

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

FEDERAL TRADE COMMISSION; and

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

Plaintiffs,

v.

AMERICAN VETERANS FOUNDATION, INC.,
a corporation, and

PAUL K. MONVILLE, individually and as an
officer of AMERICAN VETERANS
FOUNDATION, INC.,

Defendants.

Case No. _____

**COMPLAINT FOR PERMANENT
INJUNCTION AND OTHER
RELIEF**

INJUNCTIVE RELIEF SOUGHT

Plaintiffs, the Federal Trade Commission (“FTC”) and the Office of the Attorney General, State of Florida, Department of Legal Affairs (“Florida Attorney General”), for their Complaint against American Veterans Foundation, Inc. (“AVF”), and Paul K. Monville (“Monville”) (collectively “Defendants”), allege:

SUMMARY OF THE CASE

1. Defendant AVF is a sham charity created and controlled by Monville to benefit private interests. Since at least 2008, Defendants have represented that contributions to AVF will go to specific programs benefitting veterans and deployed service members. As a result, generous donors contributed over \$6.5 million dollars to AVF between 2014 and

2017. Defendants falsely tell donors that their contributions will be used to send care packages to service members deployed overseas and to provide immediate assistance to veterans facing homelessness. Instead, donations almost entirely benefit Monville – the founder, president, and executive director of AVF – and the for-profit fundraisers he hires. Any spending on the programs Defendants described to donors is merely incidental.

2. Defendants’ deceptive conduct has violated Section 5 of the Federal Trade Commission Act (“FTC Act”), 15 U.S.C. § 45(a), Section 310.3(b) of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310.3(b), and the laws of the State of Florida.

3. The FTC brings this action under Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, and Section 6 of the Telemarketing and Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6105, to obtain 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 Section 310.3(b) of the TSR, 16 C.F.R. Part 310.3(b).

4. The Florida Attorney General brings this action in the public interest and under the authority vested in the Florida Attorney General pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (“FDUTPA”), and Florida’s Solicitation of Contributions Act, Chapter 496, Florida Statutes. The aforementioned authority permits the Florida Attorney General to seek injunctive relief, including, but not limited to, carrying out a transaction in accordance with the reasonable expectations of consumers or governmental entities; appointing a receiver; reimbursing

consumers or governmental entities found to have been damaged; ordering corporate dissolution; ordering charitable contributions; imposing reasonable restrictions upon the future activities of defendants; and other equitable relief for violations of these laws. These laws also authorize the Florida Attorney General to obtain civil penalties and reimbursement of costs and attorney's fees for Defendants' acts or practices in violation of the aforementioned laws.

5. The Florida Attorney General also brings this action pursuant to 15 U.S.C. § 6103(a) of the Telemarketing Act, which authorizes attorneys general to initiate federal district court proceedings to enjoin violations of, and enforce compliance with, the TSR, to obtain damages, restitution, and other compensation, and to obtain such further and other relief as the court may deem appropriate to stop Defendants' violations of the TSR.

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction over the federal law claims pursuant to 15 U.S.C. §§ 45(a), 53(b), 6102(c), 6103(a), and 6105(b), and 28 U.S.C. §§ 1331, 1337(a), and 1345. This Court has supplemental jurisdiction over the subject matter of the state law claims pursuant to 28 U.S.C. § 1367.

7. Venue is proper in this district under 28 U.S.C. §§ 1391(b)(1), (b)(2), (c)(1), (c)(2), and (d), and 15 U.S.C. §§ 53(b) and 6103(e). Divisional venue is proper under M.D. Fla. L.R. 1.02.

COMMERCE

8. At all times material to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4

of the FTC Act, 15 U.S.C. § 44, and engaged in “trade or commerce” as defined in Section 501.203(8), Florida Statutes.

PLAINTIFFS

9. The FTC is an independent agency of the United States Government created by statute. 15 U.S.C. §§ 41-58. The FTC enforces 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 also enforces 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 in or affecting commerce.

10. 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 rescission or reformation of contracts, restitution, the refund of monies paid, and disgorgement of ill-gotten monies. 15 U.S.C. §§ 53(b), 56(a)(2)(A), 57b, 6102(c), and 6105(b).

11. The Florida Attorney General is the enforcing authority under the FDUTPA pursuant to Section 501.203(2), Florida Statutes, and is authorized to pursue this action pursuant to 15 U.S.C. § 6103(a) to enjoin violations of the TSR, and in each such case, to obtain restitution and other compensation on behalf of Florida residents. The Florida Attorney General is authorized to pursue this action to enjoin violations of the FDUTPA and Florida’s Solicitation of Contributions Act, and to obtain legal, equitable, or other appropriate relief including, not limited to, carrying out a transaction in accordance with the reasonable expectations of consumers or governmental entities; appointing a receiver;

reimbursing consumers or governmental entities found to have been damaged; and obtaining permanent injunctive relief, ordering corporate dissolution, ordering charitable contributions, civil penalties, reimbursement of costs and attorney's fees, and other equitable relief for Defendants' acts or practices in violation of the TSR, the FDUTPA, and Florida's Solicitation of Contributions Act. § 501.207, Fla. Stat. (2018); § 501.2075, Fla. Stat. (2018); § 501.203(3)(c)(1), Fla. Stat. (2018); § 496.416, Fla. Stat. (2018).

DEFENDANTS

12. AVF, is located at 1950 Northgate Blvd., Suite D-1, Sarasota, Florida 34234. AVF transacts or has transacted business in this district and throughout the United States. AVF's board of directors includes founder Defendant Monville, and Monville's sister, Carol ("Carol"), and son, Bryan ("Bryan"), among others. Articles of incorporation representing that AVF is a non-profit corporation were filed in Delaware in 2008. While AVF is recognized as tax-exempt by the IRS under Section 501(c)(3) of the Internal Revenue Code, it is nonetheless organized to carry on business for its own profit or that of its members within the meaning of Section 4 of the FTC Act, 15 U.S.C. § 44.

13. Defendant Paul K. Monville ("Monville") created AVF and is its president and executive director. At all times material to this Complaint, acting alone or in concert with others, Monville has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of AVF, including the acts and practices set forth in this Complaint. Among other things, Monville controls AVF funds and is responsible for monitoring its financial accounts; has drafted, reviewed, and approved AVF's telemarketing scripts, form letters, and brochures; recruits fundraisers to solicit on behalf of AVF; signs

telemarketing contracts; and signs official correspondence on behalf of AVF, including state registrations and annual tax filings. Monville resides in this district, is over the age of twenty-one, and is not currently in the military. In connection with the matters alleged herein, Monville transacts or has transacted business in this district and throughout the United States.

DEFENDANTS' BUSINESS ACTIVITIES

14. AVF solicits contributions from donors across the United States through for-profit fundraisers. AVF has received contributions from thousands of donors, typically for small amounts ranging from \$10 to \$50.

15. Since 2014, Monville, acting on behalf of AVF, has recruited over 20 different for-profit fundraisers to call donors seeking contributions. AVF's contracts with these fundraisers grant the fundraisers ownership of its donor lists, and agree to pay them 80 to 85 percent of all funds raised.

16. AVF authorizes its fundraisers to use telemarketing scripts approved by Monville, and to send donors approved brochures and pledge letters (collectively "Solicitation Materials"). Monville personally approves these Solicitation Materials, which only vary slightly from fundraiser to fundraiser. Contracts signed by Monville instruct fundraisers not to deviate from the scripts provided by Defendants. Beyond that, Defendants do nothing to monitor the conduct of the fundraisers they hire.

17. Using the Solicitation Materials provided by Defendants, fundraisers misrepresent the nature and purpose of AVF, the purposes for which contributions will be used, and the amount of donors' contributions that will be used for particular charitable

programs.

18. AVF's Solicitation Materials include specific misrepresentations that AVF will spend donors' money on sending care packages to deployed service members, immediate support to veterans dealing with or facing homelessness, and counseling and referral services for veterans. Such representations are false or misleading. In reality, AVF has spent a miniscule fraction of donations on such things. AVF's charitable spending is merely incidental to the private benefit derived by Monville and the fundraisers he hires. The vast majority of every donation – over 92 percent – goes directly to the for-profit fundraisers, compensation for Monville and his son, and other administrative costs.

False Claims that AVF is Dedicated to Providing "We Care" Packages

19. In nearly all Solicitation Materials, Defendants falsely claim that AVF is "dedicated to providing" care packages to deployed service members. Scripts approved by Monville and distributed to fundraisers for use in soliciting donations on behalf of AVF instruct fundraisers to make statements like:

American Veterans Foundation is dedicated to providing "We Care" packages to deployed military personnel. "We Care" packages can consist of hand-made blankets, snacks and everyday items we at home take for granted. It is very easy to say "We Support Our Troops" but it is another thing to actually show your support for them. Exhibit A. at 1.

20. Brochures and pledge letters also approved by Monville and sent to donors feature providing "We Care" packages as one of AVF's key purposes. Representations include:

"We Care" packages show that, indeed, we care and support the sons, daughters and loved ones who are on the front lines defending the freedoms we enjoy. It is very easy to say "We Support Our Troops", but it is another thing to actually show you support them. *Id.* at 3.

21. In fact, Defendants are not “dedicated” to providing care packages to deployed service members and made only de minimis expenditures on such packages. From 2014 through 2016, AVF collected over \$3.5 million in contributions from donors but reported spending just \$47,246 to send out a total of 306 “We Care” packages. And despite contributions jumping from \$929,963 in 2015 to over \$2.1 million in 2016, AVF’s “We Care” expenditures decreased from \$15,351 in 2015 (1.7% of annual contributions; sent to 69 deployed service members) to only \$1,845 in 2016 (0.1% of annual contributions; sent to 19 service members). Moreover, Defendants made little effort to advertise the availability of “We Care” packages to deployed service members, the very people the program was purportedly serving. Until July 2017, Defendants did nothing more than include a link on AVF’s website through which service members could request a care package. Defendants’ representations to donors that their contributions support a program devoted to sending care packages to deployed service members are deceptive.

**False Claims that AVF Provides Immediate Assistance to
Veterans Facing Homelessness**

22. Defendants also falsely claim that AVF provides “immediate support” to homeless veterans or veterans facing homelessness “using the full extent of [AVF’s] services.” Exhibit A. at 4. Scripts approved by Monville and distributed to fundraisers for use in soliciting donations on behalf of AVF instruct fundraisers to represent that:

American Veterans Foundation is also dedicated to helping prevent more homelessness among honorably discharged veterans by providing immediate support to veterans who are homeless or in jeopardy of becoming homeless and in desperate need of assistance in the form of food, shelter, clothing, medical supplies and any other reasonable request. Statistics tell us that as many as 1/3rd of all homeless people in the US are

American Veterans who served their country faithfully. With your assistance we offer these American Veterans the assistance they so desperately need. *Id.* at 1.

23. When trying to close with a donor who is reluctant to contribute, scripts instruct fundraisers to focus on the benefits that donations will support by saying:

We understand, Mr./Mrs. _____, but I'm sure you'd like to help the Foundation in helping to prevent more homelessness among veterans and brighten the days of our American heroes.... *Id.*

24. Brochures and pledge letters also approved by Monville and sent to donors contain similar representations:

American Veterans Foundation is working to make positive successful changes in the lives of the brave men and women who have served our country. We will always offer a helping hand to veterans who have fallen on hard times and are in need of immediate help with shelter, utilities, medical supplies, food and other necessities of life. *Id.* at 4.

25. In fact, AVF provides only de minimis immediate support to veterans, homeless or otherwise. In 2014, AVF provided immediate support to just one veteran with a single payment of \$1,565 (0.2% of annual contributions). In 2014 through 2016, AVF provided immediate support to just 18 veterans in the amount of \$26,361 (0.7% of contributions). This is not surprising given that Defendants do little or nothing to advertise the availability of such funds or otherwise identify recipients for assistance. In 2016, AVF also reported making \$49,430 in donations to charities that provide veterans with transitional housing, although such donations do not constitute providing "immediate" support to veterans. Including these donations, from 2014 to 2016, AVF reported spending 2.7 percent of donations on helping homeless veterans in any way. Under these circumstances, it was deceptive for Defendants to tell donors that their contributions would provide immediate

assistance to veterans facing homelessness.

26. Not only does AVF spend a de minimis amount on immediate assistance to veterans, but in 2014, the AVF board, at Monville's suggestion, voted to discontinue helping homeless veterans. Knowing that the board did not support this program, Monville nonetheless continued to approve Solicitation Materials that claimed that AVF was dedicated to providing immediate help to veterans facing homelessness. In these circumstances, where the board had specifically voted to discontinue the program, it was deceptive to tell donors that providing immediate assistance to homeless veterans was a program to which AVF was dedicated.

No Counseling and Referral Services for Individual Veterans

27. AVF Solicitation Materials also falsely represent that AVF provides counseling and referral services to individual veterans. In fact, AVF has no counseling and referral program and does not report helping even a single veteran with such services or spending any money on such a program.

Other Aid to Veterans Is De Minimis

28. AVF pledge letters mention that donations will also be used to "[p]rovide patients in veterans homes with toiletries, clothing, books, games, and other items." To accomplish this, Defendants write checks to veterans homes. This spending, too, is nominal. From 2014 to 2016, AVF sent checks totaling \$123,750, or 3.2 percent of total contributions.

AVF Misrepresents that Donations Will Be Spent for Charitable Purposes and Is a Sham Charity

29. Central to the success of AVF's appeals is the overarching misrepresentation, made expressly and through implication in AVF's Solicitation Materials, that the majority of

donated funds go to a legitimate charitable organization whose primary purpose is to aid deployed service members and veterans. AVF's motto reads, "Serving those who serve & have served our nation." Exhibit A. at 5. Approved scripts represent that:

Mr./Mrs. _____, American Veterans Foundation does not charge these veterans for services. The Foundation does not receive any Federal or State aid. The Foundation's efforts are supported solely by the generous contributions of caring people like you. Nobody likes to get these calls and it's not easy to make them, but I feel this is a worthwhile cause. *Id.* at 1.

Pledge letters make similarly misleading statements:

Your generosity makes you part of the solution in helping United States veterans who have fallen on hard times and need assistance.... We as responsible citizens cannot and should not stand by in the comfort of our homes while those who fought for our freedoms sleep in the streets.... In today's shrinking world with its ever-increasing problems, we receive great personal satisfaction in the knowledge that organizations like ours are doing its part in helping veterans who need assistance. By fulfilling your pledge, we hope that you will also be blessed with the satisfaction that you have helped those who have fought the brave fight for all Americans. *Id.* at 4.

AVF's brochures also make such representations:

[Veterans] have served their country in our time of need. Now it's time for the citizens of our great nation to step up to the plate and give assistance to these brave young men and women. *Id.* at 5.

30. In fact, donors were not helping "brave young men and women" and "veterans who have fallen on hard times" by contributing to AVF because their donations were not, in large part, spent on deployed service members or veterans. Instead, the vast majority of donors' contributions were spent paying for-profit fundraisers, compensating Monville and his son, and on other overhead.

31. Despite its 501(c)(3) tax-exempt status, AVF is a sham charity, operated by Monville to benefit private interests. The AVF board of directors provides little or no

oversight of AVF's operations. It does not engage in financial oversight, review employee performance, or seek to protect donors' contributions from waste and abuse. The board does not review documents and has never created an annual budget, strategic plan, or business plan for AVF. At its single annual meeting, the board does little more than approve members and set salaries and bonuses for Monville and Bryan. The board has never provided oversight of AVF's operations between meetings; indeed there is no record of the board voting or otherwise taking any formal action outside of its annual meetings.

32. Since Monville incorporated AVF in 2008, he has served as the board president and populated it with, among others, family members including currently Carol and Bryan. In 2014, Monville and Carol voted to approve the hiring by AVF of Bryan. The job opening was not posted, no other applicants were interviewed, and AVF has no records reflecting a job description or performance expectations. In 2015, Monville again voted to approve compensation for Bryan. In 2016 (Carol was absent from the 2015 meeting), both Monville and Carol voted to approve salary and bonuses for Bryan. When Bryan joined the board in 2016, he and Carol voted to approve his father's salary and bonus.

33. Despite approving compensation and bonuses for Monville nearing \$80,000 a year, the board has not reviewed his job performance or obtained an independent evaluation of his compensation. The board similarly approved salary and bonuses for Bryan without evaluation. Moreover, in 2016, the board approved \$3,000 bonuses for both Monville and Bryan, the same year that, even as contributions doubled, direct program spending declined.

34. In addition to paying the salaries and bonuses of Monville and his son, AVF has spent thousands of dollars on meals, airline flights – including for a board member's

spouse – hotels, rental cars, and gas for Bryan’s personal vehicle. The board allowed such expenses without question or oversight; Monville alone oversaw use of the AVF AmEx card by himself and son Bryan. Moreover, even before Bryan joined the AVF board, Monville—without board approval—gave Bryan signatory authority on AVF’s checking accounts and his own AVF credit cards.

35. Year after year Monville and the board approved contracts paying fundraisers 80 to 85 percent of each donation. For some charities, high fundraising costs can be attributed to start-up expenses or seeking support for unpopular causes. That is not the case here. AVF has been in existence since 2008, and seeking support for veterans-related causes is neither unpopular nor controversial. Rather than protecting donors’ contributions from waste and abuse and working to create meaningful programs that engage in the activities described to donors, AVF’s board and Monville allowed donors to be deceived in AVF’s name and, year in and year out, permitted millions of donated dollars to go to for-profit fundraisers.

36. In addition to paying fundraisers 80 to 85 percent of each donation, AVF has also ceded to them control and ownership of AVF donor lists. This benefits the fundraisers because donors who answer the phone and contribute to one cause are more likely to respond to solicitations for other causes. Access to names of prior AVF donors lowers the cost to fundraisers of acquiring lead lists and increases their response rate when soliciting for other organizations. By allowing fundraisers to control and retain its donor lists, AVF never benefitted from the reduced costs associated with soliciting past donors, and continued to pay even long-term fundraisers the same high rates.

Knowing and Willful Misrepresentations

37. Defendants knowingly and willfully misrepresent to donors that AVF is a legitimate charitable organization and that donations will be used to support specific charitable programs, including providing care packages to deployed service members, immediate assistance to homeless veterans, and counseling and referral services. In reality, and as Defendants knew, the overwhelming majority of donations were used to benefit Monville and AVF's fundraisers. Under these circumstances, Defendants knowingly and willfully engaged in deceptive solicitations.

Harm to Donors, Service Members, and Veterans

38. Since at least 2014, AVF has told donors that their contributions would be used to provide care packages to deployed service members, immediate assistance to veterans facing homelessness, and counseling and referral services. Donors have responded, giving more than \$6.5 million from 2014 through 2017. In fact, the vast majority of contributed funds supported the private interests of for-profit fundraisers or inured to the personal benefit of Monville. Only an insignificant amount of money was actually spent on the programs described to donors. Under these circumstances, donors were deceived, and their charitable contributions wasted. In addition, donors had less money available to support legitimate charities that operate real programs to help deployed service members and homeless veterans, or to support other charitable causes.

VIOLATIONS OF THE FTC ACT

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

40. Misrepresentations or deceptive omissions of material fact constitute deceptive acts or practices prohibited by Section 5(a) of the FTC Act.

COUNT I

**MISREPRESENTATIONS THAT CONTRIBUTIONS GO TO CHARITY
(By Plaintiff FTC)**

41. Plaintiff FTC adopts, incorporates, and re-alleges Paragraphs 14-38 as if fully set forth herein.

42. In numerous instances, in connection with soliciting charitable contributions from donors, Defendants have represented, directly or indirectly, expressly or by implication, that donors' contributions will go to a legitimate charitable organization whose primary purpose is to serve the public good by assisting deployed service members and veterans.

43. In truth and in fact, in numerous instances donors' contributions have not gone to a legitimate charitable organization whose primary purpose is to serve the public good by assisting deployed service members and veterans. Instead, donors' contributions have gone to a corporation whose operations demonstrate that it is not a legitimate charitable organization and that its primary purpose is not to serve the public good by assisting deployed service members and veterans.

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

COUNT II

**MISREPRESENTATIONS THAT CONTRIBUTIONS WERE
FOR SPECIFIED CHARITABLE PURPOSES
(By Plaintiff FTC)**

45. Plaintiff FTC adopts, incorporates, and re-alleges Paragraphs 14-38 as if fully set forth herein.

46. In numerous instances in connection with soliciting charitable contributions from donors, Defendants have represented, directly or indirectly, expressly or by implication, that donors' contributions will be used to fund particular charitable programs. Such representations include, but are not limited to, claims that donated funds will be used to:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; and
- c. provide counseling and referral services to individual veterans.

47. In truth and in fact, in numerous instances little or none of the donors' contributions have funded the particular charitable programs described to them, specifically including programs to:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; or
- c. provide counseling and referral services to individual veterans.

48. Therefore, Defendants' representations as set forth in Paragraph 46 are false or misleading, and constitute deceptive acts or practices in violation of Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

COUNT III

**MEANS AND INSTRUMENTALITIES OF DECEPTION
(By Plaintiff FTC)**

49. Plaintiff FTC adopts, incorporates, and re-alleges Paragraphs 14-38 as if fully set forth herein.

50. In numerous instances, in connection with soliciting charitable contributions from donors, Defendants, individually or in concert with others, have provided fundraisers with the means and instrumentalities to deceive donors. The means and instrumentalities that Defendants have provided include, but are not limited to, approving for use by telemarketers scripts and other Solicitation Materials, such as brochures and letters, that make false or misleading claims about AVF and its programs and are deceptive.

51. By providing the means and instrumentalities to others for the commission of deceptive acts and practices set forth in paragraph 51, Defendants have violated Section 5(a) of the FTC Act, 15 U.S.C. § 45(a).

VIOLATIONS OF THE TELEMARKETING SALES RULE

52. In 1994, 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 (“TSR”) in 1995, extensively amended it in 2003, and amended certain sections thereafter. 16 C.F.R. Part 310.

53. The Telemarketing Act also authorizes state attorneys general 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 their states’ residents. 15 U.S.C. §6103(a).

54. The TSR defines “charitable contribution” to mean “any donation or gift of money or any other thing of value.” 16 C.F.R. § 310.2(h).

55. The TSR defines “donor” to mean “any person solicited to make a charitable contribution.” 16 C.F.R. § 310.2(p).

56. The TSR defines “person” to mean “any individual, group, unincorporated association, limited or general partnership, corporation, or other business entity.” 16 C.F.R. § 310.2(y).

57. The TSR defines “telemarketer” to mean “any person who, in connection with telemarketing, initiates or receives telephone calls from a customer or donor.” 16 C.F.R. § 310.2(ff).

58. The TSR defines “telemarketing” to mean, in pertinent part, “a plan, program, or campaign which is conducted to induce the purchase of goods or services or a charitable contribution, by use of one or more telephones and which involves more than one interstate telephone call.” 16 C.F.R. § 310.2(gg).

59. Section 310.3(a)(4) of the TSR prohibits telemarketers from making a false or misleading statement to induce a charitable contribution.

60. Sections 310.3(d)(1), (3), and (4) of the TSR prohibit telemarketers from misrepresenting, directly or by implication: the nature, purpose, or mission of an entity on behalf of which a charitable contribution is being requested; the purpose for which any charitable contribution will be used; or the amount of any charitable contribution that will go to a charitable organization or to any particular charitable program.

61. The TSR prohibits any person from providing substantial assistance or support to any seller or telemarketer when that person knows or consciously avoids knowing that the seller or telemarketer is engaged in any act or practice that violates Sections 310.3(a), (c), or (d), or 310.4 of the TSR. 16 C.F.R. § 310.3(b).

62. 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

ASSISTING AND FACILITATING TELEMARKETING VIOLATIONS (By Plaintiffs FTC and Florida Attorney General)

63. Plaintiffs FTC and Florida Attorney General adopt, incorporate, and re-allege Paragraphs 14-38 as if fully set forth herein.

64. In numerous instances in connection with soliciting charitable contributions by telephone, Defendants have provided substantial assistance or support to telemarketers while knowing or consciously avoiding knowing that the telemarketers were engaged in acts or practices that violate Sections 310.3(a)(4) and 310.3(d)(1), (3), and (4) of the TSR, thereby violating Section 310.3(b) of the TSR. 16 C.F.R. § 310.3(b).

STATE LAW VIOLATIONS

**FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES
ACT (“FDUTPA”)**

65. When construing whether acts or practices violate the FDUTPA, it is the intent of the Florida State legislature that “due consideration and great weight shall be given to the interpretations of the Federal Trade Commission and the federal courts relating to Section 5(a)(1) of the Federal Trade Commission Act, 15, U.S.C. § 45(a)(1).” § 501.204(2) Fla. Stat. (2018).

66. Section 501.204 of the FDUTPA provides “. . . deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful.”

67. A person who willfully engages in a deceptive or unfair act or practice is liable for a civil penalty of Ten Thousand Dollars (\$10,000.00) for each such violation, pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000.00) for each violation victimizing a senior citizen or military service member, pursuant to Section 501.2077, Florida Statutes. Willful violations of the FDUTPA occur when a person knew or should have known that the conduct in question was deceptive or unfair or prohibited by rule, pursuant to Section 501.2075, Florida Statutes.

68. At all times relevant to this action, Defendants engaged in “trade or commerce” as defined in Section 501.203(8), Florida Statutes.

COUNT V

**MISREPRESENTATIONS THAT CONTRIBUTIONS WERE FOR
SPECIFIED CHARITABLE PURPOSES IN VIOLATION OF THE FDUTPA
(By Plaintiff Florida Attorney General)**

69. Plaintiff Florida Attorney General adopts, incorporates, and re-alleges Paragraphs 1-38 as if fully set forth herein.

70. In numerous instances in connection with soliciting charitable contributions from donors, Defendants have represented, directly or indirectly, expressly or by implication, that donors' contributions will be used to fund particular charitable programs. Such representations include, but are not limited to, claims that donated funds will be used to:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; and
- c. provide counseling and referral services to individual veterans.

71. In truth and in fact, in numerous instances little or none of the donors' contributions have funded the particular charitable programs described to them, specifically including the following:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; or
- c. provide counseling and referral services to individual veterans.

72. At all times material to this Complaint, acting alone or in concert with others, Monville has formulated, directed, controlled, participated in, or had the authority to control, the acts and practices of AVF, including the acts and practices set forth in this Complaint.

73. The Defendants willfully engaged in these deceptive acts and practices

because the Defendants knew or should have known that such acts and practices are deceptive or otherwise prohibited by law.

74. Defendants' deceptive practices are false and likely to mislead consumers acting reasonably, and constitute deceptive acts or practices in violation of the FDUTPA. Consumers within the state of Florida and elsewhere were actually misled by Defendants' misrepresentations.

FLORIDA'S SOLICITATION OF CONTRIBUTIONS ACT

75. Florida's Solicitation of Contributions Act applies to charitable organizations and those soliciting on their behalf, and prohibits deception, fraud, and misrepresentation in the solicitation and reporting of contributions. § 496.402, Fla. Stat. (2018).

76. Pursuant to Section 496.404(1), Florida Statutes, "charitable organization" means a person who is or holds herself or himself out to be established for "any benevolent, educational, philanthropic, . . . patriotic, social welfare or advocacy, public health, . . . or other eleemosynary purpose, or a person who in any manner employs a charitable appeal as the basis for any solicitation or an appeal that suggests that there is a charitable purpose to any solicitation." A "person" means an individual, organization, trust, foundation, group, association, entity, partnership, corporation, or society or any combination thereof. § 496.401(19), Fla. Stat. (2018).

77. Pursuant to Section 496.404(24), Florida Statutes, "solicitation" is defined as a "request, directly or indirectly, for money, property, financial assistance, or any other thing of value on the plea or representation that such money, property, financial assistance, or other thing of value or a portion of it will be used for a charitable or sponsor purpose or will

benefit a charitable organization or sponsor” and occurs regardless of whether the person making the solicitation receives any contribution.

78. Pursuant to Section 496.404(5), Florida Statutes, “contribution” means “the promise, pledge, or grant of any money or property, financial assistance, or any other thing of value in response to a solicitation.”

79. During the relevant period, Defendants AVF and Monville engaged in the solicitation of contributions from donors in Florida and across the United States.

80. Accordingly, Defendants are subject to the provisions of Florida’s Solicitation and Contributions Act.

81. Violation of “. . . any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices” will constitute a violation of the FDUTPA. § 501.203(3)(c), Fla. Stat. (2018).

82. Section 496.416, Florida Statutes, prescribes that a violation of Sections 496.401 – 496.424 of Florida’s Solicitation of Contributions Act is an unfair or deceptive act or practice in violation of the FDUTPA and is subject to the penalties and remedies provided for such violations.

COUNT VI

MISREPRESENTATION THAT CONTRIBUTIONS GO TO CHARITY IN VIOLATION OF THE FDUTPA THROUGH VIOLATION OF FLORIDA’S SOLICITATION OF CONTRIBUTIONS ACT (By Plaintiff Florida Attorney General)

83. Plaintiff Florida Attorney General adopts, incorporates, and re-alleges Paragraphs 14-38 as if fully set forth herein.

84. Florida’s Solicitation of Contributions Act “protect[s] the public by requiring

full public disclosure . . . of the purposes for which such contributions are solicited and the manner in which the contributions are actually used.” § 496.402, Fla. Stat. (2018).

85. It is a violation of Florida’s Solicitation of Contributions Act to “[m]isrepresent or mislead anyone by any manner, means, practice, or device whatsoever to believe that the person or organization on whose behalf the solicitation or sale is being conducted is a charitable organization or sponsor, or that any of the proceeds of the solicitation or sale will be used for charitable or sponsor purposes, if that is not the fact.” § 496.415(7), Fla. Stat. (2018).

86. In numerous instances, in connection with soliciting charitable contributions, Defendants have represented, directly or indirectly, expressly or by implication, that donors’ contributions will be used to assist deployed service members and veterans or to fund particular charitable programs.

87. In truth and in fact, in numerous instances donors’ contributions have not been used to assist deployed service members and veterans. Instead, donors’ contributions have gone to a corporation whose operations demonstrate that it is not a legitimate charitable organization and that its primary purpose is not to serve the public good by assisting deployed service members and veterans.

88. At all times material to this Complaint, acting alone or in concert with others, Monville has formulated, directed, controlled, participated in, or had the authority to control the acts and practices of AVF, including the acts and practices set forth in this Complaint.

89. The Defendants willfully engaged in these deceptive acts and practices because the Defendants knew or should have known that such acts and practices are

deceptive or otherwise prohibited by law.

90. Defendants' practices violate Florida's Solicitation of Contributions Act and therefore constitute a violation of the FDUTPA.

COUNT VII

MISREPRESENTATION THAT CONTRIBUTIONS WERE FOR SPECIFIED CHARITABLE PURPOSES IN VIOLATION OF THE FDUTPA THROUGH VIOLATION OF FLORIDA'S SOLICITATION OF CONTRIBUTIONS ACT (By Plaintiff Florida Attorney General)

91. Plaintiff Florida Attorney General adopts, incorporates, and re-alleges Paragraphs 14-38 as if fully set forth herein.

92. It is a violation of Florida's Solicitation of Contributions Act to "[f]ail to apply contributions in a manner substantially consistent with the solicitation."

§ 496.415(16), Fla. Stat. (2018).

93. In numerous instances in connection with soliciting charitable contributions from donors, Defendants have represented, directly or indirectly, expressly or by implication, that donors' contributions will be used to fund particular charitable programs. Such representations include, but are not limited to, claims that donated funds will be used for the following:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; and
- c. provide counseling and referral services to individual veterans.

94. In truth and in fact, little or none of the donors' contributions have funded the particular charitable programs described to them, specifically including programs to:

- a. send care packages to deployed service members;
- b. provide immediate assistance to veterans facing homelessness; or
- c. provide counseling and referral services to individual veterans.

95. At all times material to this Complaint, acting alone or in concert with others, Monville formulated, directed, controlled, participated in, or had the authority to control the acts and practices of AVF, including the acts and practices set forth in this Complaint.

96. Defendants willfully engaged in these deceptive acts and practices because Defendants knew or should have known that such acts and practices are deceptive or otherwise prohibited by law.

97. Defendants' practices violate Florida's Solicitation of Contributions Act, and therefore constitute a violation of the FDUTPA.

CONSUMER INJURY

98. Consumers have suffered and will continue to suffer substantial injury as a result of Defendants' violations of the FTC Act, the TSR, the FDUTPA, and Florida's Solicitation of Contributions Act. 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

99. 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.

100. 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.

101. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction to allow Plaintiff Florida Attorney General to enforce its state law claims against Defendants in this Court and to grant such relief as provided under state law.

102. Pursuant to Sections 501.207, 501.2075, and 501.2077, Florida Statutes, and this Court's own equitable powers, this Court may award injunctive and such other monetary and equitable relief necessary to redress injury to consumers and governmental entities resulting from Defendants' violation of the FDUTPA and Florida's Solicitation of Contributions Act including, but not limited to, ordering a Defendant to do the following: dissolve or reorganize; carry out a transaction in accordance with the reasonable expectations of consumers or governmental entities; make contributions; provide restitution; reimburse consumers or governmental entities found to have been damaged; and strike or limit the application of clauses of contracts to avoid an unconscionable result; and pay civil penalties, attorney's fees, and costs. Additionally, pursuant to these provisions, this Court is also empowered to order any defendant to divest herself or himself of any interest in any enterprise, including real estate; impose reasonable restrictions upon the future activities of

any defendant to impede her or him from engaging in or establishing the same type of endeavor; or to grant legal, equitable, or other appropriate relief.

PRAYER FOR RELIEF BY THE FTC

Wherefore, Plaintiff FTC, pursuant to Sections 13(b) and 19 of the FTC Act, 15 U.S.C. §§ 53(b) and 57b, the TSR, 16 C.F.R. Part 310, and the Court's own equitable powers, requests that the Court:

- A. Enter a permanent injunction to prevent future violations of the FTC Act and the TSR by Defendants;
- B. Award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FTC Act and the TSR, including but not limited to, rescission or reformation of contracts, restitution, the refund of monies paid, and the disgorgement of ill-gotten monies; and
- C. Award the FTC the costs of bringing this action, as well as such other and additional relief as the Court may determine to be just and proper.

PRAYER FOR RELIEF BY THE FLORIDA ATTORNEY GENERAL

Wherefore, Plaintiff Florida Attorney General, pursuant to Sections 501.207, 501.2075, and 501.2077, Florida Statutes, the TSR, 16 C.F.R. Part 310, and this Court's own equitable powers, requests that the Court award such relief as the Court finds necessary to redress injury to consumers resulting from Defendants' violations of the FDUTPA and Florida's Solicitation of Contributions Act, including, but not limited to the following:

- A. Enter judgment in favor of the Florida Attorney General and against Defendants for Counts IV-VII alleged in this Complaint;

B. Enter a permanent injunction to prevent future violations of the FDUTPA and Florida's Solicitation of Contributions Act by Defendants;

C. Permanently enjoin the Defendants, their officers, agents, employees, and those persons in active concert or participation with the Defendants who receive actual notice of such an injunction, from engaging in any charitable activities for financial gain or monetary benefit;

D. Require Defendants to carry out transactions in accordance with the reasonable expectations of consumers or governmental entities;

E. Require Defendants to make charitable contributions;

F. Award reimbursement to consumers found to have been damaged in the form of restitution or disgorgement of ill-gotten gains against the Defendants jointly and severally;

G. Assess civil penalties to be paid jointly and severally in an amount up to \$10,000 per transaction pursuant to Section 501.2075, Florida Statutes, and up to \$15,000 per transaction pursuant to Section 501.2077, Florida Statutes, for the willful acts and practices of the Defendants in violation of the FDUTPA;

H. Award the Florida Attorney General the attorney's fees and costs of bringing this action;


I. Award the Florida Attorney General such equitable or other relief as is just and appropriate pursuant to the FDUTPA, Florida's Solicitation of Contributions Act, and the TSR; and

J. Award the Florida Attorney General such other and additional relief as this Court may determine to be just and proper.

Dated: March 25, 2019

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