Plaintiffs,

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STEVEN D. PEYROUX, individually and as an owner and officer of REGENERATIVE MEDICINE INSTITUTE OF AMERICA, LLC, also d/b/a Stem Cell Institute of America, LLC, PHYSICIANS BUSINESS SOLUTIONS, LLC, and SUPERIOR HEALTHCARE, LLC,

BRENT J. DETELICH, individually : and as an officer of REGENERATIVE : MEDICINE INSTITUTE OF : AM@mpany, and :

CIVIL ACTION NO. 1:21-cv-3329-AT

SUPERIOR HEALTHCARE, LLC, a limited liability company,

Defendants.

## ORDER GRANTING

conditions, including osteoarthritis, arthritis, neuropathy, plantar fasciitis, joint pain, and pain resulting from injuries or aging

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11.	The State of Georgia has authority under the GFBPA to seek restitution on
be	ehalf of consumers as well as

(2) . . . upon a showing by the Attorney General in any superior court  $^3$  of competent jurisdiction that a person has violated

deceptive acts. (See Summary Judgment Order, Doc. 132 at 65-66).<sup>4</sup> This additional penalty may be assessed an amount up to \$10,000 per violation, see \$10-1-851, and may be assessed addition to any civil penalty otherwise imposed. (SeeSummary Judgment Order, Doc. 132 at 65-66).

## IV. APPROPRIATE RELIEF IN THIS CASE Under the above relief provisions,

In total, the State seeks \$14,430,000 in civil penalties from all three remaining Defendants and \$3,350,416 in restitution from Defendants Peyroux and Detelich <sup>2</sup> for a total of \$17,780,416 (MSJ, Doc. 73-1 at 33±34.)

Defendants object to this amount, arguing that the Court should consider their ability (or inability) to pay; that the State has not sufficiently supported its restitution amount; that the amount sought for civil penalties is disproportionate to the number of victims affected; and that they did not int entionally target elderly victims. (See generally Peyroux Obj., Doc. 1421; Detelich Obj., Doc. 144). The Court addresses the appropriate scope of relief below.

## **A.** Restitution

To repeat, O.C.G.A.§ 10-1-397(b)(2)(D) authorizes the Court to award to the Attorney General <sup>3</sup> > U @ H V Wo Landy Method PoQpersons adversely affected by a GHIHQGDQWTMPLOR TOQWLRQRIQWLRQRIWKH \*)%3\$ ZKHQVXFKWKH SXEOLF LOQHANTHALOR TOQWLRQRIQWLRQRIWKH \*)%3\$ ZKHQVXFKWKH SXEOLF LOQHANTHALOR TOQWLRQRIWWLRQRIWWLRQRIWWLRQRIWWLRQRIWWLRQVXFKWKHQVXFKWKHQVXFKWXLQRIWWLRQRIWWLRQRIWWLRQRIWWLRQVXFKWXLQRIWWLQVX W Larrested to the control of the contro

Here, the State of Georgia seeks restitution for the 485 consumers who purchased stem cell injections from Defendant Superior at the total cost of \$3,350,416. (SeeBae Decl., Doc. 7816 ¶ 16;Superior Customer List, Doc. 94-14).

The Individual Defendants present two arguments in opposition to the 6 W D W H ¶ V U H V W L W X W L R Q U H T X H V W ) L U V W W K H , Q E Rep

Upon review, the Court finds that the Individual Defendants ¶ HYLGHQFH establishes that Superior paid refunds to six consumers in the total amount of \$40,270. (Id.) Accordingly, the Court will deduct that amount from the total restitution amount. After subtracting the refund amount, the Court finds that the appropriate restitution amount is \$3,310,146. The Court ORDERS that the Attorney General shall

that a single deceptive act or practice is considered a violation of the statute. See O.C.G.A.§ 10-1-393; Zeeman v. Black, 273 S.E.2d910, 916 (acknowledging that <sup>3</sup> D single instance of an unfair or deceptive act or SUDF Ws LaFvHolation of the GFBPA). So a single misrepresentation <sup>2</sup> for example, a statement saying that a product has benefits that it does not in fact have <sup>2</sup> is a <sup>3</sup> Y L R O DofWhe RtaQuite. O.C.G.A.§ 10-1-393(b)(5).

Courts interpreting similar state consumer protection statutes have also consistently found that each dissemination of the same misleading advertisement can constitute a separateviolation. See,e.g., State ex rel. Wilson v. Ortho-McNeil-Janssen Pharm., Inc., 777S.E.2d176,203 (S.C.2015) (finding that each letter sent out was a separateviolation, and that each sample box ad was a separateviolation); United States v. Reader's Dig. Ass'n, Inc., 662 F.2d 955, 959±60 (3d Cir. 1981) (upholding finding that each of 17,940,521 mailings constituted a separate violation of consent order under FTC Act); State v. Menard, Inc., 358 N.W.2d 813, 815 (Wis. Ct. App. 1984) (FRQVLGHULQJ ³HDFK SXEOLFDWLRQ each newspaper or other medium a separate violation of Wisconsin consumer protection law); 6 WDWH Y /\$, QA11 P.V.3d 1183 Wash. Ct. App. 2018) (finding that each of the 256,998 mailings sent out to consumers was a separate violation); People v. Johnson & Johnson 292 Cal. Rptr. 3d 424, 472-473 (Cal. Ct.

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other state consumer protection laws include similar language allowing the particular VWDWH¶VDWWRUQH\JHQHUDOWRUHFRYHUIRUSHQDOWLH³YLROD\$Mede.inaction 1864 172 & n.31).

App. 2022) (upholding finding that each separate marketing communication constituted a separate violation); People v First Fed. Credit Corp., 128 Cal. Rptr.2d 542 (Cal. Ct. App. 2002) (finding that each deceptive mailer sent out was a separate violation).

Generally, appellate courts have determined that trial courts have discretion to determine the appropriate way to measure the number of <sup>3</sup>YLROD off to RQV′ consumer protection statute. See, e.g., Beaumont Inv., 3 Cal. Rptr. 3d at 450 ±51

H[SODLQLQJ WKDW ZKHUH WKH VWDWXWH GRHV QRW TXDOLILHV DV D VLQJOH YLRODWLRQ′ LV <sup>3</sup>XS WR W FLUFXPVWDQFHV Streate W Month off to DyV Protection Statute. App. 2017) (explaining that the trial court did not abuse its GLVFUHWLRQ VLQFH VWDWH FRQVXPHU SURWHFWLRQ SRZHU WR DVVHVV D SHQD SDAME exhres ILComb Do F. Kunifed Rr@r DyWLRQ′ Corp. of Am.

§ 10-1-393.5(d); O.C.G.A. § 10-1-851. This provides the Court with discretion to order civil penalties within a confined range. See Harris v. Mexican Specialty Foods, Inc., 564 F.3d 1301, 1312 (11th Cir. 2009) (addressing different statute, explaining that statutes which allow a court to issue penalties <sup>3</sup>up to ´proscribed amount grant the court <sup>3</sup> V R Riscretion . . . to act within a U D Q J H ´

Other courts assessing the appropriate amount of civil penalties per violation of a consumer protection statute have considered

determining the number of violations, the Court assesses the appropriate amount per violation. In assessing the penalty per violation, the Court is mindful that the purpose of a civil penalty is to punish a wrongdoer for his actions. See Penalty and Civil Penalty, % O D Fally Photionary (12th Ed. 2024). In light of this purpose, the Court imposes different civil penalty amounts based on the different conduct underlying the various violations at issue.

As noted above, each separate dissemination of a false representation is a violation of the GFBPA. SeeO.C.G.A.§ 10-1-393; Zeeman v. Black, 273 S.E.2d910, 916 (acknowledging that <sup>3</sup> Bingle instance of an unfair or deceptive act or SUDFWLFH is a violation of the GFBPA).

Upon review of the full record, and with the benefit of an evidentiary hearing, the Court concludes that the State has put forth evidence to support four different types of false representations that were disseminated by Defendants in the following amounts:

- x misrepresentations on 6 X S H U websit (svailable online and thus disseminated to the public for 1330 days);
- x misrepresentations in initial Facebook advertisements (disseminated to the public via at least 59 different Facebookads);

Considering the above, the State has established that Defendants violated the GFBPA at least 1,698 times¹¹ through the above-listed disseminations. That said, 'HIHQGDQW-Visted Dviolations are not all equal: some violations reflect serious intent to mislead consumers, while other violations involve less intent to mislead. Some violations resulted in more harm to consumers, others less. The Court therefore assesses each category of misrepresentations separately to

The evidence demonstrates that these Facebook ads were the first targeted act by which Defendants drew in consumers and began convincing them to make expensive stem cell purchases. In many ways, these ads were the first step in the swindle strategy. These disseminations are thereforemore serious violations of the GFBPA than the passive website posting. Accordingly, the Court awards a civil penalty of \$2,000 for each of the 59 Facebookads, for a total of \$118,000.

The third category of violations involves misrepresentations made in brochures that were sent to consumers. After consumers clicked links in the )DFHERRN DGV DQG VLJQHG XS IRU VHPLQDUV WKH\ HPDLOV ' +HDULQJ 7U 'RF S 7KHVH 3GUL\$ H brochure advertising stem cell therapy. (Id.) This brochure claimed that stem cell WKHUDS\ FRXOG 3UHVWRUH \RXU +K) HUDHOHW KO ODOGQ GW KKDHWO SL WR revolutionary solution to heal cervical joint GHJHQHUDWLRQ DPRQJ misleading representations. (Brochure, Doc. 95-16 at 9). The record evidence indicates that Defendants disseminated this brochure at least 161 times. (Hearing Tr., Doc. 173 p. 69; see also Brochure Download List, Doc. 159-14). These targeted emails <sup>2</sup> which linked to brochures that made misrepresentations <sup>2</sup> were intended to further push consumers towards making the ultimate, very expensive purchases 'HIHQGDQWV¶ GLVVHPLQDWLRQV RI Wi**k** H V H egregiousness to the disseminations of the Facebook ads. Both were integral DVSHFWVRI 'HIH:Quics Doct We chefficion Roccondingly, the Court awards a civil penalty of \$2,000 for each of the 161 disseminations of the brochure

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downloaded by consumers. As a result, the Court awards a total of \$322,000 in civil penalties for this third category of violations.

7 K H I L Q D O F D W H J R U \ R I Y L R O D W L R Q V A Ro Ro Q d F, H U Q V ' the Facebook ads included links that allowed consumers to sign up for seminars that were presented across the state of Georgia. (Hearing Tr., Doc. 173 p. 62). The seminars were Is <0044>3.5 (oss)-34-7-10 (Is <nc)-10 (re 6s3.997 (. q 0 0 612-75 (for)5 v)-3.

2,155 were elderly individuals as defined under the GFBPA, O.C.G.A. §10-1-850(2). (Id.) Put simply, these seminars were designed to manipulatively RYHUFRPH FRQVXPHUV¶ REMHFWLRQV DQG FDTShte WDOL] Findividual presenters passed themselves off as medical doctors when they were not. Accordingly, as

DQ\SHUVRQZKR3LQWHQWLRQDOO\WDUJHWVDQHOGH computer or computer network to violate the GFBPA. SeeO.C.G.A. §10-1-393.5.

Based on the record evidence presented, the Court cannot find that

'HIHQGDQWV 3LQWHQWLRQDOO\ WDUJHWHG HOGHU O\
computer or computer network sufficient to assess the higher \$10,000 per
violation penalties. The State of Georgia relies on two pieces of evidence to
demonstrate that Defendants intentionally targeted elderly consumers. The first is

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our target demographic for stem cells is more in the older age range, the quietness
of the room is not only crucial to the professionalism of our practice, but also for

RXU PRUH HOGHUO\ SDWLHQWV WR EH DEObseWoff KHDU
Seminar, Doc. 7517). The second piece of evidence is an email from Defendant
Peyroux in which he asks an employee to reschedule a marketing blast so that it

GRHV QRW IDOO RQ HOHFWLRQ GD\ EHFDXVH 3>H@OHF
peoplH KDYH OHIW LQ OLIH WR GR 3H\U-RSX[ (OHFWLRQ )

No doubt these emails show some desire to target the elderly in the overall scheme. And it is true that the group of consumers involved here includes almost exclusively elderly and disabled individuals, resulting from the nature of the products at issue. But the evidence also indicates that Defendants advertised their stem cell therapies to any and all comers. The State has not pointed to enough significant evidence proving the requisite level of intent such that the Court would feel comfortable imposing these heightened penalties. The State has also not tied

the alleged broad targeting of the elderly specifically to the use of a computer network, as the statute contemplates. Beyond this, the Court is also concerned that any higher civil penalty amounts would be overly punitive under the circumstances. So even if the Court found that the evidence sufficiently demonstrated that Defendants intentionally targeted elderly individuals specifically through the use of computer networks, it would not order enhanced penalties, as it has alreadyissued significant civil penalties as well as restitution.

In ordering the above amount in civil penalties, the Court has considered the 5 H D G H U ¶ Vfactors.HAVJAVM, those factors are: (1) the good or bad faith of the G H I H Q G D Q W V W K H L Q M X U \ W R W K H S X E O L F W K H desire to eliminate the benefits derived by a violation; and (5) the necessity of vindicating the authority of the regulatory agency. 5 H D G H U ¶ V 'L J H .V6V6/2 \$ V V ¶ Q F.2d at 967.

Considering the first factor, the record demonstrates that Defendants acted in bad faith. While promoting stem cell treatment, Defendants had no medical evidence that the stem cell therapies provided the promised benefits. Defendants sought to coerce consumers into paying for stem cell therapy at all costs. They did this through use of high-pressure tactics <sup>2</sup> including inundating vulnerable consumers with continued communications, preparing strategically crafted UHVSRQVHV LQWHQGHG WRhestandyUte Rurdhase Xtenty cell HUV Therapies, and misrepresenting that the individuals giving the seminars were

\$18,403,116.14, and that the Individual Defendants jointly received at least

Basis for Payment	 Amount	
Defendants must pay is \$5,155,146 . See below:		
severally) must pay civil penalties in the amount of \$	\$1,845 ,000 . The total	amount

IT IS SO ORDERED this 26th day of December 2024.

Honorable Amy Totenberg United States District Judge