

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION**

FEDERAL TRADE COMMISSION, and)	
)	
)	
STATE OF FLORIDA, OFFICE OF THE)	
ATTORNEY GENERAL, DEPARTMENT OF)	
LEGAL AFFAIRS,)	
)	
Plaintiffs,)	Civil No. 6:14-CV-8-ORL 28DAB
)	
v.)	
)	
WORLDWIDE INFO SERVICES, INC., a)	
Florida corporation, also d/b/a THE CREDIT)	
VOICE;)	
)	
ELITE INFORMATION SOLUTIONS INC.,)	
a Florida corporation, also d/b/a THE CREDIT)	
VOICE;)	
)	
ABSOLUTE SOLUTIONS GROUP INC.,)	
a Florida corporation, also d/b/a THE CREDIT)	
VOICE;)	
)	
GLOBAL INTERACTIVE TECHNOLOGIES,)	
INC., a Florida corporation, also d/b/a THE)	
CREDIT VOICE INC.;)	
)	
GLOBAL SERVICE PROVIDERS, INC., a)	
Florida corporation;)	
)	
THE CREDIT VOICE, INC., a Florida)	
corporation, also d/b/a TCV;)	
)	
LIVE AGENT RESPONSE 1 LLC, a Florida)	
limited liability company, also d/b/a LAR;)	
)	
ARCAGEN, INC., a Florida corporation, also)	
d/b/a ARI;)	
)	
AMERICAN INNOVATIVE CONCEPTS, INC.,)	
a Florida corporation;)	
)	

UNIQUE INFORMATION SERVICES INC., a)
 Florida corporation;)
)
 NATIONAL LIFE NETWORK INC., a Florida)
 corporation;)
)
 MICHAEL HILGAR, individually)
 and as an officer or manager of Worldwide Info)
 Services, Inc., Elite Information Solutions Inc.,)
 Absolute Solutions Group Inc., Global Interactive)
 Technologies, Inc., Global Service Providers, Inc.,)
 The Credit Voice, Inc., Live Agent Response)
 1 LLC, Arcagen, Inc., American Innovative)
 Concepts, Inc., Unique Information Services, Inc.,)
 and National Life Network Inc.;)
)
 GARY MARTIN, individually and as an officer or)
 manager of Global Interactive Technologies, Inc.,)
 The Credit Voice, Live Agent Response 1 LLC,)
 Arcagen, Inc., American Innovative Concepts,)
 Inc., Unique Information Services, Inc., and)
 National Life Network Inc.)
)
 JOSEPH SETTECASE, individually and as an)
 officer or manager of Unique Information Services)
 Inc.; and)
)
 YULUISA NIEVES, individually and as an officer)
 or manager of American Innovative Concepts, Inc.)
 and National Life Network Inc.;)
)
)
 Defendants.)
 _____)

**FIRST AMENDED COMPLAINT FOR
 PERMANENT INJUNCTION AND OTHER EQUITABLE RELIEF**

Plaintiffs, the Federal Trade Commission (“FTC”), and the State of Florida, Office of the Attorney General, Department of Legal Affairs (“State of Florida”), for their First Amended 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, the refund of monies paid, disgorgement of ill-gotten monies, 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 Trade Regulation Rule entitled “Telemarketing Sales Rule” (“TSR”), 16 C.F.R. Part 310.

2. The State of Florida brings this action pursuant to the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. §§ 6101-6108 and the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), Chapter 501, Part II, Florida Statutes (2012), to obtain temporary and permanent injunctions, consumer restitution, civil penalties and other equitable relief, and reimbursement of costs and attorneys’ fees for Defendants’ acts or practices in violation of the TSR and FDUTPA. The State of Florida has conducted an investigation, and the head of the enforcing authority, Attorney General Pamela Jo Bondi, has determined that an enforcement action serves the public interest as required by FDUPTA Section 501.207, Florida Statutes (2012).

JURISDICTION AND VENUE

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

4. This Court has supplemental jurisdiction over the State of Florida’s claims pursuant to 28 U.S.C. § 1367.

5. Venue is proper in this district under 28 U.S.C. § 1391(b)(1) and (2), (c)(1) and (2), and (d), and 15 U.S.C. § 53(b).

Springs, Florida. Worldwide Info Services, Inc. transacts or has transacted business in this district and throughout the United States.

10. Defendant Elite Information Solutions Inc., also doing business as The Credit Voice, is a Florida corporation with its principal address at 509 S. Chickasaw Trail, #393, Orlando, Florida. Elite Information Solutions Inc. transacts or has transacted business in this district and throughout the United States.

11. Defendant Absolute Solutions Group Inc., also doing business as The Credit Voice, is a Florida corporation with its principal address at 5703 Red Bug Lake Road, Winter Springs, Florida. Absolute Solutions Group Inc. transacts or has transacted business in this district and throughout the United States.

12. Defendant Global Interactive Technologies, Inc., also doing business as The Credit Voice Inc., is a Florida corporation with its principal address at 474 S. Northlake Boulevard, #1024, Altamonte Springs, Florida. Global Interactive Technologies, Inc. transacts or has transacted business in this district and throughout the United States.

13. Defendant Global Service Providers, Inc. is a Florida corporation with its principal address at 5415 Lake Howell Road, #142, Winter Park, Florida. Global Service Providers, Inc. transacts or has transacted business in this district and throughout the United States.

14. Defendant The Credit Voice, Inc., also doing business as TCV, is a Florida corporation with its principal address at 2673 Lakebreeze Lane N, Clearwater, Florida. The Credit Voice, Inc. transacts or has transacted business in this district and throughout the United States.

15. Defendant Live Agent Response 1 LLC, also doing business as LAR, is a Florida limited liability company with its principal address at 1106 South Powerline Road, Pompano Beach, Florida. Live Agent Response 1 LLC transacts or has transacted business in this district and throughout the United States.

16. Defendant Arcagen, Inc., also doing business as ARI, is a Florida corporation with its principal address at 474 S. Northlake Boulevard, #1024, Altamonte Springs, Florida. Arcagen, Inc. transacts or has transacted business in this di

Information Services Inc., and National Li

22. Joseph Settecase is an owner, officer, director, member, or manager of Defendant Unique Information Services Inc. At all times material to this First Amended 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 Unique Information Services, Inc. set forth in this First Amended Complaint. Among other things, Defendant Settecase incorporated Unique Information Services Inc. and through that entity, operates an autodialing system that delivers prerecorded voice messages through telephone calls to consumers throughout the United States. In many instances, Unique Information Services and Settecase have delivered the prerecorded

Defendants have common ownership, operations, and control. The Corporate Defendants conduct business out of the same principal locations, share employees and managers, use the same scripts, operate under the same telemarketing licenses, and commingle funds. Because the Corporate Defendants have operated as a common enterprise, each of them is jointly and severally liable for the acts and practices of the Corporate Defendants alleged below.

Defendants Hilgar, Martin, Settecase, and Nieves have formulated, directed, controlled, had the authority to control, or participated in the acts and practices of the Corporate Defendants that

dementia, and rely on family members, friends, or health professionals to manage their finances and to make financial or health related decisions for them.

28. In numerous instances, the prerecorded messages purport to be from “John from the shipping department of Emergency Medical Alert,” and inform consumers that a medical alert system has been purchased for them. The recording indicates that consumers will receive the system at “no cost to you whatsoever,” and that the shipping costs have also already been paid. The message instructs consumers to press a number on their telephone to schedule delivery, and it also gives consumers the option to press a different number to decline shipment of the medical alert system.

29. In other instances, Defendants have used at least two other prerecorded messages, both of which indicate that the medical alert system is available to senior citizens for free. The first such message states that the American Heart Association and American Diabetes Association are urging senior citizens to obtain medical alert systems, and that these systems are available for free. The second message informs consumers that they qualify for \$3000 in free grocery saving certificates as well as a free medical alert device. Both of these messages instruct consumers to press a number for more information, or to press a different number to be removed from Defendants’ calling list.

30. When consumers press the number to speak to a live operator, they are connected to Defendants’ representatives, who tell consumers that the medical alert system has a value of over \$400, but that consumers will receive the system for free. Defendants’ representatives sometimes tell consumers that the system is free because a friend, family member or acquaintance referred the consumer to Defendants. In other instances, Defendants representatives tell consumers that the system is free because a friend, family member or

acquaintance purchased the medical alert system for the consumer. When asked, Defendants' representatives cite confidentiality concerns in refusing to provide the name of the person who referred the consumer to Defendants, or who purchased the medical alert system for the consumer.

31. Defendants' representatives explain that the medical alert system consists of a necklace or bracelet that enables consumers to receive help during emergencies. Defendants' representatives tout that their medical alert system has been recommended by the American Heart Association, the American Diabetes Association, and the National Institute on Aging.

32. In fact, neither the American Heart Association, the American Diabetes Association, nor the National Institute on Aging endorse Defendants' medical alert system or any other medical alert system.

33. Although the medical alert system was originally represented as being free, at the end of the call Defendants' representatives inform consumers for the first time that there is a monthly monitoring fee of \$34.95. To cover this monthly fee, consumers are required to provide their credit card or bank account information, but they are assured that the billing cycle does not start until consumers receive and activate the system.

34. If consumers tell Defendants' representatives that they need time to think about whether to get the system, or that they want to speak with their family before agreeing to provide their payment information, Defendants' representatives respond that consumers will only receive the system if they sign up that day.

35. In numerous instances, after providing Defendants with their credit card or bank account information, consumers discover that nobody they know referred them to Defendants or purchased a medical alert system for them. In addition, consumers usually are charged the first

monitoring fee within a day of receiving the telephone call, before they receive and activate the system.

36. Many consumers subsequently try to cancel their accounts, either because they realize that Defendants' representatives lied to them or for other reasons. Consumers often have difficulty canceling, however. Some consumers have trouble reaching customer service representatives, while others reach representatives who either claim not to have the authority to issue cancellations or try to keep the consumers from cancelling by aggressively re-pitching the product or offering special deals.

37. While telemarketing their medical alert systems, Defendants, acting directly or through one or more intermediaries, have made numerous calls to telephone numbers on the National Do Not Call Registry ("Registry"), as well as to consumers who have previously asked Defendants not to call them again. In some instances, Defendants or their telemarketers also "spoof" their calls by transmitting phony Caller Identification information so that call recipients do not know the source of the calls.

38. In numerous instances, Defendants, acting directly or through one or more intermediaries, have initiated telemarketing calls that failed to disclose truthfully, promptly, and in a clear and conspicuous manner to the person receiving the call: the identity of the seller; that the purpose of the call is to sell goods or services; or the nature of the goods or services. In numerous instances, Defendants, acting directly or through one or more intermediaries, have initiated prerecorded telemarketing calls to consumers that failed to promptly make such disclosures, or to immediately thereafter disclose the mechanism for asserting a Do Not Call request.

39. In numerous instances, Defendants, acting directly or through one or more intermediaries, made outbound prerecorded calls that delivered messages to induce the sale of goods or services when the persons to whom th

A. Defendants' medical alert system had not already been purchased for the consumer by a friend, family member, or other acquaintance;

B. Defendants' medical alert system was not endorsed by the American Heart Association, the American Diabetes Association, and/or the National Institute on Aging; and

C. Consumers were charged the first monitoring fee before they had received and activated the medical alert system.

44. Therefore, Defendants' representations as set forth in Paragraph 42 of this First Amended Complaint are false and misleading and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

THE TELEMARKETING SALES RULE

45. 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. The FTC adopted the original Telemarketing Sales Rule in 1995, extensively amended it in 2003, and amended certain provisions thereafter. 16 C.F.R. Part 310.

46. Defendants are "seller[s]" and/or "telemarketer[s]" engaged in "telemarketing," and Defendants have initiated, or have caused telemarketers to initiate, "outbound telephone call[s]" to consumers to induce the purchase of goods or services, as those terms are defined in the TSR, 16 C.F.R. § 310.2(v), (aa), (cc), and (dd).

47. Under the TSR, an "outbound telephone call" means a telephone call initiated by a telemarketer to induce the purchase of goods or services or to solicit a charitable contribution. 16 C.F.R. § 310.2(v).

48. The TSR prohibits sellers and telemarketers from misrepresenting, directly or by implication, in the sale of goods or services, a seller's or telemarketer's affiliation with, or endorsement or sponsorship by, any person or government entity. 16 C.F.R. § 310.3(a)(2)(vii).

49. The TSR prohibits sellers and telemarketers from making a false or misleading statement to induce any person to pay for goods or services. 16 C.F.R. § 310.3(a)(4).

50. The TSR, as amended in 2003, established a "do-not-call" registry (the "National Do Not Call Registry" or "Registry"), maintained

telemarketing call, or transmit the customer service number of the seller on whose behalf the call is made and, when made available by the telemarketer's seller, the name of the seller. 16 C.F.R. § 310.4(a)(8).

55. The TSR requires telemarketers in an outbound telephone call to disclose truthfully, promptly, and in a clear and conspicuous manner, the following information:

- A. The identity of the seller;
- B. That the purpose of the call is to sell goods or services; and
- C. The nature of the goods or services.

16 C.F.R. § 310.4(d).

56. As amended, effective December 1, 2008, the TSR prohibits a telemarketer from engaging, and a seller from causing a telemarketer to engage, in initiating an outbound telephone call that delivers a prerecorded message to induce the purchase of any good or service unless the message promptly discloses:

- A. The identity of the seller;
- B. That the purpose of the call is to sell goods or services; and
- C. The nature of the goods or services.

16 C.F.R. § 310.4(b)(1)(v)(B)(ii).

57. As amended, effective September 1, 2009, the TSR prohibits initiating a telephone call that delivers a prerecorded message to induce the purchase of any good or service unless the seller has obtained from the recipient of the call an express agreement, in writing, that evidences the willingness of the recipient of the call to receive calls that deliver prerecorded messages by or on behalf of a specific seller. The express agreement must include the recipient's telephone number and signature, must be obtained after a clear and conspicuous disclosure that

the purpose of the agreement is to authorize the seller to place prerecorded calls to such person, and must be obtained without requiring, directly or indirectly, that the agreement be executed as a condition of purchasing any good or service. 16 C.F.R. § 310.4(b)(1)(v)(A).

58. Pursuant to Section 3(c) of the Telemarketing Act, 15 U.S.C. § 6102(c), and

COUNT EIGHT
Florida Deceptive and Unfair Trade Practices Act Violation
(By Plaintiff State of Florida)

70. In numerous instances, in connection with the advertising, marketing, promotion, offering for sale, or sale of medical alert systems, Defendants have represented, directly or indirectly, expressly or by implication, that:

A. Defendants' medical alert system has already been purchased for the consumer by a friend, family member, or other acquaintance; and

B. Defendants' medical alert system is endorsed by the American Heart Association, the American Diabetes Association, and/or the National Institute on Aging; and

C. Consumers will not be charged the first monitoring fee until they have received and activated the medical alert system.

71. In truth and in fact, in numerous instances in which Defendants have made the representations set forth in Paragraph 70 of this First Amended Complaint,

A. Defendants' medical alert system had not already been purchased for the consumer by a friend, family member, or other acquaintance;

B. Defendants' medical alert system was not endorsed by the American Heart Association, the American Diabetes Association, and/or the National Institute on Aging; and

C. Consumers were charged the first monitoring fee before they had received and activated the medical alert system.

72. Defendants' representations as set forth in Paragraph 70 of this First Amended Complaint are false and misleading and likely to mislead consumers acting reasonably, and

consumers within the State of Florida and elsewhere were actually misled by Defendants' misrepresentations in violation of Section 501.204 of the FDUTPA.

CONSUMER INJURY

73. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, the TSR and the FDUPTA. In addition, Defendants have been unjustly enriched as a result of their unlawful acts or 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

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

75. 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 or reformation of contracts, and the refund of money.

76. Section 4(a) of the Telemarketing Act, 15 U.S.C. § 6103(a), empowers this Court to grant the State of Florida injunctive and such other relief as the Court may deem appropriate to halt violations of the TSR and to redress injury to consumers, including the award of damages, restitution, or other compensation.

77. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow Plaintiff State of Florida to enforce its state law claims against Defendants in this Court for violations of the FDUPTA, and to grant such relief as provided under state law, including injunctive relief, restitution, costs and attorneys' fees, and such other relief to which the State of Florida may be entitled.

PRAYER FOR RELIEF

additional relief as the Court may determine to be just and proper.

Respectfully Submitted

JONATHAN E. NUECHTERLEIN
General Counsel