

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

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

CASE NO. _____

Plaintiff,

v.

CONSUMER GRANTS USA, INC., a Florida
corporation, d/b/a ULTIMATE FUNDING, ULTIMATE
FUNDING PLUS, GOVERNMENT GRANT INFORMATION SERVICE,
GOVERNMENT GRANT INFORMATION CENTER,
FEDERAL GRANT INFORMATION SERVICE,
FEDERAL GRANT INFORMATION CENTER, and
CUSTOMER CARE PLUS;
JAMES T. LOVERN, an individual;
LEO J. CORRIGAN, an individual,

Defendants.

_____ /

COMPLAINT

PLAINTIFF, STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS, OFFICE
OF THE ATTORNEY GENERAL, sues Defendants, CONSUMER GRANTS USA, INC., a
Florida corporation, d/b/a ULTIMATE FUNDING, ULTIMATE FUNDING PLUS,
GOVERNMENT GRANT INFORMATION SERVICE, GOVERNMENT GRANT
INFORMATION CENTER, FEDERAL GRANT INFORMATION SERVICE, FEDERAL
GRANT INFORMATION CENTER, and CUSTOMER CARE PLUS; JAMES T. LOVERN, an
individual; and LEO J. CORRIGAN, an individual, and alleges:

JURISDICTION AND VENUE

1. This is an action for injunctive relief and other statutory relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, and Sections 501.059, 501.605, 501.615, 817.41 and 817.415, Florida Statutes.

2. This court has jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes. The acts or practices alleged herein occurred in the conduct of “trade or commerce” as defined in Section 501.203(8), Florida Statutes.

3. The statutory violations alleged herein occurred in PINELLAS COUNTY.

THE PARTIES

4. Pursuant to Section 501.203(2), Florida Statutes, Plaintiff is an enforcing authority of Florida’s Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, and is thereby authorized to seek damages and injunctive and other statutory relief.

5. Plaintiff has conducted an investigation of the matters alleged herein

6. At all times material hereto, Defendant Consumer Grants USA, Inc., was a Florida Corporation and maintained its place of business in St. Petersburg, Florida, and is currently located at 5111 66 Street North, #401, St. Petersburg, FL 33701.

7. At all times material hereto, Defendants JAMES T. LOVERN, an individual, and LEO J. CORRIGAN, an individual, were residing in Pinellas County, Florida.

DEFENDANTS’ BUSINESS

8. Defendants are commercial telephone sellers who conduct commercial telephone solicitations to consumers within and without the State of Florida.

9. A “Commercial telephone seller” is defined by Section 501.603(2), Florida

Statutes, as:

any person who engages in commercial telephone solicitation on his or her own behalf or through salespersons, except . . . any of the persons or entities exempted from this part by § 501.604. . . .
A commercial telephone seller includes, but is not limited to, owners, operators, officers, directors, partners, or other individuals engaged in the management activities of a business entity pursuant to this part.

10. A “Commercial telephone solicitation” is defined in pertinent part by Section 501.603(1),

Florida Statutes, as:

- (a) An unsolicited telephone call to a person initiated by a commercial telephone seller or salesperson . . . for the purpose of inducing the person to purchase or invest in consumer goods or services;
- (b) Other communication with a person where . . .

* * *

- 3. The salesperson intends to complete a sale or enter into an agreement to purchase during the course of the telephone call . . .

11. “Consumer goods or services” are defined in pertinent part by Section 501.603(3), Florida

Statutes, as:

any real property or any tangible or intangible personal property which is normally used for personal, family, or household purposes or any property of any nature which is solicited for the purpose of providing a profit or investment opportunity . . .

12. Defendant CONSUMER GRANTS USA, INC., utilizes sales representatives, either as employees or independent contractors acting as agents of CONSUMER GRANTS USA, INC.,

who perform commercial telephone solicitations by initiating uninvited telephone calls to consumers in their homes in order to market government grants.

13. Defendant JAMES T. LOVERN is the President and a director of CONSUMER GRANTS USA, INC., and, as such, controls, directs, formulates, and approves of the various acts and practices of Defendant CONSUMER GRANTS USA, INC.

14. Defendant LEO J. CORRIGAN is the Vice President and a Director of CONSUMER GRANTS USA, INC., and, as such, controls, directs, formulates, and approves of the various acts and practices of Defendant CONSUMER GRANTS USA, INC.

DEFENDANTS' COURSE OF CONDUCT

15. As of the date of the filing of this Complaint, Defendants continue to conduct commercial telephone solicitations and purport to offer, expressly or impliedly, guaranteed government grants to consumers after payment of a processing fee.

16. Defendants, in the course of conducting commercial telephone solicitations, contacted numerous consumers and made representations, expressly or impliedly, that consumers were specially selected to receive a guaranteed government grant and that if consumer paid a processing fee, an application and the guaranteed grant would be delivered to them. Defendants failed to provide the promised guaranteed government grants.

17. Defendants solicited consumers by expressly or impliedly representing they had sponsorship or an affiliation with the government.

18. Defendants required consumers to furnish their bank account information, including checking account numbers, to Defendants as part of the transaction.

19. Defendants required consumers to pay a fee in amounts between \$239 and \$299 to

Defendants in order to receive the applications and guaranteed government grants. These fees were paid through electronic transfer of funds from the consumers' bank accounts.

20. Defendants failed to clearly, affirmatively, and expressly reveal at the time of the initial contact with consumers facts material to the transaction, namely that the purpose of the contact by Defendants was to effect a sale and the general terms of the goods or services that Defendants had to offer, primarily, a guide of general information that is publicly available regarding government grants.

21. Defendants misrepresented or failed to disclose cancellation or refund policies during the initial telephone solicitations to consumers and subsequently ignored, refused, or failed to provide requested cancellations or refunds to consumer purchasers.

22. Defendants submitted charges or directed charges to be submitted on it's behalf to consumers' bank accounts without having provided consumers with signed, written contracts fully disclosing the terms of the agreement and finalizing the agreement, and without having provided a statement of purchasers' rights as required by law.

23. Defendants failed to obtain a telemarketing sales license or to apply for an exemption with the Florida Department of Agriculture and Consumer Services (hereinafter "DCS") prior to doing business in the State of Florida as a commercial telephone seller.

COUNT I
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF SECTION 501.605, FLORIDA STATUTES

24. Plaintiff, incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs 1 through 23.
25. Defendants, in their course of conducting commercial telephone solicitations to consumers, violated Section 501.605(1), Florida Statutes.
26. Section 501.605(1), Florida Statutes, provides:

Prior to doing business in this state, a commercial telephone seller shall obtain a license from the department [Department of Agriculture and Consumer Services]. Doing business in this state includes either telephone solicitation from a location in Florida or solicitation from other states or nations of purchasers located in Florida.
27. Defendants, in their course of conducting commercial telephone solicitations, failed to obtain a license from DCS prior to conducting business in the State of Florida, in violation of Section 501.605(1), Florida Statutes.
28. DCS has certified that Defendants have neither obtained an application, license, or exemption to conduct business as a commercial telephone seller, nor have Defendants provided any information required in order to obtain a license as required by Section 501.605, Florida Statutes. *See* “Exhibit A,” attached hereto and incorporated herein by reference.
29. Section 501.203(3)(c), Florida Statutes, states that a violation of Florida’s Deceptive and Unfair Trade Practices Act may be based on a violation of any law which proscribes a deceptive act or practice.
30. By violating Section 501.605(1), Florida Statutes, Defendants have engaged in deceptive and unfair trade practices in violation of Section 501.204, Florida Statutes.
31. Defendants knew or should have known that the methods, acts or practices alleged herein

were deceptive or unfair.

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

COUNT II
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF SECTION 501.615, FLORIDA STATUTES

33. Plaintiff realleges paragraphs 1 through 23, as if fully set forth herein.

34. Defendants, in their course of conducting commercial telephone solicitations to consumers, violated Section 501.615, Florida Statutes.

35. Section 501.615, Florida Statutes, provides:

- (1) A purchase of consumer goods or services ordered as a result of a commercial telephone solicitation as defined in this part, if not followed by a signed written contract, is not final. If a contract is not made in compliance with this section, it is not valid and enforceable against the purchaser. The contract made pursuant to a commercial telephone solicitation shall:
 - (a) Be reduced to writing and be signed by the purchaser.
 - (b) Match the description of the goods or services as that principally used in the telephone solicitation.
 - (c) Contain the name, address, telephone number, and registration number of the commercial telephone seller and the salesperson, the total price of the contract, and a detailed description of the goods or services being sold. . . .

* * *

- (h) Contain, in at least 12-point type, immediately preceding the signature, the

following statement: “You are not obligated to pay any money unless you sign this contract and return it to the commercial telephone seller.”

* * *

- (2) A commercial telephone seller who engages a salesperson to make, or cause to be made, a telephone sales call shall not make or submit any charge to the purchaser’s credit card account or make or cause to be made any electronic transfer of funds until after the commercial telephone seller receives from the purchaser a copy of the contract, signed by the purchaser which complies with this section. The commercial telephone seller shall then send the purchaser a written confirmation of the sale.

36. Defendants, in their course of conducting commercial telephone solicitations to market purported guaranteed government grants to consumers, requested processing fees by way of electronic transfer of funds before finalizing transactions, but failed to reduce their transactions to signed, written contracts, failed to inform consumers that transactions not reduced to writing are invalid, failed to include the description of products purchased, and failed to include information about Defendants’ commercial telephone sellers, in violation of Section 501.615, Florida Statutes.

37. Additionally, Defendants, in their course of conducting commercial telephone solicitations,, failed to provide consumers an explanation of purchaser’s rights and failed to refund any payments made by consumers when several factors occurred, including:

- A. Consumers requested rescission of the contract;
- B. Government grants were not received as promised.

38. Section 501.615(3), Florida Statutes, provides:

The written contract must contain an explanation of the purchaser's rights under this section and a statement indicating when notice of cancellation should be sent. . . .

39. Section 501.615(5), Florida Statutes, provides:

If a commercial telephone seller violates the provisions of this part in making a sale, or fails to deliver an item within 30 calendar days, the contract is voidable by giving notice to the commercial telephone seller, and the purchaser is entitled to a return from the seller, within 14 days, of all consideration paid. . . .

40. Section 501.615(6), Florida Statutes, provides:

A person who purchases goods or services pursuant to a solicitation governed by this part must be given a refund, credit, or replacement, at his or her option, if:

- (a) The goods or services are defective, are not as represented, or if any item described pursuant to this part is not received as promised. . . .

41. Defendants, in their course of conduct, have violated Section 501.615, by failing to provide a written contract, by requesting electronic transfer of funds before receiving any written contract, by failing to provide refunds to consumers, and by misrepresenting the terms of the transactions.

42. Section 501.203(3)(c), Florida Statutes, states that a violation of Florida's Deceptive and Unfair Trade Practices Act may be based on a violation of any law which proscribes a deceptive act or practice.

43. By violating Section 501.615, Florida Statutes, Defendants have engaged in deceptive and unfair trade practices in violation of Section 501.204, Florida Statutes.

44. Defendants knew or should have known that the methods, acts or practices alleged herein

were deceptive or unfair.

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

COUNT III
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF SECTION 817.415 FLORIDA STATUTES
FLORIDA FREE GIFT ADVERTISING LAW

46. Plaintiff realleges paragraphs 1 through 23, as if fully set forth herein.

47. Defendants, in their course of conducting commercial telephone solicitations in marketing purported guaranteed government grants to consumers, marketed free products as part of the sale, and violated Section 817.415, Florida Statutes.

48. Section 817.415(4), Florida Statutes provides:

RESTRICTIONS ON THE USE OF THE WORD “FREE”.
Any item or portion of an item unconditionally offered as “free” shall in fact be free, without obligation or requirement of consideration in any form, when accepted in writing within the time limit set forth in the advertisement or within a reasonable time if no time limit is so set. However, any person so receiving and accepting such offer may be required to pay any necessary transportation or delivery charges directly to the United States Postal Service or other regulated public carrier.

49. Section 817.415(5), Florida Statutes provides:

REQUIREMENTS FOR ADVERTISEMENTS.
Advertising in which items are offered as free with conditions or obligations necessary to acceptance shall include a clear and conspicuous statement of any such conditions or obligations and advertising

in compliance herewith shall not be considered deceptive.

50. Section 817.415 defines “free” as:

including the use of terms such as “awarded”, “prize”, “absolutely without charge”, “free of charge”, and words or groups of words of similar intent which reasonably lead a person to believe that he or she may receive, or has been selected to receive, something of value, entirely or in part without a requirement of compensation in any form from the recipient.

51. Section 817.415 defines “advertisement” and “advertising” as:

Including every form of communication which offers for sale, or attempts to induce the creation of obligations in exchange for, any item or rights therein.

52. Defendants, in the conduct of commercial telephone solicitations, notified consumers or prospective consumers that they had won a prize or would receive something of value but conditioned the receipt of the prize or thing of value upon the payment of a service charge, handling charge, mailing charge or other similar charge in violation of section 817.415, Florida Statutes, where these charges were not clearly and conspicuously disclosed to the consumer at the time the offer was made.

53. Section 501.203(3)(c), Florida Statutes, states that a violation of Florida’s Deceptive and Unfair Trade Practices Act may be based on a violation of any law which proscribes a deceptive act or practice. Section 817.415(6) specifically provides that a violation of the Florida Free Gift Advertising Law is a deceptive trade practice.

54. By violating Section 817.415, Florida Statutes, Defendants have engaged in deceptive and unfair trade practices in violation of Section 501.204, Florida Statutes.

55. Defendants knew or should have known that the methods, acts or practices alleged herein were deceptive or unfair.

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

COUNT IV
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF CHAPTER 817.41, FLORIDA STATUTES

57. Plaintiff realleges paragraphs 1 through 23, as if fully set forth herein.

58. Defendants, in their course of conducting commercial telephone solicitations to consumers, violated Section 817.41, Florida Statutes.

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

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

60. By engaging in the foregoing, Defendants have made or disseminated, or caused to be made or disseminated, before the general public misleading advertising in violation of Section 817.41(1), Florida Statutes.

61. Section 817.40(5), Florida Statutes, describes 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.

62. Defendants, in the course of conducting commercial telephone solicitations to consumers, have falsely advertised that consumers were guaranteed government grants after payment of a processing fee to Defendants.

63. Many consumers paid Defendants the processing fee in reliance on Defendants' misleading advertisements and representations that the consumers were guaranteed government grants.

64. Section 501.203(3)(c), Florida Statutes, states that a violation of Florida's Deceptive and Unfair Trade Practices Act may be based on a violation of any law which proscribes a deceptive act or practice.

65. By violating Section 817.41, Florida Statutes, Defendants have engaged in deceptive and unfair trade practices in violation of Section 501.204, Florida Statutes.

66. Defendants knew or should have known that the methods, acts or practices alleged herein were deceptive or unfair.

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

COUNT V
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF CHAPTER 501.059, FLORIDA STATUTES

68. Plaintiff realleges paragraphs 1 through 23, as if fully set forth herein.

69. Defendants, in their course of conducting commercial telephone solicitations violated Section 501.059, Florida Statutes, which prohibits telephone solicitors from making or causing to be made any electronic transfer of funds until after the merchant receives a signed contract from the purchaser.

70. Section 501.059(5)(b) Florida Statutes, provides:

A contract made pursuant to a telephonic sales call:

1. Shall be reduced to writing and signed by the consumer.
2. Shall comply with all other applicable laws and rules.
3. Shall match the description of goods or services as principally used in the telephone solicitations.
4. Shall contain the name, address, and telephone number of the seller, the total price of the contract, and a detailed description of the goods or services being sold.
5. Shall contain, in bold, conspicuous type, immediately preceding the signature, the following statement: "You are not obligated to pay any money unless you sign this contract and return it to the seller."
6. May not excluded from its terms any oral or written representations made by the telephone solicitor to the consumer in connection with the transaction.

71. Section 501.059(6)(a), Florida Statutes, provides in relevant part:

A merchant who . . . causes to be made a telephonic sales call shall not . . . make or cause to be made any electronic transfer of funds until after the merchant receives from the consumer a copy of the contract, signed by the purchaser, which complies with this section.

72. Defendants have solicited and continue to solicit the sale of a consumer good or service without reducing the contract to writing or without otherwise complying with any of the

requirements of Section 501.059(5)(b). In addition, Defendants have caused and continue to cause to be made electronic transfers of funds from consumers accounts without complying with Section 501.059(5)(b) and in violation of Section 501.059(6)(a).

73. Defendants knew or should have known that the methods, acts or practices alleged herein were in violation of Section 501.059.

74. By engaging in the acts and practices described herein, defendants have violated Section 501.059, Florida Statutes, and are subject to civil penalties of \$10,000 per violation and injunctive provisions as permitted under Section 501.059(8).

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

COUNT VI
DECEPTIVE AND UNFAIR TRADE PRACTICES
VIOLATIONS OF CHAPTER 501, PART II, FLORIDA STATUTES

76. Plaintiff realleges paragraphs 1 through 23, as if fully set forth herein.

77. As set forth above, Defendants have engaged in deceptive and unfair methods, acts or practices, including, but not limited to:

- A. Defendants, in their course of conduct, have violated Section 501.605, Florida Statutes, by failing to obtain a license from DCS prior to doing business in this state as a commercial telephone seller.
- B. Defendants, in their course of conducting commercial telephone solicitations, have violated Section 501.615, Florida Statutes, by marketing purported

guaranteed government grants by failing to completing the transactions with signed, written contracts; by failing to provide consumers with a written explanation of purchaser's rights; and by requesting electronic transfer of funds before the transactions were finalized in writing.

- C. Defendants, in their course of conduct, have violated Section 501.615, Florida Statutes, by failing to refund payments made by the consumers when defendants failed to deliver guaranteed government grants as promised and by failing to disclose refund policies at the initial telephone solicitations.
 - D. Defendants have injured consumers by misleading statements to induce consumers to pay a processing fee for a purported guaranteed government grant, by failing to properly disclose the purchasers' rights and then failing to provide any refunds when Defendants' failed to produce the goods or services or when refunds were properly requested.
 - E. Defendants, in their course of conduct, made false and misleading statements of material fact regarding the nature of the services or goods to be provided.
 - F. Defendant, in their course of conduct, have violated Section 501.059, Florida Statutes, which prohibits telephone solicitors from making or causing to be made any electronic transfer of funds until after the merchant receives a signed contract from the purchaser.
78. The unconscionable acts, and deceptive or unfair acts or practices alleged herein:
- A. Have caused substantial injury to consumers acting reasonably under the circumstances;

- B. Have offended public policy;
- C. Are oppressive or unscrupulous; and
- D. Have injured and prejudiced the public and will continue to do so.

79. By engaging in the foregoing, Defendants have engaged in deceptive and unfair trade practices in violation of Section 501.204, Florida Statutes.

80. Defendants knew or should have known that the methods, acts or practices alleged herein were deceptive or unfair.

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

PRAYER FOR RELIEF

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

A. **GRANT** a permanent injunction against Defendants, their officers, agents, servants, employees, attorneys and those persons in active concert or participation with them who receive actual notice of this injunction, prohibiting such persons from violating the provisions of Sections 501.059, 501.605, 501.615, 817.41 and 817.415, Florida Statutes, and Chapter 501, Part II, Florida Statutes.

B. **AWARD** restitution to all consumers who are shown to have been injured in this action, pursuant to Section 501.207(1)(c), Florida Statutes.

C. **ASSESS** against Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000), pursuant to Section 501.2075, Florida Statutes, or Fifteen

Thousand Dollars (\$15,000) in case of senior citizens or handicapped persons, pursuant to Section 501.2077(2), Florida Statutes, for each violation of Chapter 501, Part II, Florida Statutes.

D. **ASSESS** against Defendants, jointly and severally, civil penalties in the amount of Ten Thousand Dollars (\$10,000), pursuant to Section 501.059(8), Florida Statutes, for each violation of Section 501.059, Florida Statutes.

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

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

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

CHARLES J. CRIST, JR.
ATTORNEY GENERAL

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