

1 Thomas W. McNamara  
tmcnamara@mcnamarallp.com  
2 655 West Broadway, Suite 1600  
San Diego, California 92101  
3 Telephone: 619-269-0400  
Facsimile: 619-269-0401

4 *Court-Appointed Monitor*

5 Daniel M. Benjamin (SBN 209240)  
dbenjamin@mcnamarallp.com  
6 Andrew W. Robertson (SBN 62541)  
arobertson@mcnamarallp.com  
7 McNamara Smith LLP  
8 655 West Broadway, Suite 1600  
San Diego, California 92101  
9 Telephone: 619-269-0400  
Facsimile: 619-269-0401

10 *Attorneys for Monitor*

11  
12 UNITED STATES DISTRICT COURT  
13 CENTRAL DISTRICT OF CALIFORNIA

14  
15 FEDERAL TRADE COMMISSION,  
16 Plaintiff,

17 v.

18 TELESTAR CONSULTING, INC., also  
d/b/a Kleritec and United Business  
19 Supply; and KARL WESLEY ANGEL,  
individually and as a principal of Telestar  
20 Consulting, Inc.,

21 Defendants.

Case No. 2:16-cv-00555-SJO (SSX)

**FINAL REPORT OF MONITOR**

JUDGE: Hon. S. James Otero  
CTRM: 10C

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1 **FINAL REPORT OF MONITOR**

2 I have completed my work as Monitor and the underlying civil case brought  
3 by the Federal Trade Commission (“FTC”) has now been resolved as to all  
4 defendants by the Stipulated Order for Permanent Injunction and Monetary  
5 Judgment entered August 30, 2017 (ECF No. 92) (“Final Judgment”). That Final  
6 Judgment includes provisions for “Termination of Monitor” (Section VIII),  
7 ordering, *inter alia*, that the Monitor endeavor to complete all duties and file a  
8 Final Report and Final Fee Application within 30 days and remit to the FTC any  
9 funds remaining after payment of approved fees and expenses.

10 Accordingly, I submit this Final Report and have also this date filed a  
11 Motion for Discharge and Approval of a Final Fee Application.

12 In prior reports, motions, and fee applications, we have presented periodic  
13 updates and accountings to the Court.<sup>1</sup> For purposes of this Final Report, we  
14 provide a capsule summary for the entire period of my service.

15 **I. FTC Action**

16 This action was commenced by the FTC’s Complaint, filed February 1, 2016  
17 (ECF No. 3). I was initially appointed Receiver<sup>2</sup> for the business activities of  
18 Telestar Consulting, Inc., also doing business as Kleritec and United Business  
19 Supply (“Telestar”). That role was changed to Monitor by the Stipulated  
20 Preliminary Injunction entered March 24, 2016 (ECF No. 38), and continued by  
21 the Amended Preliminary Injunction entered September 27, 2016 (ECF No. 61).  
22 As Monitor, I was tasked to monitor compliance with the strictures of the  
23 Preliminary Injunction.

24  
25 <sup>1</sup> Preliminary Report filed March 10, 2016 (ECF No. 36); Monitor’s Report  
26 of Violations of the Preliminary Injunction, filed July 26, 2016 (ECF No. 50); and  
27 Monitorship Status Report, filed July 29, 2016 (ECF No. 52). Fee Applications  
28 filed April 1, 2016 (ECF No. 40) and December 19, 2016 (ECF No. 68).

<sup>2</sup> Temporary Restraining Order entered February 1, 2016 (ECF No. 17), as  
amended on February 2, 2016 (ECF No. 19) (the “TRO”).

1 The FTC and Defendants ultimately reached a settlement, the terms of which  
2 are confirmed in the Final Judgment, which includes the Monitor Termination  
3 provision noted above.

4 **II. Immediate Access**

5 Pursuant to Section XII of the TRO, we took possession of the primary  
6 business premises of Telestar – a sprawling warehouse and office facility in  
7 Sylmar, California with more than 25 employees on site – on the morning of  
8 February 3, 2016. We secured the physical premises, the product inventory, and  
9 all paper and electronic records, commenced interviews of onsite employees, and  
10 coordinated notice of the asset freeze to financial institutions. Thereafter, we  
11 secured and/or spoke with personnel onsite at small sales offices in Carlsbad,  
12 California, Chicago, Illinois, and Bradenton, Florida.

13 **III. Implementation of TRO**

14 After securing the premises, we suspended operations and conducted a  
15 comprehensive review of the business and its finances.

16 We carefully reviewed all sales practices (initial sales, reorders, returns,  
17 collections, and complaints) through interviews of the principals and sales  
18 personnel and inspection of on-site documents and computers in each department.  
19 This review identified a toxic sales process that embraced many of the deceptive  
20 practices prohibited by the TRO, in particular, the shipment of products without  
21 the customer’s request or informed consent.

22 We identified and reviewed the three product lines sold to three different  
23 target markets: NaturePlay (arts and crafts supplies sold to preschools and daycare  
24 centers), Medistaph (anti-microbial skin wipes sold to sports programs and public  
25 safety operators), and Women, Infant, and Children (“WIC”) (products for  
26 expectant and recent mothers sold to hospitals and public health departments). The  
27 warehouse was literally packed with inventory of these products with potential  
28 market value in the millions of dollars.

1 Our forensic accountant prepared a detailed summary of financial activity,  
2 including historical sales and profitability, balance sheet, compensation and  
3 transfers to the principal, accounts receivable, and other assets.

4 All of these activities were reported in our detailed Preliminary Report filed  
5 March 10, 2016 (ECF No. 36).

6 **IV. The Preliminary Injunction**

7 Shortly after submission of the Preliminary Report, the FTC and Defendants  
8 reached agreement for a limited re-start of the Telestar business as reflected in the  
9 Preliminary Injunction of March 24, 2016 (ECF No. 38) and further refined in the  
10 Amended Preliminary Injunction of September 27, 2016 (ECF No. 61).

11 The Preliminary Injunction confirmed, with further details, the “Prohibited  
12 Conduct” (Section I) identified in the TRO, but also carved out a category of  
13 “Permitted Sales” (Section I.B) (limited to non-telemarketing sales through  
14 wholesale distribution to retailers and to consumers as ultimate end users),  
15 provided that Defendants communicate with former customers only by email or  
16 regular mail, only accept orders online or by email or regular mail, and do not  
17 engage in any telemarketing to consumers.

18 In order to facilitate these Permitted Sales, Defendants were permitted to  
19 access the facilities, sell inventory, communicate with third parties and prior  
20 customers under strict limitations, and hire limited staff. Limited exceptions to the  
21 asset freeze were also identified in order to provide working capital.

22 **V. Compliance**

23 The first order of business as Monitor was to return control of the business  
24 and operations at the Sylmar headquarters to Defendants. This was completed on  
25 March 25, 2016. Consistent with the access rights granted to the Monitor in the  
26 Preliminary Injunction, we made unannounced site visits as a compliance vehicle,  
27 but later determined they were not necessary.

28 ///

1 Our essential compliance mission was to verify that Defendants new  
2 business model and its implementation were consistent with the terms of the  
3 Preliminary Injunction, particularly the prohibition against any form of  
4 telemarketing. We established a procedure by which Defendants would submit  
5 proposed marketing and advertising materials to us for review and approval.

6 At the outset, Defendants focused on finalizing content and functionality for  
7 the NaturePlay website which was to feature an online store. In June 2016, we  
8 received the first submission of materials for review – email advertisements  
9 regarding the new website. During the exchange of drafts and revisions, we  
10 discovered some evidence of sales activity by one sales representative in Florida  
11 which appeared to be telemarketing. We reported this information in the Monitor’s  
12 Report of Violations of the Preliminary Injunction, filed July 26, 2016 (ECF  
13 No. 50).

14 We ultimately reviewed, revised and approved a variety of materials  
15 submitted by Defendants, including promotional emails, website content, and lists  
16 of targeted corporate day care centers. This process required substantial back and  
17 forth with Defendants and their counsel and, on occasion, consultation with  
18 counsel for the FTC.

## 19 **VI. Processing Undeposited Consumer Payments**

20 During the immediate access at the Sylmar facility, we located numerous  
21 undeposited checks from consumers payable to Telestar or its dba Kleritec for  
22 merchandise. Additional such checks arrived in the weeks thereafter, resulting in  
23 checks from 429 customers representing aggregate payments of \$240,134.51.

24 The Preliminary Injunction included a Suspension of Collection of Accounts  
25 provision, but with a proviso that Defendants could attempt to collect on  
26 outstanding invoices if the underlying sales were compliant and such collection  
27 efforts were conducted through a Monitor-controlled staff under a procedure  
28 agreed to by the Monitor, Defendants, and the FTC.

1 We developed a detailed procedure for the review and processing of these  
2 undeposited checks. The goal was to exclude the acceptance of consumer funds  
3 for transactions “tainted” by acts prohibited by the Preliminary Injunction. The  
4 procedures required a detailed review of Telestar’s physical files for each  
5 customer, Telestar’s electronic sales database (Salespad) and email traffic between  
6 customers and Telestar. We used this information, as available, to evaluate the  
7 contact between Telstar and the customer between the date of the invoice and the  
8 date of the check to make a determination as to whether the subject transaction was  
9 “tainted.” We reviewed these procedures with counsel for Defendants and the FTC  
10 and provided them regular updates as the process unfolded.

11 Beginning March 25, 2016, we started to review the transactions underlying  
12 these checks in three different tranches. That review resulted in the deposit of  
13 checks from 198 customers (\$78,708) and the rejection of checks from 231  
14 customers (\$161,425) where we saw evidence of taint or where we simply lacked  
15 adequate information. Of the checks deposited, there was attrition from currency  
16 conversions, stale checks, bounced checks, and closed accounts such that actual  
17 cleared deposits were \$71,044.

## 18 **VII. Collection of Accounts Receivable**

19 The collection of accounts receivables posed the same challenge as uncashed  
20 checks to exclude collection from “tainted” sales. To conduct this review, we  
21 assembled a temporary team of “collectors” who read from an approved script and  
22 reviewed the same source documents as the uncashed checks. We limited this  
23 collection effort to customers with invoices outstanding for 150 days or less from  
24 the February 2, 2016 entry of the initial TRO. We reviewed these procedures with  
25 counsel for Defendants and the FTC, resulting in several revisions to the proposed  
26 script, and provided them regular updates as the process unfolded.

27 Beginning July 18, 2016, we ultimately reviewed 2,822 customers  
28 representing receivables of approximately \$1.5 million. We deemed \$158,139 of

1 these receivables to be untainted sales subject to collection and rejected the others  
2 as tainted (\$700,187), uncollectible (\$173,747), or unresponsive (\$476,838). On  
3 the untainted sales, actual collection was compromised by the usual hurdles of  
4 accounts receivable collection (inability to pay, refusal to pay, or unavailability)  
5 such that actual collections were \$82,257.

6 **VIII. Accounting and Pending Fee Application**

7 Attached as Exhibit A is a Receipts and Disbursements Summary for the full  
8 period of my service February 2, 2016 through September 10, 2017, showing  
9 aggregate receipts of \$1,170,869.02 less disbursements of \$701,219.55 for net cash  
10 as of the date of this Final Report of \$469,649.47.

11 The Final Judgment (Section VIII) provides that, upon the Court's ruling on  
12 all pending motions for approval of fees and expenses, the Monitor may withdraw  
13 all approved amounts and transfer the balance in the account to the FTC.

14 I have this date filed a Final Fee Application for the period December 1,  
15 2016 through September 28, 2017. If the invoices in this Final Fee Application,  
16 which total \$39,100.75, are approved for payment in full, and the requested reserve  
17 of \$4,000 is approved, net cash will be \$426,548.72 which will be immediately  
18 disbursed to the FTC.

19 **IX. Discharge**

20 Contemporaneous with the Final Fee Application, I have also filed an  
21 Application for Discharge which requests discharge on the terms set forth in that  
22 Application and the proposed Order submitted therewith.

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24 Dated: September 28, 2017

By: /s/ Thomas W. McNamara  
Thomas W. McNamara  
Monitor

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**CERTIFICATE OF SERVICE**

I hereby certify that on September 28, 2017, I caused the foregoing to be electronically filed with the Clerk of the Court using the CM/ECF system, which will send notification of the filing to all participants in the case who are registered CM/ECF users.

/s/ Andrew W. Robertson  
Andrew W. Robertson