IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL ACTION

STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL, CASE NO.

Plaintiff, DIVISION:

vs.

NATIONWIDE ASSET SERVICES, INC., SERVICESTAR, LLC, UNIVERSAL DEBT REDUCTION, LLC, ADA TAMPA BAY, INC., d/b/a AMERICAN DEBT ARBITRATION, and GLENN P. STEWART, AN INDIVIDUAL,

Defendants.

_____/

COMPLAINT / PETITION FOR INJUNCTIVE RELIEF

Plaintiff, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE OF THE ATTORNEY GENERAL, sues Defendants NATIONWIDE ASSET SERVICES, INC., UNIVERSAL DEBT REDUCTION, LLC, SERVICESTAR, LLC, ADA TAMPA BAY, INC., d/b/a AMERICAN DEBT ARBITRATION, and GLENN P. STEWART, AN INDIVIDUAL, hereinafter collectively referred to as "Defendants," and alleges:

JURISDICTION AND VENUE

1. This is an action for monetary, injunctive, and other equitable and statutory relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2009).

2. This court has jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes.

3. The acts or practices alleged herein occurred in the conduct of "trade or commerce" as defined in § 501.203(8), Florida Statutes.

4. The Office of the Attorney General (hereinafter "Attorney General") seeks relief in an amount greater than Fifteen Thousand Dollars ($15,000.00), exclusive of interest, costs, and attorneys fees.

5. The violations herein affect more than one judicial circuit of the State of Florida.

6. Venue is proper in this court as the statutory violations alleged herein occurred within Pinellas County, and affect more than one judicial circuit of the State of Florida.

7. All other conditions precedent to this action have occurred.

8. Plaintiff has conducted an investigation of the matters alleged herein, and Attorney General Bill McCollum has determined that this enforcement action serves the public interest.

PARTIES

9. Plaintiff, Attorney General, is an enforcing authority pursuant to § 501.203(2), Florida Statutes, and is authorized to seek penalties as well as monetary, equitable and injunctive relief.

10. Defendant Nationwide Asset Services ("NAS") is a foreign corporation organized and doing business under the laws of the state of Arizona with its principal place of business located at 1990 W. Camelback Road, Phoenix, Arizona.

11. Defendant ServiceStar, LLC ("ServiceStar") is a foreign corporation organized and doing business under the laws of the state of Arizona with its principal place of business

located at 1990 W. Camelback Road, Phoenix, Arizona. ServiceStar provides the personnel NAS uses to conduct business, for which NAS pays a fee to ServiceStar. ServiceStar has the same address and statutory agent as NAS.

12. Defendant Universal Debt Reduction, LLC ("Universal"), is a foreign corporation organized and doing business under the laws of the state of Arizona with its principal executive office located at 1990 W. Camelback Road, Phoenix, Arizona, the same address as NAS and ServiceStar, LLC. Although NAS represents that Universal is no longer actively doing business, Universal is in good standing as a corporation registered in Arizona, and as recently as 2006 had gross receipts of more than Six Million Dollars ($6,000,000.00).

13. Defendant ADA TAMPA BAY, INC., d/b/a American Debt Arbitration ("ADA"), is a corporation organized and doing business under the laws of the state of Florida with its principal place of business located at 24771 US Hwy 19 North, Clearwater, Florida. ADA has obtained authorization to do business in Florida.

14. Defendant GLENN P. STEWART is a citizen and resident of the state of Florida, is a Director of ADA TAMPA BAY, INC., d/b/a AMERICAN DEBT ARBITRATION, and as such participated in a Scheme to Defraud as set out more fully below, and has the responsibility and authority to prevent violations of Florida Statutes concerning deceptive and unfair trade practices and Schemes to Defraud. As a Director of ADA TAMPA BAY, INC., d/b/a AMERICAN DEBT ARBITRATION, Defendant GLENN P. STEWART, directly participated in the conduct alleged herein, or directed or controlled the practices and policies of Defendant ADA TAMPA BAY, INC., d/b/a AMERICAN DEBT ARBITRATION, complained of herein, and had authority to control them and had actual or constructive knowledge of the acts and practices complained of herein.

DEFENDENTS' BUSINESSES

15. From an unknown date until the present day, Defendants offer a "debt negotiation program" to credit-troubled consumers in Florida, and throughout the country, for which they charge substantial fees.

16. ADA markets NAS' debt negotiation program to consumers who are experiencing credit difficulties.

17. ADA markets NAS' debt reduction program primarily through telephone sales presentations. ADA telemarketers make outbound telephone calls to consumers during which they represent the NAS' debt negotiation program saves most consumers between 25% and 40% of the credit card debt they owe, and can likely eliminate the consumer's credit card debt in as little as 24 months.

18. Over the telephone, the ADA telemarketer obtains a list of the consumer's credit card debts and prepares a "savings analysis," which purportedly illustrates the savings the consumer could reasonably expect to achieve through the NAS program. The ADA telemarketer then informs the consumer of the results of the savings analysis and states that, by negotiating directly with creditors, Defendants can get the consumer out of debt for substantially less than what he or she owes. ADA does not provide a copy of the "savings analysis" to the consumer.

19. ADA telemarketers are trained to deflect and minimize the true cost of the program while emphasizing the alleged savings created by the program.

20. ADA enrolls interested consumers in the NAS program during the telephone call. At this time, a consumer designates the credit card accounts ("designated accounts") to be settled through the debt negotiation program. The amount due at the time of the designation is referred

to as the "amount originally due." Defendants' claim of savings of 25% to 40% through their program on the amount originally due.

21. The NAS/ADA telemarketing script contains the following statements:

> "The good news is we negotiate with your creditors, and including all fees we typically save 25% to 40% off the total you owe."
>
> "But even with those fees, we typically get people out of debt for about 25% to 40% less than you currently owe."

22. The ADA telemarketer then elicits information regarding the consumer's net monthly income and expenses to determine the consumer's available monthly cash flow. Based on that available cash flow, and the total credit card debt the consumer wants settled through the program, ADA prepares a "debt reduction formula," which is a monthly payment plan purportedly designed to enable a consumer to pay any debt settlements negotiated by NAS, as well as Defendants' fees, over a specific period of time. The following is a sample illustration of an actual "debt reduction formula" created by Defendants:

Debt Reduction Formula	
Total Current Balance of Unsecured Debt to be on Program	$13,200.00
Target Settlement	$7,920.00 to $9,900.00
Total Current Monthly Payment on Unsecured Debt to be on Program	[Left Blank]
Regular Monthly Payment Agreed to	$300.00
Estimated Number of Months on Program	29 – 35

23. In the example above, ADA is representing to the consumer that, by making a $300 payment to NAS for 29 – 35 months, the consumer would be able to eliminate credit card debt at a savings of 25% to 40% of the amount that was owed at enrollment. Because ADA actually targets its monthly payment to be less than the consumer's total minimum monthly

credit card payments, this $300 monthly payment is likely less than what the consumer was paying on the credit cards before enrollment.

24. After the telephone call, ADA sends the consumer an enrollment packet containing, among other things, a welcome letter, instructions on completing the packet, the budget worksheet, the agreement, the power of attorney, and the bank account application.

25. Defendants repeat the earlier representations of the effectiveness of the NAS program and the specific savings the consumer is likely to achieve in these materials. For example, in one of the documents entitled: "Important Information: Read Before Signing! STRAIGHT TALK; WHAT YOU NEED TO KNOW," ADA indicates: "You have enrolled in the best debt reduction program in the nation. Short of bankruptcy, negotiation is the fastest and least expensive means of eliminating unsecured debt, and nobody negotiates better than we do. Compared to making minimum payments, our average client will pay a small fraction – as little as 60% - 75% - of the total needed to eliminate their debts," and "Save up to 50% or more on the amount you currently owe."

26. The lynchpin of Defendants' debt reduction program is a regular monthly payment (referred to herein as the "monthly payment") the consumer must pay to them, usually between Three Hundred Dollars ($300.00 is the minimum) and One Thousand Dollars ($1,000.00) every month. As set forth in paragraph 22 herein, ADA calculates the monthly payment based on the consumer's monthly cash flow and the expected settlement amounts.

27. Consumers are required to authorize NAS to electronically debit the monthly payment from a bank account on an ongoing basis. The monthly payment is deposited into a special bank account, in the name of the consumer, which is set up by Defendants' agent, Global Client Solutions, LLC, at Rocky Mountain Bank & Trust.

28. Defendants charge four separate fees for their debt negotiation program: a set-up fee, an enrollment fee, a monthly administrative fee, and a settlement fee. Consumers also pay a monthly service charge to Global Client Solutions who administers the consumers' special bank accounts at Rocky Mountain Bank & Trust.

29. The set up and enrollment fees must be paid before Defendants will undertake any debt negotiation activities on behalf of the consumer. In fact, ADA does not transfer the consumers' files to Nationwide Asset Services until all fees are paid.

30. The set up fee is Three Hundred Ninety-Nine Dollars ($399.00) and the enrollment fee is an amount equal to three times the consumer's monthly payment, usually between Nine Hundred Dollars ($900.00) and Three Thousand Dollars ($3,000.00). These fees are charged and retained by the Defendants before any substantive services are rendered to consumers. In fact, for at least the first 3 months after enrollment, all consumers payments are applied to the Defendants' fees and no funds whatsoever are available for payment to creditors.

31. Once the special bank account is set up, and the consumer deposits money into it, the Defendants begin charging consumers an additional Forty-Nine Dollar ($49.00) monthly administrative fee, as well as a monthly service charge to Global Client Solutions. The consumer's monthly payment is applied first towards the payment of these two fees before any of the consumers' debts are settled.

32. The final fee, which is called the settlement fee, is earned at the time NAS settles a designated account. The settlement fee is an amount equal to 29% (Twenty-Nine Percent) of the difference between the amount originally due on the account and the settlement amount.

33. According to Defendants, once a consumer's special bank account accumulates funds sufficient to pay a settlement, NAS begins negotiating with the consumer's creditors. It

usually takes more than six (6) months before negotiations can begin on any one debt, and it can take significantly longer to reach a settlement on that one debt. Defendants claim"[i]t's not unusual for most of a client's accounts to get settled in the last 8 months of a 30-month program, with substantial savings for the entire portfolio. You win by waiting." Therefore it typically takes almost 2 full years to settle all debts.

34. Consumers are directed by Defendants to stop making payments on their credit cards and to cease all communication with the creditors who hold the accounts, even if those creditors undertake collection activities as a result of consumers' failure to make required payments. For example, Defendants advise consumers that "[b]efore they cooperate with the Agency, most creditors will raise a fuss. In the first few months they will call you and try to collect your money… Your job is to put a wall between you and your creditors: have no discussions with them, but refer them to the Agency…"

35. Defendants explain that the extent of the consumer's delinquency (*i.e.*, the number of months the consumer fails to make minimum payment to creditors) corresponds with the savings the consumer can obtain, because credit card companies are more likely to compromise accounts that are seriously delinquent. For example, Defendants advise consumers: "Remember the longer an account ages without payments, the better chance there is of a lower percentage settlement;" and "As time goes by [not making minimum payments], the creditors will usually soften their stance, realizing something is better than nothing."

36. NAS is empowered to settle an account because the consumer executes a special limited power of attorney appointing NAS as his or her Attorney in Fact, giving NAS authority to intervene with credit card companies and settle credit card accounts.

37. Plaintiff is aware of more than ninety (90) consumer contacts regarding the Defendants' alleged unfair and deceptive business practices. Defendants are also currently being sued by the New York State Attorney General's Office.

A. Defendants Misrepresent the True Cost of Their Program

38. Defendants' telemarketers can earn commissions by enrolling consumers into the program. In fact, these telemarketers have an enrollment quota to meet or they are subject to termination based on "lack of production."

39. These policies provide significant incentives for telemarketers to deflect and minimize the true cost of and the inherent financial and legal risks relating to the Defendants' program while emphasizing the alleged savings created by the program.

40. Most, if not all, of defendants' marketing materials and correspondence contain representations minimizing the true cost of the program. For example, Defendants' marketing materials state "Short of bankruptcy, negotiation is the fastest and least expensive means to eliminate unsecured debt. Compared to making minimum payments, the average National Asset Services client will pay only a fraction – as little as 20% - of the total needed to eliminate debt," and "Our professional negotiators saved clients an average of 32% after fees and charges during 2006").

41. In the enrollment package sent to consumers, Defendants further misrepresent potential savings in the documents it sends to consumers who have signed up for its program. Defendant NAS gives the following example in the materials it provides to consumers:

> For example, assuming a settlement of a confirmed debt [Amount originally due] of $1,000 for $450, netting a savings of $550.00 and a settlement fee of $159.50 [29% x $550], the client would have saved 39% on the confirmed debt.
>
> In this example $450 will be deducted from the Client's Special Purpose Account, by the Creditor and a $159.50 fee by Agency. The client realized a net savings of $390.50 on the confirmed debt of $1,000 as well as elimination of future interest and Penalties.

42. For the reasons set forth in more detail in paragraphs 43 – 58 *herein*, NAS' representations in this example of 39% savings on the confirmed debt in the first paragraph and savings of $390.50 in the second paragraph, are false and deceptive because they do not take into account the enrollment fee, the set-up fee, the monthly administrative fee or the bank fees paid by the consumer.

43. Defendants, on their website, indicate the following in the section entitled "Frequently Asked Questions":

> What is the cost of your program?
>
> All fees are included in the Monthly Payment you will be making, which are usually less than the combined minimum payments on your credit card. Included in those fees are your enrollment fees, paid from your first three Monthly Payments; settlement fees, which equal 29% of the amount we saved you, giving us incentive to achieve the best settlements possible; and a small monthly administrative fee in the amount of $49.

44. From a date unknown until August 2009, Defendants failed to disclose that consumers must also pay a set-up fee of Three Hundred Ninety-Nine Dollars ($399.00) and bank fees as an additional cost of the program.

B. Defendants Misrepresent the Savings Realized Through Their Settlements

45. Defendants provide consumers who purportedly complete the NAS program a document entitled "Program Completion Summary." This document contains a list of the credit card accounts it indicates were designated by the consumer and, for each account, (i) the amount originally due, (ii) the settlement amount, (iii) the amount saved from the amount originally due, (iv) the 29% settlement fee, and (v) the settlement (which includes the settlement amount plus the settlement fee.)

46. The "Program Completion Summary" also contains an accounting of (i) the total monthly payments received from the consumer and (ii) the total amount paid by the consumer, including administrative fees and bank fees. The "Program Completion Summary" usually concludes with a statement of the savings the consumer realized (expressed as a percentage of the amount originally due) by utilizing the Defendants' program. The "Program Completion Summary" is deceptive and misleading because it does not clearly and conspicuously disclose the significant enrollment and set-up fees the consumers pay. In fact, these fees are not disclosed or included in the total Monthly Payments received and the total amount paid by the consumer outlined in the "Program Completion Summary." Further, Defendants fail to account for or include these fees, or the administrative and bank fees, in the calculation of the percentage amount saved that is identified in the "Program Completion Summary."

47. Defendants also overstate the savings realized by consumers who complete their program by failing to include, in the calculation of the amount saved on a designated account, any amounts by which settlement payments exceed the amount originally due on a designated account.

48. Specifically, in its program completion summary, NAS calculates the difference between the amount originally due, and the amount for which Defendant settles the account. NAS calls the difference the "amount saved" and then totals that amount on the "Program Completion Summary." However, when a consumer settles a debt for more than he or she originally owes, NAS identifies the amount saved for that account as $0 and does not acknowledge the overage. As a result, the "Program Completion Summary" inflates the total amount saved by the amount of the overages paid on the consumers' designated accounts.

C. Defendants Represent That Their Program Would Improve Their Customers' Credit Record, Credit History, or Credit Rating

49. The Defendants' program clearly has a dramatic negative impact on consumers' credit ratings. Although Defendants acknowledge the likely decrease in consumers' credit score, Defendants represent that this is a temporary and necessary part of the process on the road to improving their financial circumstances and ultimately their credit score. In no fewer than five areas in materials provided to consumers, Defendants refer to the impact on consumer's credit history and rating: the telemarketing script, verification script, web page, "Straight Talk" guide, program disclosure and on the Defendants' websites.

50. The Defendants' telemarketing script reads in part: ". . . The second is that your credit rating will go down while you are in the program. However, once you successfully complete the program, those accounts that we settle will show a zero balance due. Of course, this will take time; this program is a joint commitment and not a quick fix, and I know that your quality of life is more important than a drop in your credit score…"

51. The Defendants' verification script references the program's potential impact on a consumer's credit as " … Do you understand that this lack of regular payments will show on your credit report?" To which the consumer is prompted to say "Yes."

52. In the "Straight Talk: What You Need to Know" form sent to consumers in the enrollment packet, the Defendants indicate: "2. . . . Money will accumulate in your Special Purpose Account while they work with your creditors, and therefore your monthly payments to them will fall behind. This will show up on your credit report as missed payments. If this is unacceptable, please do not start this program. . . . We hope you understand that your credit is already severely damaged because of the amount of debt that you carry. This is not a credit

repair program." (It is important to note that the consumer may already be enrolled in the program at this point.)

53. The Defendants also reference their programs' impact on a consumer's credit on their websites in the "Importance of Good Credit" and on the FAQ pages. The "Importance of Good Credit" page indicates in part: "To improve your credit, you must improve your debt-to-income ratio, and paying off all of your unsecured debt can help. Although we are not in the credit repair business, our plan can help improve your debt-to-income ratio and reclaim your life."

54. While the Defendants' expressly and implicitly represent that their program can improve the consumers' credit scores, the likely outcome of Defendants' program is damaged credit, further financial hardship, lawsuits, and bankruptcy.

D. Defendants' Fees Charged to Floridians are in Excess of Statutory Limitations

55. The State of Florida limits the amount of fees that Credit counseling agencies are permitted to charge a debtor residing in this State. These fees are limited to $50 for "initial setup" or "initial consultations, up to $120 per year for "additional consultations," and up to the greater of 7.5 percent of the amount paid or $35 per month for certain "debt management services." See § 817.801, *et seq*., Florida Statutes.

56. The Defendants' materials, as well as the known accounts of Florida residents, clearly reflect charges and fees in excess of said limitations and therefore are illegal under existing laws.

E. The Completion / Success Rate of the Defendants' Program is Minimal

57. In the Defendants' pending litigation with the New York Attorney General's Office, it is alleged that of the 1,981 New Yorkers who registered with Defendants between

January 1, 2005 and May of 2008, only sixty-four (64) completed the program, a completion rate of about three percent (3%).

58. Similarly, between January of 2003 and July 2009, 227 Floridians enrolled in Defendants' program with only thirty (30) consumers completing the program. This represents a completion rate of 13.5%.

COUNT I
VIOLATIONS OF FLORIDA'S UNFAIR AND DECEPTIVE TRADE PRACTICES ACT, CHAPTER 501, PART II , FLORIDA STATUTES

59. The Attorney General sues Defendants and alleges:

60. Paragraphs 15 through 58 are hereby realleged and incorporated by reference, as if fully set forth below.

61. Section 501.204(1), Florida Statutes, indicates "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

62. As set forth in paragraphs 15 through 58 above, Defendants have engaged in a pattern of misinformation and deception with regards to the true cost and the true potential savings of the Defendants' program as well as the attendant risks. Thereby, Defendants have committed and are committing acts or practices in trade or commerce which shock the conscience; have engaged in or are engaging in representations, acts, practices or omissions which are material, and which are likely to mislead consumers acting reasonably under the circumstances; have committed and are committing acts or practices in trade or commerce which

offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers; and have engaged in acts or practices that are likely to cause substantial injury to consumers which is not reasonably avoidable by consumers themselves, or outweighed by countervailing benefits to consumers or competition. Thus, Defendants have engaged in and are engaging in unfair or deceptive or unconscionable acts or practices in the conduct of any trade or commerce in violation of § 501.204(1), Florida Statutes.

63. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

64. Defendants have willfully engaged in the acts and practices when they knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

65. Unless Defendants are enjoined from engaging further in the acts and practices complained of, the continued activities of Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT II

VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH FALSE AND MISLEADING ADVERTISING PROHIBITED BY §§ 817.06 AND 817.41

66. The Attorney General sues Defendants and alleges:

67. Paragraphs 15 through 58 are hereby realleged and incorporated by reference, as if fully set forth below.

68. Section 817.06(1), Florida Statutes, provides in part:

> No person . . . shall, with intent to offer or sell or in anywise dispose of merchandise, . . . service or anything offered by such person . . . directly or indirectly, to the public, for sale or distribution or issuance, or with intent to increase the consumption or use thereof, or with intent to induce the public in any manner to enter into any obligation relating thereto . . .

> knowingly or intentionally make, publish, disseminate, circulate or place before the public, or cause, directly or indirectly, to be made, published, disseminated or circulated or placed before the public in this state in a newspaper or other publication or in the form of a book, notice, handbill, poster, bill, circular, pamphlet or letter or in any other way, an advertisement of any sort regarding such . . . service or anything so offered to the public, which advertisement contains any assertion, representation or statement which is untrue, deceptive, or misleading.

69. Section 817.41(1) Florida Statutes, provides:

> It shall be unlawful for any person to make or disseminate or cause to be made or disseminated before the general public of the state, or any portion thereof, any misleading advertisement. Such making or dissemination of misleading advertising shall constitute and is hereby declared to be fraudulent and unlawful, designed and intended for obtaining money or property under false pretenses.

70. As set forth in paragraphs 15 through 58 above, Defendants have made and disseminated, and continue to make and disseminate, materials to consumers that are untrue, deceptive, or misleading with regard to the true cost and to the potential savings relating to the "debt reduction services" program. Defendants made and disseminated and continue to make and disseminate "misleading advertising" as defined by § 817.40(5), Florida Statutes, which are statements to and before the public, which are known, or through the exercise of reasonable care or investigation could or might be ascertained to be untrue or misleading, and which are so made or disseminated with the intent or purpose of selling services and to induce the public to enter into obligations relating to such services.

71. Defendants willfully engaged in the acts and practices alleged herein and knew or should have known at the time they advertised that their advertising and marketing materials contained assertions, representations, and statements which are untrue, deceptive, or misleading.

72. Pursuant to § 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

73. Defendants, by disseminating false and misleading advertisements, violated §§ 817.06(1), Florida Statutes, and 817.41(1), Florida Statutes, and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of § 501.204(1), Florida Statutes, and are subject to civil penalties and equitable remedies as imposed therein.

74. Unless Defendants are permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT III
VIOLATIONS OF CHAPTER 501, PART II, Fla. Stat., THROUGH FAILURE TO PROVIDE REQUIRED DISCLOSURE AND CANCELLATION NOTICES

75. The Attorney General sues Defendants and alleges:

76. Paragraphs 15 through 58 are hereby realleged and incorporated by reference, as if fully set forth below.

77. The Defendants failed to comply with Fla. Admin. Code R.2-18.002(2) of the Florida Administrative Code, with respect to contracts for future consumer services, by failing to display their cancellation policy "…in immediate proximity to the space reserved in the contract for the signature of the buyer…", and by failing to provide the proper notice required by Fla. Admin. Code R. 2-18.002(3).

78. Pursuant to § 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

79. Defendants, by failing to display their cancellation policy and failing to provide the proper notice required by Florida Administrative Code R. 2-18-002(2) and (3), violated R.2-

18.002(2), and therefore engaged in deceptive and unfair acts and practices in trade or commerce, in violation of §501.204(1), Florida Statutes, and are subject to civil penalties and equitable remedies as imposed therein.

80. Unless Defendants are permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendants will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT IV

VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES, THROUGH THE IMPOSITION OF EXCESSIVE FEES PROHIBITED BY § 817.802, FLORIDA STATUTES

81. The Attorney General sues Defendants and alleges:

82. Paragraphs 15 through 58 are hereby realleged and incorporated by reference, as if fully set forth below.

83. In the Fraudulent Practices Act, Part IV, Credit Counseling Services, § 817.801, *et seq*., Florida Statutes (2009), are found the following definitions, in pertinent part:

> (1) "Credit counseling agency" means any organization providing debt management services or credit counseling services.
> (2) "Credit counseling services" means confidential money management, debt reduction, and financial educational services.
> (3) "Creditor contribution" means any sum that a creditor agrees to contribute to a credit counseling agency, whether directly or by setoff against amounts otherwise payable to the creditor on behalf of debtors.
> (4) "Debt management services" means services provided to a debtor by a credit counseling organization for a fee to:
> (a) Effect the adjustment, compromise, or discharge of any unsecured account, note, or other indebtedness of the debtor, or
> (b) Receive from the debtor and disburse to a creditor any money or other thing of value.
> (5) "Person" means any individual, corporation, partnership, trust, association, or other legal entity.

84. Section 817.802 Florida Statutes, provides:

> It is unlawful for any person, while engaging in debt management services or credit counseling services, to charge or accept from a debtor residing in this state, directly or indirectly, a fee or contribution greater than $50 for the initial setup or initial consultation. Subsequently, the person may not charge or accept a fee or contribution from a debtor residing in this state greater than $120 per year for additional consultations or, alternatively, if debt management services as defined in s. 817.801(4)(b) are provided, the person may charge the greater of 7.5 percent of the amount paid monthly by the debtor to the person or $35 per month.

85. As set forth in paragraphs 1 through 58 above, Defendants have clearly charged Florida residents fees in excess of the Statutory limitations as set forth in the statutes.

86. Pursuant to § 501.203(3)(c), Florida Statutes, a violation of Chapter 501, Part II, may be based upon "[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices."

87. Defendants, by charging fees clearly in excess of the statutory limitations, § 817.802(1), Florida Statutes, engaged in deceptive and unfair acts and practices in trade or commerce, also in violation of § 501.204(1), Florida Statutes, and are therefore subject to civil penalties and equitable remedies as imposed therein.

COUNT V
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF SECTIONS 817.034 (4)(a), (b), FLORIDA STATUTES
ORGANIZED FRAUD and COMMUNICATIONS FRAUD

88. Plaintiff realleges and incorporates herein by reference paragraphs 15 through 58, and all exhibits referred to as if fully set forth herein.

89. Beginning at an exact date unknown to Plaintiff, but at least within four (4) years prior to the filing of the complaint and continuing to the present, Defendants, in their course of conducting commercial telephone solicitations marketing their debt reduction program, violated Sections 817.034(4)(a) and (b), Florida Statutes.

90. The Defendants have engaged in, caused, benefitted from, or otherwise aided and abetted a systematic and ongoing course of conduct with the intent to obtain and did obtain the property of others by false or fraudulent pretenses, willful misrepresentations, false promises, and willful avoidance.

91. Statements made relating to the program, solicitations were known by the Defendants to be misleading, untrue, or made with reckless indifference as to their truth or falsity with the intent to defraud. Such statements were made through communications, as described in Section 817.034(2)(a), Florida Statutes, and in violation of Section 817.034(4)(b), Florida Statutes.

92. False and misleading statements made in the telephonic solicitations were made with the intent to obtain money from Florida consumers intentionally misleading them into believing that participating in the program would result in a net savings between 25% to 40% off of the consumers' debt.

93. Defendants' intentional use of fraudulent and misleading scripts, fraudulent and misleading websites, and fraudulent and misleading enrollment packets, overall composed a systematic ongoing course of conduct with the intent to obtain, and did obtain, the property of Florida consumers by false or fraudulent pretenses.

94. In reliance upon the Defendants' false and deceptive solicitations, consumers gave personal identifying information, with the belief that they were going to save between 25% to 40% off of their outstanding debts.

95. Defendants knew or intentionally avoided knowing that methods described in paragraphs 15 through 58, would result and did result in consumer deception.

96. By undertaking the acts and practices described in paragraphs 15 through 58, the Defendants have participated in, facilitated, and furthered a Scheme to Defraud in violation of Section 817.034(4)(a), Florida Statutes. By undertaking the acts and practices described in Paragraphs 15 through 57, and thereby violating Section 817.034(4)(a), Defendants have

engaged in deceptive and unfair acts and practices in trade or commerce, in violation of Section 501.204, Florida Statutes.

97. Unless Defendants are permanently enjoined from engaging further in the acts and practices alleged herein, the continued activities of Defendants will result in irreparable injury to the public, in violation of Section 817.034(4)(a), Florida Statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General, respectfully requests that this Court:

1. **GRANT** a permanent injunction against Defendants, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of this injunction, prohibiting such persons from violating the provisions of Chapter 501, Part II, Florida Statutes, as specifically alleged above and any similar acts and practices.

2. **ASSESS** against Defendants civil penalties in the amount of Ten Thousand Dollars ($10,000.00), pursuant to § 501.2075, Florida Statutes, or Fifteen Thousand Dollars ($15,000.00) in case involving senior citizens or handicapped persons, pursuant to § 501.2077(2), Florida Statutes, for each violation of Chapter 501, Part II, Florida Statutes.

3. **AWARD** costs to Plaintiff for all expenses in bringing and maintaining this action, including reasonable attorney's fees pursuant to § 501.2105 and § 817.41(6), Florida Statutes.

4. **AWARD** actual damages to all consumers who are shown to have been injured in this action, pursuant to § 501.207(1)(c), Florida Statutes.

5. **WAIVE** the posting of a bond by Plaintiff in this action.

6. **GRANT** such other and further relief as this Honorable Court deems just and proper, including, but not limited to, all other relief allowable under § 501.207(3), Florida Statutes.

BILL MCCOLLUM
ATTORNEY GENERAL

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