

**IN THE CIRCUIT COURT OF THE NINTH JUDICIAL CIRCUIT,
IN AND FOR ORANGE COUNTY, FLORIDA**

**STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,
OFFICE OF THE ATTORNEY GENERAL,**

**CASE NO.: _____
DIVISION _____**

Plaintiff,

vs.

**FLORIST IN MIAMI, INC., a foreign corporation,
a/k/a TTP, Inc., a/k/a Lower 40 Gardens, Inc.,
a/k/a Flowers with Gifted Elegance, Inc.,
a/k/a Nightmares, Inc., and
THOMAS MEOLA, an individual,**

Defendants.

COMPLAINT

COMES NOW the Plaintiff, STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS (hereinafter "Plaintiff"), and sues FLORIST IN MIAMI, INC., a foreign corporation, a/k/a TTP, Inc., a/k/a Lower 40 Gardens, Inc., a/k/a Flowers with Gifted Elegance, Inc., a/k/a Nightmares, Inc., and THOMAS MEOLA, an individual (hereinafter "Defendants"), and in support thereof the Plaintiff alleges:

INTRODUCTION

1. This is an action for declaratory and injunctive relief, penalties, costs and other statutory remedies brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2006) (hereinafter "FDUTPA"), Section 501.97 , Florida Statutes (2006) (prohibiting deceptive trade practices in print advertisement), Sections 817.40 and 871.41, Florida Statutes (2006) (prohibiting misleading advertising), and Section 865.09,

Florida Statutes (2006) (requiring registration of fictitious business name).

2. The Defendants have violated the above provisions of Florida Statutes by producing and causing the dissemination of print advertisements and printed telephone listings throughout the State of Florida with generic fictitious business names, such as “Florida’s Florist in Orlando TTP”, and a corresponding phone number local to the Florida city or geographic locale named, thus implying to potential customers that the Defendants’ place of business is local, when in reality the Defendants’ business is located out-of-state and by forwarding the customers calls to Defendants’ out-of-state business without the caller’s knowledge that the purchase of flowers or other floral items is being transacted with an out-of-state business. Furthermore, the Defendants are in violation of Florida Statutes by failing to register the majority of their telephone listings as fictitious business names with the Florida Department of State, Division of Corporation as required by law.

PARTIES

3. The Plaintiff is an “enforcing authority” of the Florida Deceptive and Unfair Trade Practices Act as defined by Section 501.203(2), Florida Statutes, and is therefore authorized by Section 501.207, Florida Statutes to seek declaratory and injunctive relief, civil penalties, attorney’s fees and costs, and other statutory relief for violations of FDUTPA.

4. The Plaintiff is the appropriate enforcing authority because the statutory violations alleged herein occurred in or affect more than one judicial circuit in the State of Florida, including Orange County, pursuant to Section 501.203(2), Florida Statutes (2006).

5. Pursuant to Section 501.207(2), Florida Statutes, Attorney General Bill McCollum has reviewed this matter and determined that an enforcement action serves the public

interest.

6. Defendant FLORIST IN MIAMI, INC. is a closely-held for-profit foreign corporation, whose principal place of business is located at 390 Route 10 West, Suite 302, Randolph, New Jersey, that conducts business in the State of Florida and maintains a registered agent John D. Hatch, Esq., 1267 Berkshire Lane, Tarpon Springs, Florida. Defendant MEOLA is an individual listed in the corporate records produced by the Florida Department of State, Division of Corporation, as President, Director, Treasurer, and Controller of Defendant Florist in Miami, Inc. Defendant MEOLA is a resident of the State of New Jersey.

JURISDICTION AND VENUE

7. Section 26.012, Florida Statutes (2006), grants this Court jurisdiction over this action for equitable and legal relief in excess of \$15,000.00, exclusive of interest, costs, and attorneys' fees. Section 501.2075, Florida Statutes (2006) imposes a \$10,000.00 penalty for each violation of FDUTPA, unless an aggrieved consumer is a senior citizen or handicapped person, in which case a \$15,000.00 penalty is imposed per violation, in accordance with Section 501.2077, Florida Statutes (2006). Additionally, Section 501.97, Florida Statutes (2006) provides that a violation of that provision is also a violation of FDUTPA. This Complaint alleges fifty-three separate violations of FDUTPA. Therefore, the amount in controversy exceeds \$15,000.00, exclusive of interest, costs, and attorneys' fees.

8. This Court has personal jurisdiction over the Defendants as they maintain an office or registered agent at 1267 Berkshire Lane, Tarpon Springs, Florida and is available and subject to service of process in accordance with Sections 48.081 and 48.091, Florida Statutes (2006). F.S § 48.193(1)(a). This Court also has subject matter jurisdiction within its

aforementioned jurisdictional amount to declare rights, status, and other equitable or legal relations whether or not further relief is or could be claimed, as provided by section 86.011, Florida Statutes (2006).

9. Venue is proper in Orange County, Florida, since the Defendants conduct trade or commerce and advertise their services in Orange County. Thus, this cause of action accrues in Orange County, Florida, in accordance with Section 47.051, Florida Statutes (2006).

10. All actions material to this Complaint occurred within at least four years prior to the filing of this Complaint, pursuant to the statute of limitations provided by section 501.207(5), Florida Statutes (2006).

FACTS COMMON TO ALL COUNTS

11. Defendant MEOLA, a resident of the State of New Jersey, is the sole and principal owner and operator of the corporate Defendant FLORIST IN MIAMI, INC. Upon information and belief, Defendant MEOLA resides or maintains business locations at 3 Sylvia Place, Randolph, New Jersey, and 92 Morristown Road, Bernardsville, New Jersey. Defendant FLORIST IN MIAMI, INC. is an active closely-held for-profit foreign corporation, whose principal place of business is located at 390 Route 10 West, Suite 302, Randolph, New Jersey, and conducts business in the State of Florida via registered agent 1267 Berkshire Lane, Tarpon Springs, Florida. Records maintained by the Florida Department of State, Division of Corporation, indicate that there is a cross-referenced corporation related to Defendant FLORIST IN MIAMI, INC. called TTP, INC., which maintains the same registered agent as Defendant FLORIST IN MIAMI, INC. and whose principal owner and operator is Defendant MEOLA.

12. The Defendants are engaged in trade or commerce in the State of Florida as wholesale and/or retail suppliers of flowers and florist-related products to the public. The Defendants principally operate as “teleflorists”, meaning that from their New Jersey-based business, Defendants arrange for the local delivery of flowers and florist-related products by means of a telephone order initiated by the customer to Defendants.

13. The Defendants promote their New Jersey-based telefloral business primarily in telephone book directories, Internet telephone directories, and directory assistance databases across the United States including, but not limited to, the State of Florida.

14. The Defendants create listings in various telephone directory books, the Internet, directory assistance listings and advertisements, which listings in Florida consist primarily of the name of a geographic locality in Florida, such as “Florida’s Florist in Orlando TTP”, along with a telephone number corresponding to the listed locality’s area code and numerical prefix. Defendants’ various listings fail to provide any information alerting the consumer to the Defendants’ true business location in New Jersey. Instead, the information provided to prospective customers by the Defendants via these listings affirmatively indicates that the location of Defendants’ place of business is in the specified city or town in Florida given in the listing. Thus, the consumer is misled into believing that Defendants are located in Florida, when, in fact, they are not.

15. When a customer calls one of the Defendants’ listings, the call is forwarded by the use of remote call forwarding or other technology to another telephone number, usually an “800” number, programmed to ring at the Defendants’ business location in New Jersey. The call is then answered by a service that initiates the purchase process with defendants. Once the call is

transferred to Defendants' New Jersey-based business, the Defendants take the order and charge the customer via credit card or electronic debit. The Defendants then forward the order to a local floral business for delivery. At no time during the transaction is the caller informed that his or her call has been forwarded from Florida to Defendants' national telefloral service whose actual place of business is located in New Jersey.

16. By means of the acts and omissions described in paragraphs 13-15 herein, the Defendants mislead and deceive customers into thinking that the customer is dealing with a local florist; the customer is never made aware of the fact that their order was placed with Defendants' out-of-state telefloral business and, in turn, filled by another unknown and/or unfamiliar florist. Moreover, when asked by a potential customer where their store is located, the Defendants refuse to reveal their actual physical location in New Jersey.

17. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florist in Oviedo," with telephone number 407-359-8019. Oviedo is a municipality located in Seminole County, Florida. No address is advertised, in the directory listing but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Pl., Randolph, NJ 07869. These same records indicate that any calls placed to 407-359-8019 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporations, indicate that "Florist in Oviedo" is not a registered fictitious business name.

18. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Jacksonville TTP,” with telephone number 904-358-2838. Jacksonville is a municipality located in Duval County, Florida. No address is advertised, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Pl., Randolph, NJ 07869. These same records indicate that any calls placed to 904-358-2838 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporations, indicate that “Florida’s Florist in Jacksonville TTP” is not a registered fictitious business name.

19. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Brooksville TTP,” with telephone number 352-796-6636. Brooksville is a municipality located in Hernando County, Florida. No address is advertised, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Pl., Randolph, NJ 07869. These same records indicate that any calls placed to 352-796-6636 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporations, indicate that “Florida’s Florist in Brooksville TTP” is not a registered fictitious business name.

20. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Coral Springs TTP,” with telephone number 954-346-5029. Coral Springs is a municipality located in Broward County, Florida. No address is advertised, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Pl., Randolph, NJ 07869. These same records indicate that any calls placed to 954-346-5029 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporations, indicate that until 7/14/06, “Florida’s Florist in Coral Springs TTP” was not a registered fictitious business name.

21. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Daytona Beach TTP,” with telephone number 386-248-0433. Daytona Beach is a municipality located in Volusia County, Florida. The listing is also advertised as “Florida’s Florist in Ormond Beach TTP.” Ormond Beach is also a municipality located in Volusia County, Florida. No address is advertised on either listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 92 Morristown Road, Bernardsville, NJ 07924. These same records indicate that any calls placed to 386-248-0433 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division

of Corporations, indicate that neither “Florida’s Florist in Daytona Beach TTP” nor “Florida’s Florist in Ormond Beach TTP” are registered fictitious business names.

22. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Gainesville TTP,” with telephone number 352-375-2200. Gainesville is a municipality located in Alachua County, Florida. The listing is also advertised as “Gainesville Florist Inc.” No address is advertised on either listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 352-375-2200 are to be forwarded to 1-800-258-6473, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that neither “Florida’s Florist in Gainesville TTP” nor “Gainesville Florist Inc.” are registered fictitious business names.

23. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Melbourne TTP,” with telephone number 321-951-2440. Melbourne is a municipality located in Brevard County, Florida. The listing is also advertised as “Florida’s Florist in Palm Bay TTP” and “Florida’s Florist in Melbourne.” Palm Bay is also a municipality located in Brevard County, Florida. No address is advertised on either listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is

directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 321-951-2440 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that neither “Florida’s Florist in Melbourne TTP” nor “Florida’s Florist in Palm Bay TTP” nor “Florida’s Florist in Melbourne” are registered fictitious business names.

24. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Orange Park TTP,” with telephone number 904-269-1282. Orange Park is a municipality located in Clay County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 904-269-1282 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that “Florida’s Florist in Orange Park TTP” is not a registered fictitious business name.

25. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in West Palm TTP,” with telephone number 561-835-0442. West Palm Beach is a municipality located in Palm Beach County, Florida. The listing is also advertised as “Florida’s Florist in Palm Beach.” No address is

advertised on either listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 561-835-0442 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, neither “Florida’s Florist in West Palm TTP” nor “Florida’s Florist in Palm Beach” were registered fictitious business names.

26. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Panama City TTP,” with telephone number 850-769-8151. Panama City is a municipality located in Bay County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 92 Morristown Rd., Bernardsville, NJ 07924. These same records indicate that any calls placed to 850-769-8151 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that “Florida’s Florist in Panama City TTP” is not a registered fictitious business name.

27. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Orlando TTP,” with telephone

number 407-843-1448. Orlando is a municipality located in Orange County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 407-843-1448 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that “Florida’s Florist in Orlando TTP” is not a registered fictitious business name.

28. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist in Boca Raton TTP,” with telephone number 561-367-0719. Boca Raton is a municipality located in Palm Beach County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 561-367-0719 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florida’s Florist in Boca Raton TTP” was not a registered fictitious business name.

29. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florida’s Florist Cocoa Beach,” with telephone number

321-690-6966. Cocoa Beach is a municipality located in Brevard County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 321-690-6966 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that "Florida's Florist Cocoa Beach" is not a registered fictitious business name.

30. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florida's Florist Cooper City," with telephone number 954-435-1327. Cooper City is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 92 Morristown Rd., Bernardsville, NJ 07924. These same records indicate that any calls placed to 954-435-1327 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that "Florida's Florist Cooper City" is not a registered fictitious business name.

31. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florida's Florist Winter Springs," with telephone

number 407-323-6343. Winter Springs is a municipality located in Seminole County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 407-323-6343 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that "Florida's Florist Winter Springs" is not a registered fictitious business name.

32. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florist in Hallandale," with telephone number 954-454-6457. Hallandale is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-454-6457 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that "Florist in Hallandale" is not a registered fictitious business name.

33. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florist in Sanford," with telephone number 407-323-

6343. Sanford is a municipality located in Seminole County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Nightmares, Inc., d/b/a TTP, Inc., 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 407-323-6343 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that “Florist in Sanford” is not a registered fictitious business name.

34. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Carol City Florist,” with telephone number 305-624-6900. Carol City is a municipality located in Bay County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-624-6900 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

35. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Cutler Ridge Florist,” with telephone number 305-278-1360. Cutler Ridge is a municipality located in Miami-Dade County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier

for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-278-1360 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

36. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Davie Florist,” with telephone number 954-584-8340. Davie is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-584-8340 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

37. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Deerfield Beach Florist,” with telephone number 954-427-3702. Deerfield Beach is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-427-3702 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

38. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Ferry Pass Florist,” with telephone number 850-478-4350. Ferry Pass is a municipality located in Escambia County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 850-478-4350 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

39. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Hallandale Florist,” with telephone number 954-456-9850. Hallandale is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-456-9850 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

40. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Hollywood Florist,” with telephone number 954-359-5299. Hollywood is a municipality located in Broward County, Florida. No address is

advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-359-5299 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

41. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Jupiter Florist," with telephone number 561-575-1740. Jupiter is a municipality located in Palm Beach County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 561-575-1740 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

42. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Lauderdale Lakes Florist," with telephone number 954-730-8310. Lauderdale Lakes is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-730-8310 are to be forwarded to 1-800-304-9719, a

telephone number carried by Sprint and assigned to Defendants.

43. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Miami Florist,” with telephone number 305-379-8008. Miami is a municipality located in Miami-Dade County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-379-8008 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

44. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Miami Beach Florist,” with telephone number 305-531-5140. Miami Beach is a municipality located in Miami-Dade County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-531-5140 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

45. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or

disseminated, a directory listing called “Norland Florist,” with telephone number 305-653-3640. Norland is a municipality located in Miami-Dade County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-653-3640 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

46. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “North Lauderdale Florist,” with telephone number 954-968-8540. North Lauderdale is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-968-8540 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

47. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “North Miami Florist,” with telephone number 305-891-2670. North Miami is a municipality located in Miami-Dade County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to

Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 305-891-2670 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

48. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Pensacola Florist," with telephone number 850-434-1070. Pensacola is a municipality located in Escambia County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 850-434-1070 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

49. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Pompano Beach Florist," with telephone number 954-943-7533. Pompano Beach is a municipality located in Broward County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 954-943-7533 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

50. Beginning at a date unknown to Plaintiff, but within at least four years prior to the

filings of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Riviera Beach Florist," with telephone number 561-863-6133. Riviera Beach is a municipality located in Palm Beach County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, BellSouth, billing for calls placed to the number is directed to Lower Forty Gardens, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 561-863-6133 are to be forwarded to 1-800-304-9719, a telephone number carried by Sprint and assigned to Defendants.

51. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called "Florist in Bartow," with telephone number 863-534-8408. The listing is also advertised as "Bartow Flowers." Bartow is a municipality located in Polk County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Bartow Flowers, 92 Morristown Road, Bernardsville, NJ 07924. These same records indicate that any calls placed to 863-534-8408 are to be forwarded to 1-800-270-4029, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, neither "Florist in Bartow" nor "Bartow Flowers" were not registered fictitious business names.

52. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or

disseminated, a directory listing called “Florist in Bradenton,” with telephone number 941-750-9633. Bradenton is a municipality located in Manatee County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Bradenton, 92 Morristown Road, Bernardsville, NJ 07924. These same records indicate that any calls placed to 941-750-9633 are to be forwarded to 1-800-890-5939, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Bradenton” was not a registered fictitious business name.

53. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in Clearwater,” with telephone number 727-447-3421. Clearwater is a municipality located in Pinellas County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Clearwater, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-447-3421 are to be forwarded to 1-800-243-4068, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Clearwater” was not a registered fictitious business name.

54. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or

disseminated, a directory listing called “Florist in Dunedin,” with telephone number 727-738-4728. Dunedin is a municipality located in Pinellas County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Dunedin, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-738-4728 are to be forwarded to 1-800-890-5939, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Dunedin” was not a registered fictitious business name.

55. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in Lakeland,” with telephone number 863-686-5898. Lakeland is a municipality located in Polk County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Seminole, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 863-686-5898 are to be forwarded to 1-800-890-5913, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Lakeland” was not a registered fictitious business name.

56. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or

disseminated, a directory listing called “Florist in New Port Richey,” with telephone number 727-843-8421. New Port Richey is a municipality located in Pasco County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in New Port Richey, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-843-8421 are to be forwarded to 1-800-890-5939, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in New Port Richey” was not a registered fictitious business name.

57. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in Sarasota,” with telephone number 941-365-8726. Sarasota is a municipality located in Sarasota County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Sarasota, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 941-365-8726 are to be forwarded to 1-800-890-5941, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Sarasota” was not a registered fictitious business name.

58. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in Seminole,” with telephone number 727-319-9394. Seminole is a municipality located in Pinellas County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Seminole, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-319-9394 are to be forwarded to 1-800-890-5939, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that “Florist in Seminole” is not a registered fictitious business name.

59. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in St. Petersburg,” with telephone number 727-896-8358. St. Petersburg is a municipality located in Pinellas County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in St. Petersburg, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-896-8358 are to be forwarded to 1-800-890-5913, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in St. Petersburg” was not a registered fictitious business name.

60. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Florist in Carrollwood,” with telephone number 813-969-4313. Carrollwood is a municipality located in Hillsborough County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Florist in Carrollwood, Tom & Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 813-969-4313 are to be forwarded to 1-800-243-4068, a telephone number carried by Sprint and assigned to Defendants. Records from the Florida Department of State, Division of Corporation, indicate that until 7/14/06, “Florist in Carrollwood” was not a registered fictitious business name.

61. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Lealman Florist,” with telephone number 727-526-1113. Lealman is a municipality located in Pinellas County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Lower Forty Gardens, Tom Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-526-1113 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants.

62. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Plant City Florist,” with telephone number 813-754-6656. Plant City is a municipality located in Hillsborough County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Lower Forty Gardens, Tom Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 813-754-6656 are to be forwarded to 1-800-422-5109, a telephone number carried by Sprint and assigned to Defendants.

63. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Tampa Florist,” with telephone number 813-226-0122. Tampa is a municipality located in Hillsborough County, Florida. No address is advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Tampa Florist, Tom/Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 813-226-0122 are to be forwarded to 1-800-422-5919, a telephone number carried by Sprint and assigned to Defendants.

64. Beginning at a date unknown to Plaintiff, but within at least four years prior to the filing of this Complaint, the Defendants have made or disseminated, or caused to be made or disseminated, a directory listing called “Tarpon Springs Florist,” with telephone number 727-938-4193. Tarpon Springs is a municipality located in Pinellas County, Florida. No address is

advertised on the listing, but according to records maintained by the telecommunications carrier for the above telephone number, Verizon Florida, Inc., billing for calls placed to the number is directed to Tarpon Springs Flowers, Tom/Peggy Meola, 3 Sylvia Place, Randolph, NJ 07869. These same records indicate that any calls placed to 727-938-4193 are to be forwarded to 1-800-890-5939, a telephone number carried by Sprint and assigned to Defendants.

65. According to records from the telecommunications company Sprint, calls placed to telephone numbers 1-800-422-5109, 1-800-258-6473, 1-800-270-4029, and 1-800-890-5939, all numbers carried and administered by Sprint, are billed to a company called Lower 40 Gardens, Inc. with a corporate address of 390 Route 10 West, Suite 101, Randolph, NJ, contact name Thomas Meola, President, invoice address 3 Sylvia Place, Randolph, NJ, attention to Thomas Meola, President. Based on the similarity of corporate/business addresses and the fact that Defendant MEOLA is also President, Director, and Controller of Defendant FLORIST IN MIAMI, INC., the company known as Lower 40 Gardens, Inc. is an additional name utilized by the Defendants in their commercial activities.

COUNTS 1-53: DECEPTIVE AND UNFAIR TRADE PRACTICES
(Engaging in Unfair or Deceptive Acts or Practices in Violation of
Section 501.204, Florida Statutes)

66. The Plaintiff repeats, re-alleges and incorporates by reference Paragraphs 1 through 65 above with the same force and effect as though fully set forth herein.

67. Pursuant to Section 501.204, Florida Statutes (2006), unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful. In addition, a violation of this provision may be

based on "any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices." F.S. § 501.203(3)(c).

68. "Trade or commerce" is defined by Section 501.203(8), Florida Statutes (2006) as "the advertising, soliciting, providing, offering, or distributing, whether by sale, rental, or otherwise, of any good or service, or any property, whether tangible or intangible, or any other article commodity , or thing of value, wherever situated." At all times material hereto, the Defendants were engaged in trade or commerce as described above.

69. The Defendants engaged in unfair or deceptive acts or practices in the conduct of trade or commerce by advertising their business in such a manner as to mislead and deceive potential customers regarding the business' true and actual location of operation. In fifty-three listings attributed to them, the Defendants consciously and deliberately chose a local geographic name, specifically the name of a Florida town or city, such as "Florist in Oviedo", to deceive and mislead consumers into believing that Defendants' business is located in Florida in that specific town or city. To further create and foster this false and misleading impression of a Florida business location, the Defendants caused entries to be made in various directory listings and on the Internet, giving a local Florida phone number, containing the area code and prefix corresponding to the Florida geographic location given in the listing.

70. The Defendants engaged in unfair and deceptive practices in the conduct of trade or commerce in that these acts or practices offended public policy and are immoral, unethical, oppressive, unconscionable, unscrupulous or substantially injurious to consumers and caused substantial injury to consumers which is not reasonably avoidable by consumers themselves and not outweighed by countervailing benefits to consumers or competition, in violation of Section

501.204, Florida Statutes (2006).

RELIEF FOR COUNTS 1-53

WHEREFORE, Plaintiff prays that this Court will:

- A. **DECLARE** Defendants' action(s) or practice(s) to be in violation of Chapter 501, Part II, Florida Statutes;
- B. **ASSESS** against each and all Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, pursuant to Section 501.2075, Florida Statutes;
- C. **GRANT** permanent injunctions against each and all Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the injunction, prohibiting all such persons from engaging in acts and practices in violation of Chapter 501, Florida Statutes, as specifically alleged herein;
- D. **IMPOSE** reasonable restrictions on the future activities of Defendants to prohibit them from engaging in or establishing the same type of endeavor, pursuant to Section 501.207(3), Florida Statutes;
- E. **AWARD** reasonable attorneys' fees and costs to the Plaintiff, pursuant to Sections 501.2105, Florida Statutes; and
- F. **GRANT** such other and further relief as this Court deems just and proper.

COUNTS 54-107: DECEPTIVE TRADE PRACTICES IN PRINT ADVERTISEMENT

(Misrepresenting the Geographic Location of the Supplier of a Service or Product in Violation of Section 501.97, Florida Statutes)

71. The Plaintiff repeats, re-alleges and incorporates by reference Paragraphs 1 through 65 above with the same force and effect as though fully set forth herein.
72. Pursuant to section 501.97(1), Florida Statutes (2006), “a person may not misrepresent the geographic location of the supplier of a service or product by listing a fictitious business name or an assumed business name in print advertisement if: (a) the name and overall context of the advertisement misrepresent that the supplier maintains an established place of business within the state when in fact the supplier has no such business in the state; and (b) calls to the local telephone number are routinely forwarded or otherwise transferred to a business location that is outside the State of Florida.”
73. A violation of section 501.97(1), Florida Statutes, also constitutes a violation of FDUTPA. Subsection (2) states, “A violation of this section is a deceptive and unfair trade practice and constitutes a violation of part II of this chapter. A person who violates this section commits a deceptive and unfair trade practice, punishable by the penalties provided under part II of this chapter, and is subject to the enforcement of remedies for the violation as provided in part II of this chapter.” F.S. § 501.97(2).
74. The Defendants are in violation of section 501.97, Florida Statutes, because they misrepresented the geographic location of their floral business. First, the fictitious names they used in their directory listings, such as “Florida’s Florist in Orlando TTP,” all indicate to the potential customer that their business is located in a town or city in Florida, when in fact this is not the case. Second, the Defendants’ use of telephone numbers local to the named Florida town or city further indicates to potential customers that the business is located in that Florida locale,

when in fact the Defendants' true location is in New Jersey and the call is forwarded to Defendants' New Jersey offices. Thus, the name and overall context of the Defendants' advertisement of their business misrepresents that they maintain an established place of business within the state when in fact their business is located outside the state. Moreover, calls to the local telephone numbers listed are routinely forwarded or caused to be transferred to the Defendants' true business location outside Florida. Therefore, having satisfied both elements of this provision, the Defendants are in violation of section 501.97, Florida Statutes.

75. Being in violation of section 501.97, Florida Statutes, the Defendants are therefore engaged in an unfair and deceptive trade practice, also constituting a separate and distinct violation of FDUTPA.

RELIEF FOR COUNTS 54-107

WHEREFORE, Plaintiff prays that this Court will:

- A. **DECLARE** Defendants' action(s) or practice(s) to be in violation of Chapter 501, Part II, Florida Statutes;
- B. **ASSESS** against each and all Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, pursuant to Section 501.2075, Florida Statutes;
- C. **GRANT** permanent injunctions against Defendants, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the injunction, prohibiting all such persons from engaging in acts and practices in violation of Chapter 501, Florida Statutes, as specifically alleged herein;
- D. **IMPOSE** reasonable restrictions on the future activities of Defendants to prohibit

them from engaging in or establishing the same type of endeavor, pursuant to Section 501.207(3), Florida Statutes;

E. **AWARD** reasonable attorneys' fees and costs to the Plaintiff, pursuant to Sections 501.2105, Florida Statutes; and

F. **GRANT** such other and further relief as this Court deems just and proper.

COUNTS 108-160: MISLEADING ADVERTISEMENT
(Making a Misleading Advertisement in Violation of Section 817.41, Florida Statutes)

76. The Plaintiff repeats, re-alleges and incorporates by reference Paragraphs 1 through 65 above with the same force and effect as though fully set forth herein.

77. Pursuant to Section 817.41(1), Florida Statutes (2006), it is unlawful 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.

78. Section 817.40(5), Florida Statutes (2006), defines misleading advertising as:

statements, including written and oral statements, disseminated to the public that are known, or with reasonable care might have been known, to be misleading, with the intent, either directly or indirectly, to sell property or services of any nature to the public.

79. The Defendants here have made or disseminated, or caused to be made or disseminated, advertisements that deceive and mislead the public by falsely attesting that their business is local to the area in which the advertisement is distributed. By employing local geographic names, such as names of Florida cities or towns, and coupling each name with a telephone number area code and prefix local to the Florida city or town named, the Defendants are able to deceive potential customers into believing that they are calling a local florist in that named Florida town or city. Moreover, when the customer calls, there is no indication, let alone

voluntary admission, by the Defendants that the call, and the subsequent purchase order, is actually being handled by an out-of-state business rather than by a local florist in the named Florida town or city. Accordingly, those customers who prefer to do business with a local company rather than with a non-local telefloral service like Defendants' are, by Defendants' misleading advertisements, unknowingly tricked and are thus victimized by the deception practiced on them. Customers experiencing difficulties or problems with their order cannot easily go to Defendants' actual place of business for redress and will find tracking down the physical location of the Defendants' business very difficult. Worse, some of these customers mistakenly identify local florists as Defendants and then complain about their orders, when these other truly local florists (whose names may be similar to those names employed by Defendants) had nothing whatsoever to do with the order, and whose commercial reputation then suffers as a result.

80. The violations of Section 817.41(1), Florida Statutes (2006), by Defendants additionally constitute separate and distinct unfair or deceptive acts or practices in violation of Section 501.204, Florida Statutes.

81. As set forth herein, the Defendants made or disseminated, or caused to be made or disseminated, statements in oral, written, or printed form to the public which Defendants knew, or through the exercise of reasonable care or investigation could or might have ascertained, to be untrue or misleading, and which are or were so made or disseminated with the intent or purpose, either directly or indirectly, of selling personal property or services of any nature, or to induce the public to enter into any obligation relating to such property or services, in violation of Sections 817.40, 817.41, and 501.204, Florida Statutes.

RELIEF FOR COUNTS 97-145

WHEREFORE, Plaintiff prays that this Court will:

A. **DECLARE** Defendants' action(s) or practice(s) to be in violation of Chapter 501,

Part II, Florida Statutes;

B. **ASSESS** against each and all Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, pursuant to Section 501.2075, Florida Statutes;

C. **GRANT** permanent injunctions against Defendants, its officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the injunction, prohibiting all such persons from engaging in acts and practices in violation of Chapters 501 and 817, Florida Statutes, as specifically alleged herein;

D. **IMPOSE** reasonable restrictions on the future activities of Defendants to prohibit them from engaging in or establishing the same type of endeavor, pursuant to Section 501.207(3), Florida Statutes;

E. **AWARD** reasonable attorneys' fees and costs to the Plaintiff, pursuant to Sections 501.2105, Florida Statutes; and

F. **GRANT** such other and further relief as this Court deems just and proper.

COUNTS 161-193: FICTITIOUS NAME ACT
(Failing to Register a Fictitious Name in Violation of Section 865.09, Florida Statutes)

82. The Plaintiff repeats, re-alleges and incorporates by reference Paragraphs 1 through 68 above with the same force and effect as though fully set forth herein.

83. Section 865.09, Florida Statutes, requires a business to register any fictitious names under which it operates with the Florida Department of State. Specifically, “A person may not engage in business under a fictitious name unless the person first registers the name with the division by filing a sworn statement listing: (a) the name to be registered, (b) the mailing address of the business, (c) the name and address of each owner and, if a corporation, its federal employer’s identification number and Florida incorporation or registration number, (d) certification by the applicant that the intention to register such fictitious names has been advertised at least once in a newspaper... where the principal place of business of the applicant will be located, and (e) any other information the division may deem necessary to adequately inform other governmental agencies and the public as to the persons so conducting business.” F.S. § 865.09(3). A fictitious name “means any name under which a person transacts business in this state, other than the person’s legal name.” F.S. § 865.09(2)(a). A business is “any enterprise or venture in which a person sells, buys, exchanges, barters, deals, or represents the dealing in any thing or article of value, or renders services for compensation.” F.S. § 865.09(2)(c).

84. Of further note, among the penalties imposed upon a person or entity for violation of the Fictitious Names Act, “If a business fails to comply with this section, the business, its members, and those interested in doing such business may not maintain any action, suit, or proceeding in any court of this state until this section is complied with.” F.S. § 865.09(9)(a).

85. The facts hereinbefore alleged show that the Defendants' regularly purport or attempt to transact business under numerous fictitious names. However, out of the fifty-three business entities identified as belonging to Defendants, Defendants have failed to register eighteen (18) of these entities as fictitious names with Department of State, and have belatedly registered fourteen (14) of these entities. Accordingly, the Defendants in violation of section 865.09, Florida Statutes, and therefore, the Defendants cannot maintain an action in any court.

86. Lastly, a violation of section 865.09, Florida Statutes, constitutes an unfair and deceptive trade practice, a separate and distinct violation of FDUTPA.

RELIEF FOR COUNTS 161-193

WHEREFORE, Plaintiff prays that this Court will:

- A. **DECLARE** Defendants' action(s) or practice(s) to be in violation of Chapter 501, Part II, Florida Statutes;
- B. **ASSESS** against each and all Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of Chapter 501, Part II, pursuant to Section 501.2075, Florida Statutes;
- C. **GRANT** permanent injunctions against Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with Defendants who receive actual notice of the injunction, prohibiting all such persons from engaging in acts and practices in violation of Chapters 501 and 865, Florida Statutes, as specifically alleged herein;
- D. **IMPOSE** reasonable restrictions on the future activities of Defendants to prohibit them from engaging in or establishing the same type of endeavor, pursuant to

Section 501.207(3), Florida Statutes;

E. **AWARD** reasonable attorneys' fees and costs to the Plaintiff, pursuant to Sections 501.2105, Florida Statutes; and

F. **GRANT** such other and further relief as this Court deems just and proper.

Respectfully submitted this _____ day of _____, 2007.

Bill McCollum
ATTORNEY GENERAL

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by

U.S. Mail, this ____ , day of _____, 2007 to:

William G. Williams, Esq.
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