

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

FEDERAL TRADE COMMISSION,
STATE OF KANSAS,
STATE OF MINNESOTA, and
STATE OF NORTH CAROLINA,

Plaintiffs,

v.

AFFILIATE STRATEGIES, INC.,
LANDMARK PUBLISHING GROUP, L.L.C.,
(d/b/a G.F. INSTITUTE and GRANT
FUNDING INSTITUTE),
GRANT WRITERS INSTITUTE, L.L.C.,
ANSWER CUSTOMERS, L.L.C.,
APEX HOLDINGS INTERNATIONAL, L.L.C.,
BRETT BLACKMAN, individually and as an
officer, manager, and/or member of
Affiliate Strategies, Inc., Landmark
Publishing Group, L.L.C., Grant Writers
Institute, L.L.C., Answer Customers,
L.L.C., and Apex Holdings International,
L.L.C.,
JORDAN SEVY, individually and as a manager
of Landmark Publishing Group, L.L.C.,
JAMES RULISON, individually and as president
of Answer Customers, L.L.C.,
REAL ESTATE BUYERS FINANCIAL
NETWORK LLC (d/b/a GRANT
WRITERS RESEARCH NETWORK),
MARTIN NOSSOV, individually and as a
manager and member of Real Estate
Buyers Financial Network LLC, and
ALICIA NOSSOV, individually and as a
manager and member of Real Estate
Buyers Financial Network LLC,

Defendants.

Case No. 09-CV-4104-JAR

COMPLAINT

Plaintiff Federal Trade Commission (“FTC” or “the Commission”) and the States of Kansas, Minnesota, and North Carolina, by and through their counsel and Attorneys General, for their Complaint allege:

1. The FTC brings this action under Sections 13(b) and 19 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. §§ 53(b) and 57b, and the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101 – 6108, to obtain temporary, preliminary, and permanent injunctive relief, rescission or reformation of contracts, restitution, disgorgement of ill-gotten gains, and other equitable relief for Defendants’ acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a) and in violation of the FTC’s Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.

2. The State of Kansas, by and through its Attorney General, Steve Six, brings this action pursuant to the Telemarketing Act, 15 U.S.C. § 6101, *et seq.*, and the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*, in order to obtain injunctive relief, restitution for consumers, civil penalties, and other equitable relief.

3. The State of Minnesota, by and through its Attorney General, Lori Swanson, brings this action pursuant to the Telemarketing Act, 15 U.S.C. § 6101, *et seq.*, and Minn. Stat. §§ 8.01 & 8.31; the Minnesota Uniform Deceptive Trade Practices Act, Minn Stat. §§ 325D.43-325D.48; Minn. Stat. § 325F.67; the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68-325F.70; and Minn. Stat. § 325F.71, subd. 2 (2008), in order to obtain injunctive relief, restitution for consumers, civil penalties, and other equitable relief.

4. The State of North Carolina, by and through its Attorney General, Roy Cooper, brings this action pursuant to the Telemarketing Act, 15 U.S.C. § 6101, *et seq.*, and the North

Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*, in order to obtain injunctive relief, restitution for consumers, civil penalties, and other equitable relief.

JURISDICTION AND VENUE

5. This Court has jurisdiction over this matter pursuant to 15 U.S.C. §§ 45(a), 53(b), 57b, 6102(c), and 6105(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345.

6. This Court has supplemental jurisdiction pursuant to 28 U.S.C. § 1367 over the state law claims of the States of Kansas, Minnesota, and North Carolina.

7. Venue is proper in this District under 15 U.S.C. § 53(b) and 28 U.S.C. §§ 1391(b) and (c).

THE PARTIES

8. *Plaintiffs:* Plaintiff **FTC** is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58, as amended. The Commission is charged, *inter alia*, with enforcing Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), which prohibits unfair or deceptive acts or practices in or affecting commerce. The FTC is also charged with enforcement of the Telemarketing Act, 15 U.S.C. §§ 6101 - 6108. Pursuant to the Telemarketing Act, the FTC promulgated and enforces the TSR, 16 C.F.R. Part 310, which prohibits deceptive and abusive telemarketing acts or practices.

9. The FTC is authorized to initiate federal district court proceedings, by its own attorneys, to enjoin violations of the FTC Act and the TSR and to secure such equitable relief as may be appropriate in each case, including restitution and disgorgement. 15 U.S.C. §§ 53(b), 57b, 6102(c), and 6105(b).

10. Plaintiff **State of Kansas** is one of the 50 sovereign states of the United States, and by and through its Attorney General, Steve Six, it brings this action under the Kansas

Consumer Protection Act, K.S.A. 50-623, *et seq.* Pursuant to the authority found in the Telemarketing Act at 15 U.S.C. § 6103(a), Plaintiff Kansas is also authorized to initiate federal district court proceedings to enjoin telemarketing activities that violate the TSR, and in each such case, to obtain damages, restitution, and other compensation on behalf of Kansas residents. This Court has supplemental jurisdiction over Plaintiff Kansas's state law claims under 28 U.S.C. § 1367.

11. Plaintiff **State of Minnesota** is one of the 50 sovereign states of the United States, and by and through its Attorney General, Lori Swanson, it brings this action under the Minn. Stat. §§ 8.01 & 8.31; the Minnesota Uniform Deceptive Trade Practices Act, Minn Stat. §§ 325D.43-325D.48; Minn. Stat. § 325F.67; the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68-325F.70; and Minn. Stat. § 325F.71, subd. 2 (2008). Pursuant to the authority found in the Telemarketing Act at 15 U.S.C. § 6103(a), Plaintiff Minnesota is also authorized to initiate federal district court proceedings to enjoin telemarketing activities that violate the TSR, and in each such case, to obtain damages, restitution, and other compensation on behalf of Minnesota residents. This Court has supplemental jurisdiction over Plaintiff Minnesota's state law claims under 28 U.S.C. § 1367.

12. Plaintiff **State of North Carolina** is one of the 50 sovereign states of the United States, and by and through its Attorney General, Roy Cooper, it brings this action under the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.* Pursuant to the authority found in the Telemarketing Act at 15 U.S.C. § 6103(a), Plaintiff North Carolina is also authorized to initiate federal district court proceedings to enjoin telemarketing activities that violate the TSR, and in each such case, to obtain damages, restitution, and other

compensation on behalf of North Carolina residents. This Court has supplemental jurisdiction over Plaintiff North Carolina's state law claims under 28 U.S.C. § 1367.

13. *Defendants:* Defendant **Affiliate Strategies, Inc.** ("ASI"), is a corporation incorporated under the laws of the State of Kansas with its principal place of business at 11644 West 75th Street Suite 104, Overland Park, Kansas 66214, and its official mailing address at P.O. Box 445, Paola, Kansas 66071. In connection with the matters alleged herein, Defendant ASI transacts or has transacted business in this District.

14. Defendant **Landmark Publishing Group, L.L.C.** ("Landmark Publishing"), also doing business as G.F. Institute and Grant Funding Institute, is a limited liability company organized under the laws of the State of Kansas with its principal place of business at 11644 West 75th Street Suite 104, Overland Park, Kansas 66214, and a mailing address at P.O. Box 445, Paola, Kansas 66071. In connection with the matters alleged herein, Defendant Landmark Publishing transacts or has transacted business in this District.

15. Defendant **Grant Writers Institute, L.L.C.** ("GWI"), is a limited liability company organized under the laws of the State of Kansas with its registered office at 9225 Indian Creek Parkway, Suite 1100, Overland Park, Kansas 66210, and a mailing address at P.O. Box 445, Paola, Kansas 66071. In connection with the matters alleged herein, Defendant Grant Writers Institute transacts or has transacted business in this District.

16. Defendant **Answer Customers, L.L.C.** ("Answer Customers"), is a limited liability company organized under the laws of the State of Kansas with its registered office at 9225 Indian Creek Parkway, Suite 1100, Overland Park, Kansas 66210. In connection with the matters alleged herein, Defendant Answer Customers transacts or has transacted business in this District.

17. Defendant **Apex Holdings International, L.L.C.** (“Apex Holdings”), is a limited liability company organized under the laws of the State of Kansas with its principal place of business at 11644 West 75th Street Suite 104, Overland Park, Kansas 66214. Apex Holdings is the majority member of Landmark Publishing. In connection with the matters alleged herein, Defendant Apex Holdings transacts or has transacted business in this District.

18. Defendant **Brett Blackman** is an officer, director, member, and/or manager of ASI, Landmark Publishing, GWI, Answer Customers, and Apex Holdings. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of ASI, Landmark Publishing, GWI, and Apex Holdings, including the acts and practices set forth in this Complaint. Defendant Blackman resides in this District, and in connection with the matters alleged herein, transacts or has transacted business in this District.

19. Defendant **Jordan Sevy** is a manager of Landmark Publishing. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Landmark Publishing, including the acts and practices set forth in this Complaint. Defendant Sevy resides in this District, and in connection with the matters alleged herein, transacts or has transacted business in this District.

20. Defendant **James Rulison** is the president of Answer Customers. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of Answer Customers, including the acts and practices set forth in this Complaint. In connection with the

matters alleged herein, Defendant James Rulison transacts or has transacted business in this District.

21. Defendant **Real Estate Buyers Financial Network LLC** (“REBFN”), d/b/a Grant Writers Research Network, is organized under the laws of the State of North Carolina with its registered office at 5984 B Six Forks Road, Raleigh, NC 27609. In connection with the matters alleged herein Defendant REBFN transacts or has transacted business in this District.

22. Defendant **Martin Nossov** is, or has been, an officer, director, member, and/or manager of REBFN. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of REBFN, including the acts and practices set forth in this Complaint. In connection with the matters alleged herein, Defendant Martin Nossov transacts or has transacted business in this District.

23. Defendant **Alicia Nossov**, a/k/a Alicia Zika and Alicia Zika Nossov, is, or has been, an officer, director, member, and/or manager of REBFN. Defendant Alicia Nossov served as the organizer, sole member, and owner of REBFN in 2005, 2006, and 2007. Beginning in 2008 and through the present, Defendant Alicia Nossov has served as a member of REBFN along with her husband, Defendant Martin Nossov. In connection with the matters alleged herein, Defendant Alicia Nossov transacts or has transacted business in this District.

COMMON ENTERPRISE

24. Defendants Affiliate Strategies, Landmark Publishing, GWI, Answer Customers, and Apex Holdings (the “ASI Defendants”) operate and have operated as a common enterprise while engaging in the unlawful acts and practices alleged in this Complaint. The ASI Defendants have conducted the business practices described below through an interrelated

network of companies that have common ownership, officers, directors, members, managers, office locations, and mailing addresses. Because these Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices alleged below. Individual Defendant Brett Blackman formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the corporate defendants that comprise the common enterprise.

COMMERCE

25. At all times relevant to this Complaint, Defendants have maintained a substantial course of trade or business in the offering for sale and sale of goods or services, often via the telephone, in or affecting commerce, as “commerce” is defined in Section 4 of the FTC Act, 15 U.S.C. § 44.

DEFENDANTS’ BUSINESS PRACTICES

26. Since at least January 2007, and continuing thereafter, Defendants have engaged in a plan, program, or campaign to sell grant-related goods and services such as a guide that purportedly shows consumers how to obtain grants, as well as grant research and/or writing or coaching services, via mass mailings and telephone calls to consumers throughout the United States, including, but not limited to, Kansas, Minnesota, and North Carolina. Defendants use a variety of deceptive tactics to induce consumers to pay for their goods and services.

27. Defendants have engaged in telemarketing by a plan, program, or campaign conducted to induce the purchase of goods or services by use of one or more telephones and which involves more than one interstate telephone call.

THE GRANT GUIDE

28. In or about 2007, the ASI Defendants commissioned the writing of a book entitled “Professional Grant Writer ‘The Definitive Guide to Grant Writing Success’” (“Grant Guide”). Landmark Publishing holds all copyright rights to the Grant Guide and serves as the sole marketer and seller of the Grant Guide.

29. The ASI Defendants advertise and market the Grant Guide by mass mailing postcards and flyers (“ASI Mailing(s)”) to consumers throughout the United States.

30. To induce consumers to purchase the Grant Guide, the ASI Defendants disseminate or cause to be disseminated the ASI Mailings, including but not limited to those attached as Exhibits A & B. These ASI Mailings contain, among other things, the following statements:

“You are Guaranteed a \$25,000 Grant from the U.S. Government”

Ex. A.

“Official Information re: \$25,000.00 Grant from U.S. Government”

“APPROVED”

“Funds may be used at your discretion (bill payment, travel, continuing or advanced education, healthcare)”

“FUNDING AVAILABLE AS GRANTS AND WILL NEVER HAVE TO BE REPAYED AT ANY TIME”

Ex. B.

31. The ASI Mailings instruct consumers to call a telephone number. Upon connecting to the telephone number provided on the ASI Mailing, consumers hear a voice recording making claims such as the following:

“Congratulations you have just taken your first step to receive 25,000 dollars or more in free government grant money, guaranteed. If you’ve been reading the papers you know that recently our government released over 700 billion dollars into the private sector. What you probably don’t know is there is another 300 billion dollars that must be given away this year to people just like you. And if you are one of the lucky few who know how to find and apply for these grants, you will receive a check for 25,000 dollars or more, and we guarantee it.”

“Three hundred billion dollars of free government grant money is available right now to anyone who applies for it.”

“Your grant guide gives you everything you need to easily find these grants and apply for a check written in your name for 25,000 dollars or more. Can it happen to you? We guarantee it or you pay nothing for this information . It really is simple when you know how, but you have to make the first move.”

“If you don’t get a government check for 25,000 dollars or more, you pay nothing.”

Ex. C.

32. At the end of the voice recording, the call connects to a telemarketer who urges the consumer to purchase the Grant Guide for \$59 plus \$10 in shipping and handling. The telemarketer then requests the consumer to furnish credit card, debit card, or checking account information.

GRANT RESEARCH

33. To induce consumers to purchase additional services, the ASI Defendants advertise additional grant related services to consumers who purchase the Grant Guide. These advertisements, bound in the Grant Guide, include but are not limited to the advertisement attached as Exhibit D, which states that GWI's "grant writers have been able to produce a 70% success rate in receiving grant funding" and provides a telephone number for interested consumers to call.

34. The names of consumers who purchase the Grant Guide are used as leads by the ASI Defendants to sell grant-related services, including grant research services. These additional grant research services typically cost \$995.

35. In numerous instances, the ASI Defendants conduct telemarketing or cause telemarketing to be conducted through third-party agents to sell their grant-related services.

36. As agents of the ASI Defendants, Defendants REBFN and the Nossovs conducted telemarketing in the name of Grant Writers Institute to sell GWI's grant-related services.

37. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of the ASI Defendants' grant research services, Defendants represented and continue to represent to consumers that the research services will identify grants for which the consumer is eligible to apply and to receive grant monies.

38. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of the ASI Defendants' grant research services, Defendants represented and continue to represent to consumers that they will likely obtain grant monies as a result of their purchase of the research services.

39. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of the ASI Defendants' grant research services, the ASI Defendants provide consumers only a list that often includes, among other things, grants, contests, loans, entitlement programs, and social welfare programs.

40. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of the ASI Defendants' grant research services, Defendants represented and continue to represent to consumers that Grant Writers Institute has achieved a "70% success rate" with their past customers.

GRANT WRITING

41. The ASI Defendants further solicit consumers who purchase the Grant Guide and/or grant research services to purchase from GWI grant writing services, which cost approximately \$265 per page, and grant coaching services, which cost approximately \$1,000.

42. The ASI Defendants conduct telemarketing or cause telemarketing to be conducted in order to sell their grant writing and coaching services.

43. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of Defendant GWI's grant writing services, the ASI Defendants represent or have represented to consumers that "[w]e have a 70% success rate...."

44. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale or sale of Defendant GWI's grant writing services, the ASI Defendants solicit consumers to pay GWI to write multiple grant proposals.

45. In numerous instances, consumers who pay for Defendant GWI's grant research, writing, and/or coaching services do not receive grant monies.

VIOLATIONS OF SECTION 5 OF THE FTC ACT

46. Section 5(a) of the FTC Act, 15 U.S.C. § 45(a), prohibits “unfair or deceptive acts or practices in or affecting commerce.”

47. Misrepresentations or deceptive omissions of material fact constitute unfair or deceptive acts or practices prohibited by Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT I

By Plaintiff Federal Trade Commission against the ASI Defendants and Defendants Blackman, Sevy, and Rulison

48. In numerous instances, in connection with the offering for sale or sale of the Grant Guide, the ASI Defendants and Defendants Blackman, Sevy, and Rulison represent, directly or indirectly, expressly or by implication, that consumers are guaranteed or highly likely to obtain a \$25,000 grant from the U.S. Government.

49. The representation set forth in Paragraph 48 is false and misleading and unsubstantiated.

50. Therefore, the making of the representation as set forth in Paragraph 48 of this Complaint constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT II

By Plaintiff Federal Trade Commission against all Defendants

51. In numerous instances, in connection with the offering for sale or sale of the grant research and writing services, Defendants have represented, directly or indirectly, expressly or by implication, that Grant Writers Institute has a 70% success rate in obtaining grant funding for the consumers who purchase Defendants’ services.

52. The representation set forth in Paragraph 51 of this Complaint is false and misleading and unsubstantiated.

53. Therefore, the making of the representation as set forth in Paragraph 51 of this Complaint constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

By Plaintiff Federal Trade Commission against all Defendants

54. In numerous instances, Defendants have represented, directly or indirectly, expressly or by implication, that consumers who purchase Defendants' goods and services are likely to receive grant monies.

55. The representation set forth in Paragraph 54 is false and misleading and unsubstantiated.

56. Therefore, the making of the representation as set forth in Paragraph 54 of this Complaint constitutes a deceptive act or practice in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

57. Congress directed the FTC to prescribe rules prohibiting abusive and deceptive telemarketing acts or practices pursuant to the Telemarketing Act, 15 U.S.C. §§ 6101 - 6108, in 1994. On August 16, 1995, the FTC adopted the Telemarketing Sales Rule (the "Original TSR"), 16 C.F.R. Part 310, which became effective on December 31, 1995. On January 29, 2003, the FTC amended the TSR by issuing a Statement of Basis and Purpose ("SBP") and the final amended TSR (the "TSR"). 68 Fed. Reg. 4580, 4669.

58. Defendants are “seller[s]” or “telemarketer[s]” engaged in “telemarketing,” as defined by the TSR, 16 C.F.R. §§ 310.2(z), (bb), and (cc).

59. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services any material aspect of the performance, efficacy, nature, or central characteristics of goods or services that are the subject of a sales offer. 16 C.F.R. § 310.3(a)(2)(iii).

60. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and Section 18(d)(3) of the FTC Act, 15 U.S.C. § 57a(d)(3), a violation of the TSR constitutes an unfair or deceptive act or practice in or affecting commerce, in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT IV

By all Plaintiffs against all Defendants

61. In numerous instances, in the course of telemarketing grant-related goods and services, Defendants have misrepresented, directly or indirectly, material aspects of the performance, efficacy, nature, or central characteristics of the grant-related services they sell, including: (a) that consumers are guaranteed or highly likely to receive a \$25,000 grant; (b) that Grant Writers Institute has a 70% success rate in obtaining grant funding for the consumers who purchase Defendants’ services; and (c) that consumers who use Defendants’ grant-related services are likely to receive grant monies.

62. Defendants’ practice as alleged in Paragraph 61 is a deceptive telemarketing practice that violates Section 310.3(a)(2)(iii) of the TSR, 16 C.F.R. § 310.3(a)(2)(iii) .

KANSAS STATE LAW CLAIMS

COUNT V

**By Plaintiff State of Kansas against the ASI Defendants and
Defendants Blackman, Sevy, and Rulison**

63. In numerous instances, in connection with the offering for sale or sale of the Grant Guide, the ASI Defendants and Defendants Blackman, Sevy, and Rulison made willful use of exaggeration, falsehood, innuendo or ambiguity as to a material fact, specifically that consumers are guaranteed to obtain a \$25,000 grant from the U.S. Government.

64. The representation set forth in Paragraph 63 is false and misleading.

65. Therefore, the making of the representation as set forth in Paragraph 63 of this Complaint constitutes a deceptive act or practice in violation of the Kansas Consumer Protection Act, § K.S.A. 50-626(b)(2).

COUNT VI

By Plaintiff State of Kansas against all Defendants

66. In numerous instances, in the course of telemarketing grant-related goods and services, Defendants have represented, directly or by implication, that the uses, benefits or characteristics of Defendants' goods and services have been proven or otherwise substantiated, when Defendants do not collect, nor do Defendants possess, the type and amount of proof to substantiate such representations.

67. The practice set forth in Paragraph 66 is false and misleading.

68. Therefore, the making of the representations as set forth in Paragraph 66 of this Complaint constitutes a deceptive act or practice in violation of the Kansas Consumer Protection Act, § K.S.A. 50-626(b)(1)(G).

COUNT VII

By Plaintiff State of Kansas against all Defendants

69. In numerous instances, in the course of telemarketing grant-related goods and services, Defendants charged Kansas consumers' credit cards, for the purchase of the Grant Guide, prior to receiving signed confirmations from these consumers disclosing in full the terms of the transaction, as required by the Kansas Consumer Protection Act, § K.S.A. 50-672.

70. The practice set forth in Paragraph 69 of this Complaint constitutes an unconscionable act or practice in violation of the Kansas Consumer Protection Act, § K.S.A. 50-675(b).

COUNT VIII

By Plaintiff State of Kansas against all Defendants

71. In numerous instances, in the course of telemarketing grant-related goods and services, Defendants charged Kansas consumers' credit cards, for the purchase of grant-related services, prior to receiving signed confirmations from these consumers that comply with the requirements of § K.S.A. 50-672(b), and in violation of § K.S.A. 50-672(c).

72. The practice set forth in Paragraph 71 of this Complaint constitutes an unconscionable act or practice in violation of the Kansas Consumer Protection Act, § K.S.A. 50-675(b).

COUNT IX

By Plaintiff State of Kansas against all Defendants

73. In numerous instances, the Defendants solicit consumers who are over the age 60 years old.

74. In numerous instances, in the course of telemarketing grant-related goods and services, Defendants have solicited, or otherwise engaged in consumer transactions with, elder or disabled persons, as defined in the Kansas Consumer Protection Act, K.S.A. § 50-676.

75. The Defendants' conduct caused the elder and disabled to suffer: (a) loss of or encumbrance upon the elder and disabled persons' principal source of income; (b) loss of property set aside for retirement or for personal or family care and maintenance; and/or (c) loss of assets essential to the health and welfare of the elder or disabled persons.

76. Therefore, the Court should impose an additional civil penalty, not to exceed \$10,000.00, for each violation of the Kansas Consumer Protection Act committed against such persons, pursuant to K.S.A. § 50-677.

MINNESOTA STATE LAW CLAIMS

COUNT X

By Plaintiff State of Minnesota against all Defendants

77. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale and sale of grant-related goods and services, Defendants have engaged in deceptive trade practices by causing a likelihood of confusion or of misunderstanding as to their goods and services and misrepresented the sponsorship, approval, characteristics, ingredients, uses, benefits or quantities of their goods and services.

78. Defendants' conduct constitutes multiple, separate deceptive trade practices in violation of Minn. Stat. § 325D.44, subd. 1(2), (3), (5) and (13) (2008).

COUNT XI

By Plaintiff State of Minnesota against all Defendants

79. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale and sale of grant-related goods and services, Defendants have made, published, disseminated, circulated or placed before the public, or caused, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public in Minnesota advertisements containing untrue, deceptive, and misleading assertions, misrepresentations or statements of fact.

80. Defendants' conduct described above constitutes multiple, separate violations of Minn. Stat. § 325F.67 (2008).

COUNT XII

By Plaintiff State of Minnesota against all Defendants

81. In numerous instances, in connection with the sale of grant-related goods and services, Defendants have employed fraud, false pretense, false promise, misrepresentation, misleading statements and/or deceptive practices with the intent that others rely thereon.

82. Defendants' conduct described above constitutes multiple violations of Minn. Stat. § 325F.69, subd. 1 (2008).

COUNT XIII

By Plaintiff State of Minnesota against all Defendants

83. In numerous instances, the Defendants solicit consumers who are over the age 62 years old.

84. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale and sale of grant-related goods and services, Defendants have engaged in

deceptive trade practices, false advertising and/or consumer fraud against senior citizens, who are persons 62 years of age or older, or disabled persons.

85. Defendants knew or should have known that their conduct was directed to one or more senior citizens or disabled persons.

86. Defendants' conduct caused one or more senior citizens or disabled persons to suffer: (1) loss or encumbrance of a primary residence, principal employment or source of income; (2) substantial loss of property set aside for retirement or for personal or family care and maintenance; (3) substantial loss of payments received under a pension or retirement plan or a government benefits program; or (4) loss of assets essential to the health or welfare of the senior citizen or disabled person.

87. One or more senior citizens or disabled persons are more vulnerable to Defendants' conduct than other members of the public because of age, poor health or infirmity, impaired understanding, restricted mobility, or disability, and actually suffered physical, emotional or economic damage resulting from Defendants' conduct.

88. Defendants' conduct as described above constitutes multiple, separate violations of Minn. Stat. § 325F.71, subd. 2 (2008), and Defendants are, therefore, liable for an additional civil penalty not to exceed \$10,000 for each violation.

NORTH CAROLINA STATE LAW CLAIMS

COUNT XIV

By Plaintiff State of North Carolina against all Defendants

89. Defendants have engaged in a practice of misrepresentation in the advertising, marketing, promotion, offering for sale and sale of grant-related goods and services. The

making of representations that are misleading, false, and/or unsubstantiated constitute unfair and deceptive trade practices and therefore, Defendants have violated N.C. Gen. Stat. § 75-1.1.

90. Defendants have knowingly and willfully engaged in acts or practices that constitute unfair or deceptive trade practices, including but not limited to, violations of the FTC's Telemarketing Sales Rule, 16 C.F.R. Part 310.

CONSUMER INJURY

91. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act and the TSR. In addition, Defendants have been unjustly enriched as a result of their unlawful acts and practices. Absent injunctive relief by this Court, Defendants are likely to continue to injure consumers, reap unjust enrichment, and harm the public interest.

THIS COURT'S POWER TO GRANT RELIEF

92. Section 13(b) of the FTC Act, 15 U.S.C. § 53(b), empowers this Court to grant injunctive and such other relief as the Court may deem appropriate to halt and redress violations of the FTC Act.

93. The Court, in the exercise of its equitable jurisdiction, may award ancillary relief, including, rescission of contracts, restitution, and the disgorgement of ill-gotten monies, to prevent and remedy any violations of any provision of law enforced by the FTC.

94. Section 19 of the FTC Act, 15 U.S.C. § 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), authorize this Court to grant such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the TSR, including the rescission and reformation of contracts, and the refund of money.

95. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow Plaintiff, the State of Kansas, to enforce its state law claims under the Kansas Consumer Protection Act, K.S.A. §§ 50-623, *et seq.*, against Defendants in this Court. To ensure compliance and to remedy violations of the Kansas Consumer Protection Act, K.S.A. § 50-632 authorizes the Court to enter a temporary restraining order and preliminary and permanent injunctions, and order the restoration of any money or property obtained by a defendant as a result of any violation. Under K.S.A. § 50-636(a), the Court may award the State of Kansas up to \$10,000.00 for each violation. Under K.S.A. § 50-677, the Court may award additional civil penalties, not to exceed \$10,000.00, for each violation committed against an elder or disabled person, as defined by § K.S.A. 50-676. The Court may also award reasonable expenses and investigation fees to the State of Kansas. K.S.A. § 50-632(a)(4).

96. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow Plaintiff, the State of Minnesota, to enforce its state law claims under the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. §§ 325D.43-325D.48; Minn. Stat. 325F.67 (false advertising); and the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. §§ 325F.68-325F.70, against Defendants in this Court. To ensure compliance and to remedy violations of these provisions, Minn. Stat. §§ 8.31, subd. 3; 325F.67; and 325F.70, subd. 1, authorize the Court to grant injunctive relief. The Court may also allow the recovery of damages under Minn. Stat. § 8.31, subd. 3a, and common law. Under Minn. Stat. § 8.31, subd. 3, the Court may award the State of Minnesota up to \$25,000 for each violation of these provisions. Under Minn. Stat. § 325F.71, subd. 2(a), the Court may award additional civil penalties, not to exceed \$10,000 for each violation committed against one or more senior citizens or disabled persons, as defined by Minn. Stat. § 325F.71, subd. 1(a) & (b). Pursuant to Minn. Stat. § 8.31,

subd. 3a, the Court may also award reasonable costs and disbursements, including costs of investigation and reasonable attorneys' fees to the State of Minnesota.

97. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow Plaintiff, the State of North Carolina, to enforce its state law claims under the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. §§ 75-1.1, *et seq.*, against Defendants in this Court. To ensure compliance and to remedy violations of the North Carolina Unfair and Deceptive Trade Practices Act, N.C. Gen. Stat. § 75-14 authorizes the Court to enter a temporary restraining order and preliminary and permanent injunctions. N.C. Gen. Stat. § 75-15.1 empowers the Court to cancel any contract and order the restoration of any money or property obtained by a defendant as a result of any violation. Under N.C. Gen. Stat. § 75-15.2, a court may award the State of North Carolina up to \$5,000 for each violation. N.C. Gen. Stat. § 75-16.1 authorizes an award of attorneys' fees.

PRAYER FOR RELIEF

Wherefore, Plaintiff Federal Trade Commission, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. § 53(b) and 57b, and Section 6(b) of the Telemarketing Act, 15 U.S.C. § 6105(b), and the Court's own equitable powers; Plaintiff State of Kansas pursuant to the Kansas Consumer Protection Act, Section 4(a) of the Telemarketing Act, 15 U.S.C. § 6103(a), and the Court's own equitable powers; Plaintiff State of Minnesota pursuant to the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325F.67, the Minnesota Prevention of Consumer Fraud Act, and Minn. Stat. § 325F.71, Section 4(a) of the Telemarketing Act, 15 U.S.C. § 6103(a), and the Court's own equitable powers; and Plaintiff State of North Carolina pursuant to the North Carolina Unfair and Deceptive Trade Practices Act, Section 4(a) of the

Telemarketing Act, 15 U.S.C. § 6103(a), and the Court's own equitable powers, requests that the Court:

1. Award Plaintiffs such preliminary injunctive and ancillary relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including, but not limited to, a temporary restraining order, a preliminary injunction, an order freezing assets, immediate access to the ASI Defendants' business premises, and appointment of a receiver;

2. Enter a permanent injunction to prevent future violations by Defendants of the FTC Act, the Telemarketing Act and the TSR, the Kansas Consumer Protection Act, the Minnesota Uniform Deceptive Trade Practices Act, Minn. Stat. § 325F.67, the Minnesota Prevention of Consumer Fraud Act, Minn. Stat. § 325F.71, and the North Carolina Unfair and Deceptive Trade Practices Act;

3. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' unlawful conduct, including, but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and

4. Award Plaintiffs the costs of bringing this action, civil penalties under applicable state claims, and such other and additional equitable relief as the Court may determine to be just and proper.

Dated: July 20, 2009

Lanny Welch
United States Attorney

s/ D. Brad Bailey
D. BRAD BAILEY
Assistant United States Attorney
Ks. S.Ct. No. 11345
Federal Building, Suite 290
444 SE Quincy Street
Topeka, KS 66683-3592
Telephone: (785) 295-2850
Facsimile: (785) 295-2853
E-mail: Brad.Bailey@usdoj.gov

*Local Counsel for Plaintiff Federal Trade
Commission*

Respectfully submitted,

Willard K. Tom, General Counsel

s/ Carmen Christopher
CARMEN CHRISTOPHER
STEPHEN GURWITZ
GARY L. IVENS
Federal Trade Commission
600 Pennsylvania Ave., N.W., Rm. 286
Washington, DC 20580
Telephone: (202) 326-3643 (Christopher)
Telephone: (202) 326-3272 (Gurwitz)
Telephone: (202) 326-2330 (Ivens)
Facsimile: (202) 326-3395
E-mail: cchristopher@ftc.gov
E-mail: sgurwitz@ftc.gov
E-mail: givens@ftc.gov
Attorneys for Plaintiff FTC

Steve Six
Attorney General for the State of Kansas

s/ Meghan E. Barnds
MEGHAN E. BARNDS,
Assistant Attorney General
Office of the Kansas Attorney General
Ks. S.Ct. No. # 23685
120 SW 10th Ave., 4th Floor
Topeka, Kansas 66612
Telephone: (785) 368-8242
Facsimile: (785) 291-3699
E-mail: Meghan.Barnds@ksag.org
*Attorney for Plaintiff State of Kansas
Local Counsel for Plaintiff States of Minnesota
and North Carolina*

Signatures continue . . .

Lori Swanson
Attorney General for the State of Minnesota

s/ Shannon M. Harmon
SHANNON M. HARMON
Assistant Attorney General, Charities Division
Office of the Minnesota Attorney General
1200 Bremer Tower
445 Minnesota Street
St. Paul, MN 55101-2130
Telephone: (651) 296-3854
Facsimile: (651) 296-7438
E-mail: shannon.harmon@state.mn.us
Attorney for Plaintiff State of Minnesota

Roy Cooper
Attorney General for the State of North Carolina

s/ Barbara Shaw
BARBARA SHAW
Assistant Attorney General
N.C. Department of Justice
P.O. Box 629
Raleigh, NC 27602
Telephone: (919) 716-6030
Facsimile: (919) 716-6050
E-mail: Bshaw@ncdoj.gov
Attorney for Plaintiff State of North Carolina