

**IN THE CIRCUIT COURT OF THE
FOURTH JUDICIAL CIRCUIT IN AND
FOR DUVAL COUNTY, FLORIDA**

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

Case No.:

Plaintiff,

v.

**ELLIS CROSBY & ASSOCIATES, INC.,
a Florida corporation, and
TED ELLIS CROSBY, individually,
and as an officer of Ellis Crosby & Associates, Inc.,**

Defendants.

**COMPLAINT FOR DECLARATORY RELIEF, TEMPORARY AND PERMANENT
INJUNCTION, DAMAGES, CIVIL PENALTIES AND OTHER STATUTORY RELIEF**

PLAINTIFF, STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS (hereinafter referred to as “Attorney General” or “Plaintiff”) makes and files this Complaint for Declaratory Relief, Temporary and Permanent Injunction, Damages, Civil Penalties, and Other Statutory Relief against ELLIS CROSBY & ASSOCIATES, INC., a Florida corporation, (hereinafter referred to as “Defendant ECA”) and TED ELLIS CROSBY, individually and as an officer of Ellis Crosby & Associates, Inc., (hereinafter referred to as “Defendant CROSBY”) and alleges as follows:

PRELIMINARY STATEMENT

1. From 2003 through the present Defendant ECA and Defendant CROSBY illegally collected debts from thousands of consumers across the country. Using false and illegal claims of being investigators, police officers, attorneys, and even the Attorney General, Defendant ECA, at the direction of and acting in concert with Defendant CROSBY used telephones to

contact consumers at home and at work, threatening them with arrest, prosecution, or imprisonment if they did not send full payment by Money Gram that day.

2. The Attorney General brings this action pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla. Stat. As a result of these unconscionable acts or practices or unfair or deceptive acts or practices, Defendants violated Chapter 501, Part II, Fla. Stat. For Defendants' violations of Chapter 501, the Attorney General seeks declaratory relief, a temporary and permanent injunction, actual damages, penalties, and other statutory relief.
3. The Attorney General, on behalf of all affected consumers, also brings the action under the Florida Consumer Collection Practices Act, Section 559.55, et seq., Fla. Stat., which prohibits debt collectors from engaging in abusive, deceptive and unfair practices.
4. Defendant ECA and Defendant CROSBY illegally contacted consumers at work, engaged in harassing, oppressive and abusive conduct, failed to identify themselves as collections agents, falsely represented themselves as law enforcement officers or attorneys, falsely threatened legal action, falsely threatened criminal arrest, threatened violence, misrepresented that the consumer had committed a crime, falsely represented the amount due, falsely implied they were government investigators, falsely stated their office is in a federal building, falsely claimed that an Order of Homeland Security prevented disclosure of their address, falsely threatened to seize computers, falsely stated that non payment would result in arrest, and falsely stated that the sum owed could only be paid in full. For these violations, the Attorney General seeks statutory damages of \$1,000 per consumer, actual damages and costs including attorneys' fees pursuant to Section 501.2105(1) and 559.77, Fla.

Stat., and other statutory relief pursuant to Section 559.77, Fla. Stat.

5. Plaintiff served an investigative subpoena directed towards Defendant ECA on November 18, 2004. The subpoena sought information relative to the Attorney General's investigation into Defendant ECA and Defendant Crosby's business practices relating to debt collection.
6. Plaintiff filed its Motion for Entry of Order Compelling Compliance with Investigative Subpoena and Awarding a Civil Penalty, Attorney's Fees and Costs on June 16, 2005. On July 8, 2005, Defendant ECA and Defendant Crosby hand-delivered a selection of documents to Plaintiff. The response received was incomplete at best. Defendants completely failed to respond to the subpoena properly served on November 18, 2004, over six (6) months ago, despite repeated requests from Plaintiff.
7. Despite inquiry into the debt collection practices through the subpoena process, Defendant ECA and Defendant Crosby continued to engage in illegal debt collections from Florida, as fully described below.
8. The Attorney General also seeks Temporary and Permanent Injunctive relief under Rule 1.610, Fla.R.Civ.P., as the Attorney General, as the enforcing authority, has a clear legal right to stop the continuing illegal acts of Defendant ECA and Defendant CROSBY. Thus, the evidence presented at a hearing for a Temporary Injunction, as outlined below will demonstrate that the Defendant ECA and Defendant CROSBY have violated, are violating and will continue to violate State and Federal law. The relief of an Injunction is necessary to stop the Defendants from further violations of State and Federal law.

JURISDICTION AND VENUE

9. This is an action for declaratory and injunctive relief and damages in excess of \$15,000.

10. This Court has jurisdiction pursuant to Sections 26.012, and 501.207, Fla. Stat., as Defendant ECA is doing business in the State of Florida at 4494 Southside Blvd., Suite 200, Jacksonville, Florida 32216. Defendant CROSBY is an individual residing at 110 Lake Vista Drive, Apt. 1707, Ponte Vedra, Florida 32082 and doing business at 4494 Southside Blvd., Suite 200, Jacksonville, Florida 32216.
11. Venue is proper in this Court for Defendant ECA and Defendant CROSBY pursuant to Sections 47.011 and 47.051, Fla. Stat., as Defendant ECA and Defendant CROSBY conduct all business in and from Duval County, Florida, and Defendant CROSBY resides in Duval County, Florida.
12. As the illegal acts of Defendant ECA and Defendant CROSBY are ongoing, an expedited hearing is required to serve the interests of justice.

THE PARTIES

13. The Attorney General is an enforcing authority of Florida's Deceptive and Unfair Trade Practices Act as defined in Chapter 501, Part II, Fla. Stat. The Attorney General is authorized to bring this action and seek damages, injunctive and other statutory relief pursuant to Section 501.207, Fla. Stat.
14. The violations of Chapter 501, Part II, Fla. Stat., alleged herein have occurred in and affect more than one judicial circuit in the State of Florida. As demonstrated by the Certificate of Public Interest, attached as Exhibit "A," Plaintiff has conducted an investigation, and Attorney General Charlie Crist, as head of the relevant enforcing authority, has determined that an enforcement action serves the public interest.
15. Defendant ECA is a Florida corporation doing business in the State of Florida at 4494

Southside Blvd., Suite 200, Jacksonville, Florida 32216. ECA's registered agent is Johnson Chauhan Law Group, P.A. at 200 West Forsyth Street, Suite 1401, Jacksonville, Florida 32202.

16. Defendant CROSBY is an individual residing in the State of Florida at 110 Lake Vista Drive, Apt. 1707, Ponte Vedra, Florida 32082 and doing business as Ellis Crosby & Associates, Inc. at 4494 Southside Blvd., Suite 200, Jacksonville, Florida 32216.

FACTS

17. On April 24, 2003, Ellis Crosby & Associates, Inc. was incorporated as a domestic for-profit corporation. At the time of incorporation, Ted Ellis Crosby was listed as the sole Director. The business location was 121 Pine Street, Atlantic Beach, Florida 32233. After four months of illegal consumer collections activity, Defendant ECA first submitted a registration as a Consumer Collection Agency in September 2003.
18. On April 30, 2004, Defendant ECA filed its 2004 Annual Report with the Florida Secretary of State, Division of Corporations. Ted Ellis Crosby was no longer the sole Director. Instead, Mr. Crosby was now Director and President, Jason M. King was the Chief Financial Officer and Jae Chung was the Vice-President and Secretary. The business location was also changed to 4494 Southside Blvd. Suite 200, Jacksonville, Florida 32216.
19. In 2003, the Better Business Bureau of North Florida began receiving increasing consumer complaints regarding the illegal collections tactics of Defendant ECA and Defendant CROSBY. From June 1, 2004 through August 23, 2005, over one hundred and twenty (120) complaints were filed against Defendant ECA and Defendant CROSBY with the Better Business Bureau of North Florida and the Attorney General.

20. Training of illegal debt collections tactics was performed by Defendant ECA and specifically Defendant CROSBY. Through on-the-job training, collectors were trained to identify themselves as “Investigators,” to provide false names to consumers, and claim they were with the “firm” of Ellis, Crosby & Associates.
21. Defendant ECA and specifically Defendant CROSBY, instructed others, through the performance of illegal collections activities, to claim or allude that they were, or were working in connection with attorneys or law enforcement officers, including the Attorney General, to create an atmosphere of intimidation and to add to the credibility of the call.
22. Defendant ECA and Defendant CROSBY instructed collectors to offer to negotiate with the creditor on whose behalf they were purportedly calling if the customer met a specific deadline as to when the money was due, and then to inform debtors that they would have a warrant issued for their arrest if the debt was not paid within a specific time period, generally within a few hours.
23. Defendant ECA and Defendant CROSBY instructed collectors to insinuate that a warrant for the debtor’s arrest had already been issued and would be acted upon if the money were not paid by the deadline.
24. Defendant ECA and Defendant CROSBY specifically refused to honor requests from consumers to cease contact at their workplace and to cease contact with the consumer’s employer regarding debts, even when Defendant ECA and Defendant CROSBY knew the consumer was not permitted to receive such calls at work.
25. At all times relevant hereto, Defendant CROSBY, individually and as an officer of Defendant ECA, personally participated in and directed the unlawful actions of Defendant ECA.

26. The unlawful conduct of Defendant ECA and Defendant CROSBY in Florida is exemplified by the over one hundred and twenty (120) consumers who filed complaints against Defendant ECA and Defendant CROSBY with the Better Business Bureau and/or the Attorney General's Office. Consumers continue to file complaints with both the Better Business Bureau and the Attorney General's Office on a daily basis with equally serious allegations. To more fully illustrate the illegal practices of Defendants, a sampling of such complaints is provided below.

Denise Gandy

27. On or about May 19, 2005, Denise Gandy of Phoenix, Arizona, received a telephone call from a man who identified himself as "Investigator Rasheed Price" calling from Ellis, CROSBY & Associates and Eagle Federal Bank. Mr. Price requested the name of Ms. Gandy's counsel and informed her that he intended to notify the local police authorities to issue a warrant for her arrest, and initiate a criminal action against her for internet fraud based on the online application used for the loan. He also indicated he intended to confiscate her computer as evidence unless she forwarded money by 5 p.m. that day. See Exhibit "B", Affidavit of Denise Gandy.

Janet Pearman

28. On or about March 25, 2005, Janet Pearman of Charles City, Virginia, received a telephone message at approximately 10:45 a.m. from a man who identified himself as "Investigator Wakefield" and requested she return the call as soon as she returned as it was "very important." When Ms. Pearman returned the call, Investigator Wakefield immediately placed her on hold as he claimed to be on the other line with her local State Attorney. Mr.

Wakefield then informed Ms. Pearman that by Federal law, he was obligated to inform her that she was facing criminal charges for misappropriation of state funds to perpetrate fraud stemming from an online application for a pay-day loan in default. Ms. Pearman inquired as to whether the call was intended to collect a debt and Mr. Wakefield informed her that it was not. Ms. Pearman requested he cease calling her at work. Mr. Wakefield further threatened criminal action and demanded to speak to her supervisor. Ms. Pearman left her employment for the day because she was distraught after the call. Mr. Wakefield then called her cellular telephone number and claimed that he would file a motion to dismiss the charges if she sent \$320.00 before 2 p.m. the same day. After wiring the money as instructed, Ms. Pearman called back and spoke with “Jacobs” who informed her that “Investigator Wakefield” was “in with the board” and that “Jacobs” would personally handle the “nolle pros” papers. See Exhibit “C”, Affidavit of Janet Pearman.

Barbara Wallace

29. On or about June 30, 2004, Barbara Wallace of Odenton, Maryland, received a telephone call at work from a woman who identified herself as “Carmen for the law firm of Ellis, CROSBY & Associates”. The message requested Ms. Wallace return the call and wished Ms. Wallace “good luck” in a threatening tone, implying Ms. Wallace was in some sort of trouble. When Ms. Wallace returned the call, Carmen inquired as to whether the police had yet located Ms. Wallace. Carmen agreed to “see what she could do to hold them off” until Ms. Wallace could obtain the money needed to pay for a defaulted loan. Carmen contacted Ms. Wallace again two weeks later. When Ms. Wallace required confirmation of the debt in writing, Carmen informed her that the police were coming to her place of employment at that moment

to arrest Ms. Wallace. Carmen persistently threatened Ms. Wallace with arrest. She informed Ms. Wallace that her supervisor would be contacted by the police upon her arrest. See Exhibit "D", Affidavit of Barbara Wallace.

Chris Williams

30. On or about August 30, 2004, a man who identified himself as "Terry Baumgardner" called Chris Williams of Lima, Ohio, in regards to an unpaid pay-day loan of \$200.00. Mr. Baumgardner inquired as to whether Ms. Williams had been arrested or was already in jail. He then informed Ms. Williams that a warrant had been issued for her arrest for a felony and that the police were currently looking for her. Mr. Baumgardner required a payment of \$989.42 via Money Gram to be paid the same day. He further instructed her to indicate "out of court restitution" on the Money Gram. He informed Ms. Williams that payment could be made any time before 5:30 p.m. the same day. If the payment was made as required, Mr. Baumgardner claimed that his assistant, Cindy Jones, would process the payment and stop the warrant.

Ms. Williams indicated that she was eight-months pregnant and was afraid to go to jail at that time. Mr. Baumgardner sympathized with her, claiming that "they don't give good pre-natal care in jail." After sending the money as requested, Ms. Williams refused to go home for several days because she was afraid the police would be waiting for her because she had been unable to reach anyone at Ellis, CROSBY & Associates to confirm the money had been received. After several days, Ms. Williams contacted her local police and discovered that no warrant had ever been issued for her arrest. She then contacted the original creditor of the loan collected by Mr. Baumgardner and was informed that she only owed \$230.00. The

original creditor of the loan arranged for a refund to be issued to Ms. Williams in the amount of \$735.00, which she received approximately two months later. See Exhibit "E", Affidavit of Chris Williams.

Katie Remaley

31. On or about May 23, 2005, Katie Remaley of Houston, Texas, received a telephone call from a man who identified himself as "Investigator Wakefield" of the law firm Ellis, CROSBY & Associates during which he demanded she wire money within two (2) hours to his firm or the authorities would "haul her off to jail" for fraud. He then threatened to inform her employer that she was a criminal and seize her work computer as part of the investigation. Ms. Remaley received a second call on or about June 13, 2005 from a man who identified himself as "Paul Epstein" from the same law firm. He claimed that she must wire \$515.00 to his firm the same day to re-pay a loan of not more than \$300.00 or she would be arrested. He refused to provide any written confirmation of the debt or of the payment once it had been sent. See Exhibit "F", Affidavit of Katie Remaley.

Trina Ann Thompson

32. On or about June 17, 2005, Trina Ann Thompson of White City, Oregon, was contacted at her place of employment by a man who identified himself as "Investigator Price" of Ellis, CROSBY & Associates to inform her that a warrant for her arrest would be issued and acted upon unless she sent \$580.00 the same day and another \$325.00 before July 1, 2005 to repay a loan outstanding in the amount of \$175.00. Mr. Price informed Ms. Thompson that she would be arrested at work and her employer's computer would be seized. He advised Ms. Thompson to begin contacting family and friends for bail money. See Exhibit "G", Affidavit

of Trina Ann Thompson.

Yolanda Barrett

33. On or about June 13, 2005, Greg Britt of Greenville, North Carolina, received a telephone call from a man who identified himself as “Investigator Marcinkowicz” of Ellis, CROSBY & Associates regarding a fellow employee, Yolanda Barrett, at Mr. Britt’s place of employment. Mr. Britt is a human resources manager for a catalog call center. After multiple calls were made to his place of employment by Investigator Marcinkowicz referencing Ms. Barrett, the investigator requested to speak with Mr. Britt about Ms. Barrett. The investigator impersonated a police officer in an attempt to gain contact with Mr. Barrett and claimed that she was being investigated for a criminal act. The investigator then contacted the call center director, Clara Hoban, regarding Ms. Barrett. When Ms. Hoban refused to allow contact with Ms. Barrett, Investigator Marcinkowicz cursed and threatened legal action. See Exhibit “H”, Affidavit of Gregg Britt.

Ana Valdes

34. On or about April 15, 2005, Ana Valdes of Union City, New Jersey, took out a loan in the amount of \$200.00 from Alpha Processing. On April 21, 2005, Ms. Valdes borrowed \$200.00 from Plaza Processing. Each loan carried a finance fee of \$60.00. She was unable to timely re-pay both loans and was contacted in June, 2005 by an associate with Ellis, CROSBY & Associates concerning her default. The associate refused to provide documentation concerning the debt and demanded Ms. Valdes immediately pay \$1,165.00 to avoid arrest. The associate was loud and threatened civil and criminal prosecution. The

associate recommended Ms. Valdes retain counsel. When Ms. Valdes' husband, Ricardo Valdes, attempted to contact Ellis, CROSBY & Associates to settle the debt, the associate speaking yelled at Mr. Valdes, claimed that the firm did not want any money from Mr. or Mrs. Valdes, and abruptly hung up the phone. See Exhibit "I", Affidavit of Ana Valdes.

Lisa Dannhauser

35. On or about June 23, 2005, a man who identified himself as "Investigator Price" of Ellis, CROSBY & Associates contacted Lisa Dannhauser of New Britain, Connecticut, at her place of employment. Mr. Price informed Ms. Dannhauser that she must pay \$755.00 immediately or a warrant for her arrest would be issued due to pending criminal charges, including fraud. Mr. Price went on to state that she would be arrested at her place of employment in the presence of her supervisor and co-workers. Mr. Price refused to provide Ms. Dannhauser any information concerning the debt allegedly owed. See Exhibit "J", Affidavit of Lisa Dannhauser.

Ivah Jo Leal

36. On or about June 23, 2005, a man who identified himself as "Richard Steele" of Ellis, CROSBY & Associates, contacted Ivah Jo Leal of Albuquerque, New Mexico, at her place of employment, to inform her that she must pay \$1,400.00 or she would go to jail. He did not inform Ms. Leal that he was calling to attempt to collect a debt. Instead, he claimed he was calling on behalf of Platinum Pay Day Loans, from which Ms. Leal had borrowed \$250.00. When Ms. Leal questioned Mr. Steele about paying \$1,400.00 for a debt in the amount of \$250.00, he claimed he had spoken in error and the amount actually due and owing was \$860.00. Mr. Steele claimed she must send \$860.00 within two (2) hours. If she

failed to do so, Mr. Steele claimed she would be arrested for fraud and her computer would be seized as part of the investigation. When Ms. Leal informed Mr. Steele that she could not pay as requested, he thanked her for not paying, wished her luck, and disconnected the call. See Exhibit “K”, Affidavit of Ivah Jo Leal.

COUNT I

Violation of Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla.Stat.

37. Plaintiff brings this action against Defendant ECA and Defendant CROSBY seeking injunctive and declaratory relief and for statutory and actual damages for systematic violations of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla.Stat. (“FDUTPA”).
38. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 36 as if more fully set forth herein.
39. At all times relevant hereto, Defendant ECA and Defendant CROSBY were engaged in “trade or commerce” as defined by Section 501.203(8), Fla. Stat.
40. Section 501.202(2), Fla.Stat., establishes the policy of “protect[ing] the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive or unfair acts or practices in the conduct of any trade or commerce.”
41. Section 501.204(1), Fla. Stat., declares unlawful:

“unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”
42. As demonstrated herein, Defendant ECA and Defendant CROSBY engaged in illegal debt

collections from Florida.

43. During the course of those transactions, Defendant ECA, at the direction of and working in concert with Defendant CROSBY, engaged in the following acts or practices:

- (a) Extorting or attempting to extort money from consumers by falsely threatening them with arrest or suit;
- (b) Falsely claiming to be investigators affiliated with the state or other government agency;
- (c) Falsely claiming debts were greater than they were in fact;
- (d) Falsely claiming that individuals were attorneys or that the collection would be referred to an attorney;
- (e) Falsely implying that the company calling was a law firm;
- (f) Falsely threatening to take legal actions that could not legally be taken or that were not intended to be taken.;
- (g) Falsely representing that the consumer committed a crime or other conduct in order to disgrace the consumer;
- (h) Failing to provide meaningful disclosure of their identity as a collections agency;
- (i) Using false representations or deceptive means to collect or attempt to collect debts;
- (j) Engaging in harassing, oppressive and abusive conduct;
- (k) Illegally contacting consumers at their place of work;
- (l) Failing to disclose that the call is to collect a debt;
- (m) Willfully contacting consumers, their families or their employers with such frequency so as to harass the debtor or the debtor's family;
- (n) Illegally contacting third parties, such as employers and family members, regarding debts, without prior consent;
- (o) Falsely stating their office is in a federal building and that an Order of Homeland Security prevents disclosure of their address;

- (p) Falsely threatening to seize debtor's computers; and
 - (q) Falsely claiming attorneys' fees and court costs to inflate the amount owed.
44. By undertaking those activities and the others alleged herein, Defendant ECA and Defendant CROSBY have committed acts or practices in trade or commerce which violate Florida law and offend established public policy and are immoral, unethical, oppressive, unscrupulous, or substantially injurious to consumers, or that cause or are likely to cause consumer injury which is substantial, not be outweighed by any countervailing benefits to consumers or competition that the acts or practices produced, and not an injury that consumers themselves could have reasonably avoided. Thus, Defendant ECA and Defendant CROSBY have engaged in unfair acts or practices within the meaning of Section 501.204(1), Fla. Stat.
45. By undertaking the activities described in the preceding paragraph and the others alleged herein, Defendant ECA and Defendant CROSBY have engaged in representations, acts, practices or omissions which are material, and which are likely to mislead consumers acting reasonably under the circumstances. Thus, Defendant ECA and Defendant CROSBY have engaged in deceptive acts or practices within the meaning of Section 501.204(1), Fla. Stat.
46. By undertaking the activities described in the preceding paragraphs and the others alleged herein, Defendant ECA and Defendant CROSBY have engaged in unconscionable acts or practices in trade or commerce, in violation of Section 501.204(1), Fla. Stat.
47. The Attorney General, as enforcing authority, has statutory authority to seek injunctive relief under Section 501.207(1)(b), Fla. Stat.
48. Consumers contacted and harassed by Defendant ECA and Defendant CROSBY are being

denied and deprived of their rights under Florida laws, which constitute irreparable harm for the purposes of injunctive relief. Consumers are being illegally harassed with threats of criminal prosecution if they do not make payments as demanded by Defendant ECA and Defendant CROSBY.

49. As a proximate result of the unlawful actions of Defendant ECA and Defendant CROSBY, consumers and others similarly situated continue to suffer the irreparable harm described above for which monetary compensation is inadequate as they are being illegally harassed for payment.
50. There is a substantial likelihood that Plaintiff will prevail on the merits of its Complaint. Based on the facts claimed in the complaint, and the testimony to be provided at an expedited hearing, the Attorney General has a clear legal right to relief.
51. Most recently, the Attorney General has learned that subsequent to the investigation into the practices of Defendants ECA and CROSBY, ECA and CROSBY have begun representing to consumers that they are in fact working for or on behalf of the Attorney General in collecting debts. As the illegal acts of Defendant ECA and Defendant CROSBY are escalating and ongoing, an expedited hearing is required to serve the interests of justice.

WHEREFORE, the Attorney General respectfully requests that the Court enter judgment in its favor for the following relief:

- a) Grant an expedited hearing and temporarily enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 501.207(3) and 559.78, Fla. Stat.;
- b) Permanently enjoin Defendant CROSBY and Defendant ECA and its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of the injunction, from engaging in the methods,

acts or practices alleged herein that are unconscionable acts or practices or deceptive or unfair acts and practices in violation of Chapter 501, Part II, Fla. Stat., pursuant to Section 501.207(1)(b), Fla. Stat.;

- c) Permanently enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 559.55 et seq. and 501.207(3), Fla. Stat.;
- d) Impose penalties of Ten Thousand Dollars (\$10,000) per violation of the Deceptive and Unfair Trade Practices Act pursuant to Section 501.2075, Fla. Stat. and civil penalties in the amount of Fifteen Thousand Dollars (\$15,000) for per willful violation which victimized, or attempted to victimize a person who is 60 years of age or older, pursuant to Section 501.2077, Fla. Stat.;
- e) Award consumer restitution and damages in an amount to equal the amounts each consumer paid in excess of an amount allowed by law;
- f) Order the revocation of the Office of Financial Regulation of the Financial Services Commission collections license/registration granted to Defendant ECA, pursuant to Section 501.207(3) and 559.730(1), Fla. Stat.;
- g) Order the dissolution of Defendant ECA, pursuant to Section 501.207(3), Fla. Stat.;
- (h) Enter Judgment declaring Defendants' actions and practices unlawful under Chapter 501, Part II, Fla. Stat., pursuant to Section 501.207(1)(a), Fla. Stat.;
- i) Award the Plaintiff costs and attorneys fees pursuant to Sections 559.77(1) and 501.2105, Fla.Stat.; and
- j) Award any and all such other relief as this Honorable Court deems just, equitable, and proper.

COUNT II

Per Se Violation

Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla.Stat. (Florida Consumer Collections Practices Act, Chapter 559, Part VI, Fla.Stat.)

52. Plaintiff brings this action against Defendant ECA and Defendant CROSBY seeking injunctive and declaratory relief and for statutory and actual damages for systematic per se violations of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II,

Fla.Stat. pursuant to the Florida Consumer Collections Practices Act, Chapter 559, Part VI,
Fla. Stat.

53. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 36 as if more fully set forth herein.
54. At all times relevant hereto, Defendant ECA and Defendant CROSBY were engaged in “trade or commerce” as defined by Section 501.203(8), Fla. Stat.
55. Section 501.202(2), Fla. Stat., establishes the policy of “protect[ing] the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive or unfair acts or practices in the conduct of any trade or commerce.” Section 501.204(1), Fla. Stat., declares unlawful:

“unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”
56. Pursuant to Section 501.207, Fla. Stat., an action may be brought for any “violation of this part.” A “violation of this part” means any violation of the act, the rules adopted under the act, and may be based on “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”
57. Section 559.72, Fla. Stat., states in collecting consumer debts, no person shall:
 - (1) Simulate in any manner a law enforcement officer or a representative of any governmental agency;
 - (2) Use or threaten force or violence;
 - (3) Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor’s reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed as required by subsection (6);

- (4) Communicate or threaten to communicate with a debtor's employer prior to obtaining final judgment against the debtor, unless the debtor gives her or his permission in writing to contact her or his employer or acknowledges in writing the existence of the debt after the debt has been placed for collection, but this shall not prohibit a person from telling the debtor that her or his employer will be contacted if a final judgment is obtained;
- (5) Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false;
- (6) Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact;
- (7) Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family;
- (8) Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family;
- (9) Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate or assert the existence of some other legal right when such person knows that the right does not exist;
- (10) Use a communication which simulates in any manner legal or judicial process or which gives the appearance of being authorized, issued or approved by a government, governmental agency, or attorney at law, when it is not;
- (11) Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments which only attorneys are authorized to prepare;
- (12) Orally communicate with a debtor in such a manner as to give the false impression or appearance that such person is or is associated with an attorney;
- (13) Advertise or threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor;

- (14) Publish or post, threaten to publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts;
- (15) Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents when requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt;
- (16) Mail any communication to a debtor in an envelope or postcard with words typed, written or printed on the outside of the envelope or postcard calculated to embarrass the debtor;
- (17) Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor;
- (18) Communicate with a debtor if a person knows that the debtor is represented by an attorney with respect to such debt and has knowledge of, or can readily ascertain, such attorney's name and address, unless the debtor's attorney fails to respond within a reasonable period of time to a communication from the person, unless the debtor's attorney consents to a direct communication with the debtor, or unless the debtor initiates the communication; or
- (19) Cause charges to be made to any debtor for communications by concealment of the true purpose of the communication, including collect telephone calls and telegram fees.

58. As demonstrated herein, Defendant ECA and Defendant CROSBY engaged in illegal debt collections from within the State of Florida.

59. During the course of those transactions, Defendant ECA, at the direction of and acting in concert with Defendant CROSBY, engaged in the following acts or practices:

- (a) Extorting or attempting to extort money from consumers by falsely threatening them with arrest or suit;
- (b) Falsely claiming to be investigators affiliated with the state or other government agency;
- (c) Falsely claiming debts were greater than they were in fact;

- (d) Falsely claiming that individuals were attorneys or that the collection would be referred to an attorney;
- (e) Falsely implying that the company calling was a law firm;
- (f) Falsely threatening to take legal actions that could not legally be taken or that were not intended to be taken;
- (g) Falsely representing that the consumer committed a crime or other conduct in order to disgrace the consumer;
- (h) Failing to provide meaningful disclosure of their identity as a collections agency;
- (i) Using false representations or deceptive means to collect or attempt to collect debts;
- (j) Engaging in harassing, oppressive and abusive conduct;
- (k) Illegally contacting consumers at their place of work;
- (l) Failing to disclose that the call is to collect a debt;
- (m) Willfully contacting consumers, their families or their employers with such frequency so as to harass the debtor or the debtor's family;
- (n) Illegally contacting third parties, such as employers and family members, regarding debts, without prior consent;
- (o) Falsely stating their office is in a federal building and that an Order of Homeland Security prevents disclosure of their address;
- (p) Falsely threatening to seize debtor's computers; and
- (q) Falsely claiming attorneys' fees and court costs to inflate the amount owed.

60. By undertaking the activities described in the preceding paragraphs and the others alleged herein, Defendant ECA and Defendant CROSBY have violated the Florida Consumer Collections Practices Act, Chapter 559, Part VI, Fla.Stat., ("FCCPA"), and hence engaged in unfair and deceptive trade practices that constitute a per se violation of Section 501.204 Fla.Stat.

61. The FCCPA was enacted to protect consumers from creditors and debt collectors who seek to collect debts through illegal means.
62. Plaintiff has received numerous sworn complaints from persons who are “debtors” and “consumers” within the meaning of Section 559.55(2), Fla.Stat. Defendants claim the debtors and consumers owe a “consumer debt” as this phrase is defined by Sections 559.55(1) and (2), Fla.Stat.
63. Defendant ECA and Defendant CROSBY are “creditors” or “debt collectors” within the meaning of Section 559.55(3) or (6), Fla.Stat.
64. In connection with its debt collection activities, Defendant ECA and Defendant CROSBY contact consumers and debtors with threats of criminal prosecution as more particularly described above.
65. Section 559.72(9), Fla.Stat., prohibits creditors from asserting the existence of some legal right when such person knows that the right does not exist. Defendant ECA and Defendant CROSBY knew or should have known that they did not have the right to threaten or pursue criminal prosecution for non-payment of any debt. Further, Defendant ECA and Defendant CROSBY did not have the right to require payment on the same day or of exorbitant amounts of money over the original amount owed.
66. The collection practices of Defendant ECA and Defendant CROSBY described above violate the Florida Consumer Collections Practices Act, Section 559.55, Fla.Stat., et. seq.
67. As a result of the above-referenced violations of the Act, consumers and debtors continue to be subjected to unwarranted and illegal collection activities and, therefore, have been harmed.

68. The Attorney General, as enforcing authority, has statutory authority to seek injunctive relief under Section 501.207(1)(b), Fla.Stat.
69. Consumers contacted and harassed by Defendant ECA and Defendant CROSBY are being denied and deprived of their rights under Florida laws, which constitute irreparable harm for the purposes of injunctive relief. Consumers are being illegally harassed with threats of criminal prosecution if they do not make payments as demanded by Defendant ECA and Defendant CROSBY.
70. As a proximate result of the unlawful actions of Defendant ECA and Defendant CROSBY, consumers and others similarly situated continue to suffer the irreparable harm described above for which monetary compensation is inadequate as they are being illegally harassed for payment.
71. There is a substantial likelihood that Plaintiff will prevail on the merits of its Complaint. Based on the facts claimed in the complaint, and the testimony to be provided at an expedited hearing, the Attorney General has a clear legal right to relief.
72. As the illegal acts of Defendant ECA and Defendant CROSBY are ongoing, an expedited hearing is required to serve the interests of justice.

WHEREFORE, the Attorney General respectfully requests that the Court enter judgment in its favor and grant the following relief:

- a) Grant an expedited hearing and temporarily enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 501.207(3) and 559.78, Fla.Stat.;
- b) Permanently enjoin Defendant CROSBY and Defendant ECA and its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of the injunction, from engaging in the methods,

acts or practices alleged herein that are unconscionable acts or practices or deceptive or unfair acts and practices in violation of Chapter 501, Part II, Fla.Stat., pursuant to Section 501.207(1)(b), Fla.Stat.;

- c) Permanently enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 559.55 et seq. and 501.207(3), Fla.Stat.;
- d) Impose penalties of Ten Thousand Dollars (\$10,000) per violation of the Deceptive and Unfair Trade Practices Act pursuant to Section 501.2075, Fla.Stat. and civil penalties in the amount of Fifteen Thousand Dollars (\$15,000) for per willful violation which victimized, or attempted to victimize a person who is 60 years of age or older, pursuant to Section 501.2077, Fla.Stat.;
- e) Award consumer restitution and damages in an amount to equal the amounts each consumer paid in excess of an amount allowed by law;
- f) Order the revocation of the Office of Financial Regulation of the Financial Services Commission collections license/registration granted to Defendant ECA, pursuant to Section 501.207(3) and 559.730(1), Fla. Stat.;
- g) Order the dissolution of Defendant ECA, pursuant to Section 501.207(3), Fla. Stat.;
- h) Enter Judgment declaring Defendants' actions and practices unlawful under Chapter 501, Part II, Fla. Stat., pursuant to Section 501.207(1)(a), Fla. Stat.;
- i) Award the Plaintiff costs and attorneys fees pursuant to Sections 559.77(1) and 501.2105, Fla. Stat.; and
- j) Award any and all such other relief as this Honorable Court deems just, equitable, and proper.

COUNT III

Per Se Violation

Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Fla.Stat. **(Fair Debt Collections Practices Act, 15 U.S.C. Section 1692)**

73. Plaintiff brings this action against Defendant ECA and Defendant CROSBY seeking injunctive and declaratory relief and for statutory and actual damages for systematic per se violations of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II,

Fla.Stat., pursuant to the Fair Debt Collections Practices Act, 15 U.S.C. Section 1692.

74. Plaintiff incorporates by reference and re-alleges paragraphs 1 through 36 as if more fully set forth herein.

75. At all times relevant hereto, Defendant ECA and Defendant CROSBY were engaged in “trade or commerce” as defined by Section 501.203(8), Fla.Stat.

76. Section 501.202(2), Fla.Stat., establishes the policy of “protect[ing] the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive or unfair acts or practices in the conduct of any trade or commerce.” Section 501.204(1), Fla. Stat., declares unlawful:

“unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce.”

77. Pursuant to Section 501.207, Fla. Stat., an action may be brought for any “violation of this part.” A “violation of this part” means any violation of the act, the rules adopted under the act, and may be based on “[a]ny law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition, or unfair, deceptive, or unconscionable acts or practices.”

78. The Fair Debt Collections Practices Act, 15 U.S.C. Section 1692c, states in communicating with the consumer in collecting consumer debts:

(a.) “Without the prior consent of the consumer given directly to the debt collector or the express permission of a court of competent jurisdiction, a debt collector may not communicate with a consumer in connection with the collection of any debt -

(1) at any unusual time or place or a time or place known or which should have known to be inconvenient for the consumer;

(2) if the debt collector knows the consumer is represented by an attorney with respect to such debt and has knowledge of, or can

readily ascertain, such attorney's name and address, unless the attorney fails to respond within a reasonable period of time to a communication from the debt collector or unless the attorney consents to direct communication with the consumer; or

(3) at the consumer's place of employment if the debt collector knows or has reason to know that the consumer's employer prohibits the consumer from receiving such communications.

- (b.) Except as provided in section 1692b of this title, without the prior consent of the consumer given directly to the debt collector, or the express permission of a court of competent jurisdiction, or as reasonably necessary to effectuate a postjudgment judicial remedy, a debt collector may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector.”

79. The Fair Debt Collections Practices Act, 15 U.S.C. Section 1692d, states in collecting consumer debts:

“A debt collector may not engage in any conduct the natural consequence of which is to harass, oppress, or abuse any person in connection with the collection of the debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The use or threat of use of violence or other criminal means to harm the physical person, reputation, or property of any person.
- (2) The use of obscene or profane language or language the natural consequence of which is to abuse the hearer or reader.
- (3) The publication of a list of consumers who allegedly refuse to pay debts, except to a consumer reporting agency.
- (4) The advertisement for sale of any debt to coerce payment of the debt.
- (5) Causing a telephone to ring or engaging any person in telephone conversation repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number.
- (6) Except as provided in section 1692b of this title, the placement of telephone calls without meaningful disclosure of the caller's identity.”

80. The Fair Debt Collections Practices Act, 15 U.S.C. Section 1692e, further states in collecting consumer debts:

“A debt collector may not use any false, deceptive, or misleading representation or means in connection with the collection of any debt. Without limiting the general application of the foregoing, the following conduct is a violation of this section:

- (1) The false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the United States or any State, including the use of any badge, uniform, or facsimile thereof.
- (2) The false representation of -
 - (A) the character, amount, or legal status of any debt; or
 - (B) any services rendered or compensation which may be lawfully received by any debt collector for the collection of a debt.
- (3) The false representation or implication that any individual is an attorney or that any communication is from an attorney.
- (4) The representation or implication that nonpayment of any debt will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person unless such action is lawful and the debt collector or creditor intends to take such action.
- (5) The threat to take any action that cannot legally be taken or that is not intended to be taken.
- (6) The false representation or implication that a sale, referral, or other transfer of any interest in a debt shall cause the consumer to -
 - (A) lose any claim or defense to payment of the debt, or
 - (B) become subject to any practice prohibited by this subchapter.
- (7) The false representation or implication that the consumer committed any crime or other conduct in order to disgrace the consumer/
- (8) Communicating or threatening to communicate to any person credit information which is known or which should be known to be false, including the failure to communicate that a disputed debt is disputed.
- (9) The use or distribution of any written communication which simulates or is falsely represented to be a document authorized, issued, or approved by any court, official, or agency of the United States or any State, or which creates a

- false impression as to its source, authorization, or approval.
- (10) The use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer.
 - (11) The failure to disclose in the initial written communication with the consumer and, in addition, if the initial communication with the consumer is oral, in that initial oral communication, that the debt collector is attempting to collect a debt and that any information will be used for that purpose.
 - (12) The false representation or implication that accounts have been turned over to innocent purchasers for value.
 - (13) The false representation or implication that documents are legal process.
 - (14) The use of any business, company, or organization name other than the true name of the debt collector's business, company or organization.
 - (15) The false representation or implication that documents are not legal process forms or do not require action by the consumer.
 - (16) The false representation or implication that a debt collector operates or is employed by a consumer reporting agency."

81. The Fair Debt Collections Practices Act, 15 U.S.C. Section 1692f, further states in collecting consumer debts:

"A debt collector may not use unfair or unconscionable means to collect or attempt to collect any debt. Without limiting the application of the foregoing, the following conduct is a violation of this section:

- (1) The collection of any amount (including any interest, fee, charge, or expense incidental to the principal obligation) unless such amount is expressly authorized by the agreement creating the debt or permitted by law."

82. As demonstrated herein, Defendant ECA and Defendant CROSBY engaged in illegal debt collections from within the State of Florida.

83. During the course of those transactions, Defendant ECA, at the direction of and acting in concert with Defendant CROSBY, engaged in the following acts or practices:

- (a) Extorting or attempting to extort money from consumers by falsely threatening them

with arrest or suit;

- (b) Falsely claiming to be investigators affiliated with the state or other government agency;
- (c) Falsely claiming debts were greater than they were in fact;
- (d) Falsely claiming that individuals were attorneys or that the collection would be referred to an attorney;
- (e) Falsely implying that the company calling was a law firm;
- (f) Falsely threatening to take legal actions that could not legally be taken or that were not intended to be taken.;
- (g) Falsely representing that the consumer committed a crime or other conduct in order to disgrace the consumer;
- (h) Failing to provide meaningful disclosure of their identity as a collections agency;
- (i) Using false representations or deceptive means to collect or attempt to collect debts;
- (j) Engaging in harassing, oppressive and abusive conduct;
- (k) Illegally contacting consumers at their place of work;
- (l) Failing to disclose that the call is to collect a debt;
- (m) Willfully contacting consumers, their families or their employers with such frequency so as to harass the debtor or the debtor's family;
- (n) Illegally contacting third parties, such as employers and family members, regarding debts, without prior consent;
- (o) Falsely stating their office is in a federal building and that an Order of Homeland Security prevents disclosure of their address;
- (p) Falsely threatening to seize debtor's computers; and
- (q) Falsely claiming attorneys' fees and court costs to inflate the amount owed.

84. By undertaking the activities described in the preceding paragraphs and the others alleged

herein, Defendant ECA and Defendant CROSBY have violated the Fair Debt Collections Practices Act, 15 U.S.C. Section 1692 et seq., and hence engaged in unfair and deceptive trade practices that violate Section 501.204 Fla. Stat.

85. The Attorney General, as enforcing authority, has statutory authority to seek injunctive relief under Section 501.207(1)(b), Fla. Stat.
86. Consumers contacted and harassed by Defendant ECA and Defendant CROSBY are being denied and deprived of their rights under Florida laws, which constitute irreparable harm for the purposes of injunctive relief. Consumers are being illegally harassed with threats of criminal prosecution if they do not make payments as demanded by Defendant ECA and Defendant CROSBY.
87. As a proximate result of the unlawful actions of Defendant ECA and Defendant CROSBY, consumers and others similarly situated continue to suffer the irreparable harm described above for which monetary compensation is inadequate as they are being illegally harassed for payment.
88. There is a substantial likelihood that Plaintiff will prevail on the merits of its Complaint. Based on the facts claimed in the complaint, and the testimony to be provided at an expedited hearing, the Attorney General has a clear legal right to relief.
89. As the illegal acts of Defendant ECA and Defendant CROSBY are ongoing, an expedited hearing is required to serve the interests of justice.

WHEREFORE, the Attorney General respectfully requests that the Court enter judgment in its favor and grant the following relief:

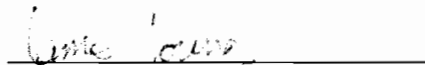
- a) Grant an expedited hearing and temporarily enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 501.207(3) and 559.78, Fla. Stat.;
- b) Permanently enjoin Defendant CROSBY and Defendant ECA and its officers, agents, servants, employees, attorneys and those persons in active concert or participation with it who receive actual notice of the injunction, from engaging in the methods, acts or practices alleged herein that are unconscionable acts or practices or deceptive or unfair acts and practices in violation of Chapter 501, Part II, Fla. Stat., pursuant to Section 501.207(1)(b), Fla. Stat.;
- c) Permanently enjoin Defendant ECA and Defendant CROSBY from engaging in collections activities in the State of Florida pursuant to Sections 559.55 et seq. and 501.207(3), Fla. Stat.;
- d) Impose penalties of Ten Thousand Dollars (\$10,000) per violation of the Deceptive and Unfair Trade Practices Act pursuant to Section 501.2075, Fla. Stat. and civil penalties in the amount of Fifteen Thousand Dollars (\$15,000) for per willful violation which victimized, or attempted to victimize a person who is 60 years of age or older, pursuant to Section 501.2077, Fla. Stat.;
- e) Award consumer restitution and damages in an amount to equal the amounts each consumer paid in excess of an amount allowed by law;
- f) Order the revocation of the Office of Financial Regulation of the Financial Services Commission collections license/registration granted to Defendant ECA, pursuant to Section 501.207(3) and 559.730(1), Fla. Stat.;
- g) Order the dissolution of Defendant ECA, pursuant to Section 501.207(3), Fla. Stat.;
- h) Enter Judgment declaring Defendants' actions and practices unlawful under Chapter 501, Part II, Fla. Stat., pursuant to Section 501.207(1)(a), Fla. Stat.;
- i) Award the Plaintiff costs and attorneys fees pursuant to Sections 559.77(1) and 501.2105, Fla. Stat.; and
- j) Award any and all such other relief as this Honorable Court deems just, equitable, and proper.

Jury Trial Demand

90. **PLAINTIFF DEMANDS A TRIAL BY JURY FOR ALL ISSUES SO TRIABLE.**

Respectfully submitted this 24th day of August, 2005.

CHARLES J. CRIST
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