did
not knowingly join a “VIP program” - I ordered a shirt. I cancelled this
“membership” immediately using their online system and requested they refund
these unauthorized charges. I have not heard from them since and the unauthorized
charges have not been refunded to my account.

28 (A true and correct printout of that complaint is attached as Exhibit 5.)

1 **Complaint Type: Billing/Collection Issues (May 21, 2020).** On 7/22/2019 I made
2 a purchase from PGI Northstyle online using my credit card. Unbeknownst to me,
3 they have been charging this card \$14.95 monthly since August 19, 2019 for a VIP
4 membership which I never signed up for. I did not notice this until 5/21/2020 and
5 called the number listed on my credit card statement. I explained that I did not sign
6 up for this and I honestly did not even know what this VIP membership entailed. I
7 was curtly informed that I had to have intentionally signed up for this program as
8 you have to check a box and sign your name attesting to the fact that you are
intentionally signing up or this program. I never, ever sign up for these type of things
and as I only order from this particular company maybe twice a year at the most, I
would not have signed up for any such program as there would be no value in it for
me. The gentleman whom I spoke with cancelled my membership so I will not incur
any future charges but I have now been charged a total of \$163.83 for a membership
I never signed up for. Incidentally, on 11/22/2019 my card was charged \$29.28
instead of \$14.95. Puzzling to say the least.

9 (A true and correct printout of that complaint is attached as Exhibit 6.)

10 **Beth G. (April 9, 2020).** Have been charged \$14.95 per month after using a coupon
11 on Catalog Favorites for a purchase. It was not clear that I was enrolling in a "VIP"
12 purchasing club. Same complaint as another reviewer below. I will never do
13 business with any of the Potpourri companies in the future. Am concerned that the
company(ies) still have an A+ rating after so many complaints. Terrible business
practice to dupe customers when promising free shipping.

14 (A true and correct printout of that complaint is attached as Exhibit 7.)

15 **Complaint Type: Billing/Collection Issues (January 28, 2020).** I recently
16 discovered a charge that I have not signed up for. I have been charged 14.95 every
month for almost a year. I would like my involuntary membership cancelled but am
not sure where to go. I also want all of the illegitimate charges refunded.

17 (A true and correct printout of that complaint is attached as Exhibit 8.)

18 **Complaint Type: Problems with Product/Service (December 27, 2019).** After
19 purchasing one item from this catalog I was placed on the VIP membership without
20 my knowledge or consent and subsequently charged 15.94 every month. The
21 purchase was made in September 2019 and the "VIP" charges were made in Oct. and
Nov. at which time I called them to get an explanation for the charges. They then
removed me from the VIP membership which I never signed up for in the first place.

22 (A true and correct printout of that complaint is attached as Exhibit 9.)

23 **Complaint Type: Problems with Product/Service (December 15, 2019).** I have
24 repeatedly told this company that I do NOT want to be enrolled in their VIP plan.
25 This was done without my knowledge or permission! They bill me \$14.95 per month
26 for this "privilege". I had the first charge reversed and they promised they would not
27 charge my credit again but they did. This is outright fraud. I made a purchase with
them some time ago and now that they have my credit card number they seem to feel
they can charge whatever they want on it. I will have this second charge reversed as
well and then I will close out the card. I am furious over the inconvenience and theft.
Please do something to put a stop to this very egregious practice! Thank you!

28 (A true and correct printout of that complaint is attached as Exhibit 10.)

1 **Complaint Type: Advertising/Sales Issues (February 26, 2019).** I placed an order
2 for clothing in May 2018 and ever since then this company has been charging me a
3 stupid VIP club fee of \$14.95 each and every month since then. Evidently they have
4 this silently included in their defaults when ordering, because this charge does not
show up on the orders themselves. It only shows up as a separate charge each and
every month of which I never asked for. I need a refund immediately of \$149.50 for
each and every time they have charged my credit card.

5 (A true and correct printout of that complaint is attached as Exhibit 11.)

6 16. Consumer complaints about PGI's VIP program posted on the pissedconsumer.com
7 website describe similar experiences (copied verbatim):

8 **Melinda V. – Being charged for 14.95 a month for VIP program (Update by**
9 **user July 12, 2020).** I want VIP membership to end and to be reimbursed the money
I did not authorize a total of \$44.85. I have proof in my bank statements but I will
not be posting them.

10 I can provide exact dates monies were removed from my account.

11 May 14, 2020, June 11, 2020, and July 10, 2020. Thank you.

12 **(Original review posted by user Jul 12, 2020)** I have been calling to cancel and I
13 thought the charge was a one time charge not a recurring charge. Not able to get
anyone on the phone to cancel. Keep getting the run around.

14 User's recommendation: Don't buy from Potpourri save yourself the headache.

15 (A true and correct printout of that complaint is attached as Exhibit 12.)

16 **Donna O. – Pyramid Collection - VIP membership Scam/ Huge Money Loss**
17 **(May 14, 2020).** Livid consumer wondering how you took \$14.95 from my account
18 starting 7/11/2018 until 4/8/2019?? The amount changed to \$16.07 for 9 months,
then starting 1/2/2020 went back to \$14.95 up until this month, withdrawing the last
transaction on May 1st.

19 Chase Visa just sent me an alert yesterday????!! I couldn't get through to either
20 number listed, no answer just hangs up. I did not ask to be a VIP member because I
21 rarely shop on this site, I received NO information about this VIP membership, nor
22 was I informed it was automatic if you ordered a sale item or received free shipping
which is what other people are getting as a response?? I haven't even spent over
\$353 from this company in total ever.

23 Extremely upset that you took it upon yourselves to take in total \$353.93 from my
24 bank account. I want my money returned.

25 I'm not a VIP member nor do I want to be. I haven't even ordered from this company
in 2+ years.

26 (A true and correct printout of that complaint is attached as Exhibit 13.)
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1 **Troy S. of Walnut, CA – Fraudulent Monthly Charges to Mom’s Credit Card**
2 **(May 31, 2019).** My mother is turning 82 in a few days. She bought something from
3 Potpourri once, and now her credit card is charged 14.95 per month. This has been
4 going on for several months. I just became aware of it today. I am trying to get
5 Potpourri to cancel the charge but they have refused.

6 (A true and correct printout of that complaint is attached as Exhibit 14.)

7 17. As described below, similar to many of the consumer complaints described above,
8 the plaintiff in this action was charged for a PGI VIP membership program without having received
9 clear and conspicuous disclosure of automatic renewal offer terms and without their affirmative
10 consent to an agreement setting forth the required clear and conspicuous disclosures.

11 **UNAUTHORIZED CHARGES TO PLAINTIFF**

12 18. In or about September 2019, Plaintiff made an online purchase through the website
13 of NorthStyle, one of PGI’s retail brands.

14 19. When a consumer purchases merchandise through the NorthStyle website, the first
15 step of the order flow is for the consumer to select one or more items of merchandise. To illustrate
16 that step, attached hereto as Exhibit 15 is a printout of the NorthStyle webpage showing a selection
17 of merchandise for purchase. The merchandise selection page does not contain disclosure of
18 automatic renewal offer terms relating to the VIP program.

19 20. When a consumer clicks the “CHECKOUT” button that appears on Exhibit 15, the
20 consumer is presented with a page on which the consumer selects whether to login as a returning
21 customer or to continue to the checkout step as a new customer. Attached hereto as Exhibit 16 is a
22 printout of the NorthStyle webpage showing that option.

23 21. When a consumer clicks the “CONTINUE” button that appears on Exhibit 16, the
24 consumer is then presented with a checkout page, a printout of which is attached hereto as
25 Exhibit 17. The checkout page includes spaces for the consumer to input shipping and payment
26 information, including credit card or debit card details. The checkout page does not contain
27 disclosure of automatic renewal offer terms regarding PGI’s VIP program.

28 22. After the consumer submits an order, the consumer is then presented with a pop-up
box (shown in Exhibit 18), which invites the consumer to enter his or her email address. The
consumer is told, in large white printing displayed against a contrasting dark red background, that

1 the consumer can “CLAIM FREE SHIPPING & 10% CASH BACK on Every Order!” and that, by
2 entering an email address, the consumer can claim “10% cash back and free shipping rebate on
3 today’s order.” On the same page, however, set forth in small and faint print, the following five-line
4 paragraph appears:

5 **Offer and Billing Details:** To activate your NorthStyle VIP membership simply enter your email address below as your
6 electronic signature and click the “Start Saving” button. You’ll enjoy all of your VIP benefits free for 30 days. If you
7 decide not to continue your NorthStyle VIP membership, simply call 855-888-8292 or log on to cancel during your
8 review. Otherwise, we’ll automatically extend your VIP membership and benefits for just \$14.95 per month, plus
9 taxes, if any, charged to the same card you used today.

10 That paragraph does not qualify as a “clear and conspicuous” disclosure of “automatic renewal offer
11 terms” as mandated by § 17601(b) and (c) and § 17602.

12 23. After the consumer clicks the “START SAVINGS” button on Exhibit 18, the
13 consumer is presented with a pop-up box entitled “Welcome to NorthStyle VIP,” as shown on
14 Exhibit 19. Exhibit 19 likewise does not contain “clear and conspicuous” disclosure of “automatic
15 renewal offer terms” as mandated by § 17601(b) and (c) and § 17602.

16 24. When Plaintiff made her online purchase through the NorthStyle website in
17 September 2019, she followed the sequence of steps set forth above. In doing so, Plaintiff submitted
18 her credit card information to complete the purchase.

19 25. In April 2020, Plaintiff discovered that Defendants were charging her credit card
20 \$14.95 per month for a PGI VIP membership program. On further investigation, Plaintiff discovered
21 that Defendants had posted charges to her credit card of \$14.95 each month since October 2019.

22 26. Upon discovering those charges, Plaintiff cancelled the membership. On April 17,
23 2020, Plaintiff received an email from Defendants confirming that the PGI VIP membership
24 program was canceled, effective on April 19, 2020. A true and correct copy of that cancellation
25 email is attached hereto as Exhibit 20. Nevertheless, on April 23, 2020, Defendants posted another
26 charge of \$14.95 to Plaintiff’s credit card.

27 27. Between October 2019 and April 2020, Defendants posted seven (7) charges of
28 \$14.95 each to Plaintiff’s credit card, without her authorization.

 28. When Plaintiff made her online purchase in September 2019, she was not aware that
Defendants were going to enroll her in a program under which Defendants would post monthly

1 charges to her credit card, and Plaintiff did not consent to be enrolled in or charged for such a
2 program. If Plaintiff had known that Defendants were going to enroll her in a program that would
3 result in subsequent charges of \$14.95 each month, Plaintiff either would not have purchased
4 merchandise from NorthStyle in the first place, or would have declined to enter her email address
5 in the pop-up box, or would have taken other steps to avoid becoming enrolled in and being charged
6 for such a program, such that Plaintiff would not have paid money to Defendants for the PGI VIP
7 membership program.

8 29. Plaintiff received no value in return for the PGI VIP membership program charges
9 that Defendants posted to her credit card.

10 **CLASS ACTION ALLEGATIONS**

11 30. Plaintiff brings this lawsuit as a class action under Code of Civil Procedure § 382 on
12 behalf of the following Class: “All California residents who, between June 10, 2016 and February
13 15, 2022, were both (i) enrolled in any PGI VIP membership program and (ii) charged at least one
14 membership fee for such program. Excluded from the Class are all employees of Defendant, all
15 employees of Plaintiff’s counsel, and the judicial officers to whom this case is assigned.” The term
16 “PGI VIP membership program” consists of VIP programs relating to the following brands:
17 Cuddledown, NorthStyle, The Pyramid Collection, Serengeti, In The Company Of Dogs,
18 Magellan’s, Catalog Favorites, Young Explorers, Back In The Saddle, Whatever Works, Country
19 Store, Potpourri, Expressions, Nature’s Jewelry, The Stitchery, SageFinds, TravelSmith, and
20 Chadwicks.

21 31. Ascertainability. The members of the Class may be ascertained by reviewing records
22 in the possession of Defendants and/or third parties, including without limitation Defendants’
23 marketing and promotion records, customer records, and billing records.

24 32. Common Questions of Fact or Law. There are questions of fact or law that are
25 common to the members of the Class, which predominate over individual issues. Common questions
26 regarding the Class include, without limitation: (1) whether Defendants present all statutorily-
27 mandated automatic renewal offer terms, within the meaning of § 17601(b); (2) whether Defendants
28 present automatic renewal offer terms in a manner that is “clear and conspicuous,” within the

1 meaning of § 17601(c), and in “visual proximity” to a request for consent to the offer, or in the case
2 of an offer conveyed by voice, in temporal proximity to a request for consent to the offer, as required
3 by § 17602; (3) whether Defendants obtain consumers’ affirmative consent to an agreement
4 containing clear and conspicuous disclosure of automatic renewal offer terms before charging a
5 credit card, debit card, or third-party payment account; (4) whether Defendants provide consumers
6 with an acknowledgment that includes clear and conspicuous disclosure of all statutorily-mandated
7 automatic renewal or continuous service offer terms, the cancellation policy, and information
8 regarding how to cancel; (5) Defendants’ record-keeping practices; and (6) the appropriate remedies
9 for Defendants’ conduct.

10 33. Numerosity. The Class is so numerous that joinder of all class members would be
11 impracticable. Plaintiff is informed and believe and thereon allege that the Class consists of at least
12 100 members.

13 34. Typicality and Adequacy. Plaintiff alleges that Defendants enrolled Class members
14 in an automatic renewal membership program without disclosing all terms required by law, and
15 without presenting such terms in the requisite “clear and conspicuous” manner; charged Class
16 members’ credit cards, debit cards, or third-party accounts without first obtaining the Class
17 members’ affirmative consent to an agreement containing clear and conspicuous disclosure of
18 automatic renewal offer terms; and failed to provide the requisite acknowledgment. Plaintiff has no
19 interests that are adverse to those of the other Class members. Plaintiff will fairly and adequately
20 protect the interests of the Class members.

21 35. Superiority. A class action is superior to other methods for resolving this controversy.
22 Because the amount of restitution or damages to which each Class member may be entitled is low
23 in comparison to the expense and burden of individual litigation, it would be impracticable for class
24 members to redress the wrongs done to them without a class action forum. Furthermore, on
25 information and belief, Class members do not know that their legal rights have been violated. Class
26 certification would also conserve judicial resources and avoid the possibility of inconsistent
27 judgments.

28

1 **FIRST CAUSE OF ACTION**

2 False Advertising – Based on Violation of the Automatic Renewal Law

3 (Bus. & Prof. Code, § 17535 and § 17600 et seq.)

4 36. Plaintiff incorporates the previous allegations as though set forth herein.

5 37. Plaintiff is informed and believe and thereon allege that, during the applicable statute
6 of limitations period, Defendants have enrolled consumers, including Plaintiff and Class members,
7 in automatic renewal and/or continuous service membership programs for a PGI VIP membership
8 program and have (a) failed to present the automatic renewal or continuous service offer terms in a
9 clear and conspicuous manner before the membership agreement is fulfilled and in visual proximity,
10 or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the
11 offer; (b) charged the consumer's credit or debit card or the consumer's third-party payment account
12 for an automatic renewal or continuous service without first obtaining the consumer's affirmative
13 consent to an agreement containing clear and conspicuous disclosure of all automatic renewal offer
14 terms or continuous service offer terms; and (c) failed to provide an acknowledgment that includes
15 clear and conspicuous disclosure of automatic renewal or continuous service offer terms, the
16 cancellation policy, and information regarding how to cancel.

17 38. As a result of Defendants' conduct, pursuant to § 17535, Plaintiff and Class members
18 are entitled to restitution of all amounts that Defendants charged for a PGI VIP membership program
19 during the four years preceding the filing of the initial Complaint in this action and continuing until
20 Defendants' statutory violations cease.

21 39. Pursuant to § 17535, for the benefit of the general public of the State of California,
22 Plaintiff and Class members seek a public injunction enjoining Defendants from making offers to
23 California consumers for a PGI VIP membership program that do not comply with California law
24 and from posting membership charges to a consumer's credit card, debit card, or third party payment
25 account without first obtaining the consumer's affirmative consent to an agreement containing the
26 required clear and conspicuous disclosures.

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1 45. Defendants' acts, omissions, nondisclosures, and misleading statements as alleged
2 herein were and are false, misleading, and/or likely to deceive the consuming public.

3 46. Plaintiff has suffered injury in fact and lost money as a result of Defendants' acts of
4 unfair competition.

5 47. Pursuant to § 17203, Plaintiff and the Class members are entitled to an order:
6 (1) requiring Defendants to make restitution of all amounts received in connection with the
7 unlawful, unfair, and/or fraudulent business practices alleged above; and (2) enjoining Defendants
8 from committing further violations of the UCL.

9 **PRAYER**

10 WHEREFORE, Plaintiff prays for judgment against Defendants as follows:

11 On the First Cause of Action:

- 12 1. For restitution;
13 2. For a public injunction for the benefit of the People of the State of California;

14 On the Second Cause of Action:

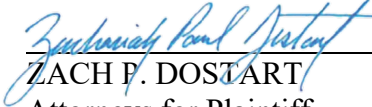
- 15 3. For restitution;
16 4. For a public injunction for the benefit of the People of the State of California;

17 On All Causes of Action:

- 18 5. For an award of attorneys' fees pursuant to Code Civ. Proc. § 1021.5;
19 6. For costs of suit;
20 7. For pre-judgment interest; and
21 8. For such other relief that the Court deems just and proper.

22 Dated: September 20, 2022

DOSTART HANNINK LLP

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25 ZACH F. DOSTART
Attorneys for Plaintiff

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