

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>ROCIO TRUJILLO (a/k/a ROCIO ORTIZ); ANTHONY TRUJILLO; RNA DIRECT MARKETING, LLC; AMERICA'S ELITE MEDIA, INC.; AMERICA'S ELITE MAGAZINES; PATRIOTIC READERS CLUB; AA PUBLISHERS, LLC; ALL AMERICAN PUBLISHERS; SUBSCRIPTION DATA PROCESSING, LLC and FULFILLMENT DATA PROCESSING INC</p> <p>Defendants.</p>	<p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>JOHN W. SUTHERS, Attorney General MARK T. BAILEY, 36861* Assistant Attorney General SARAH PAGE JACKSON, 45212* Assistant Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General Ralph L. Carr Judicial Center 1300 Broadway, 7th Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040 *Counsel of Record</p>	<p>Case No.</p>
<p style="text-align: center;">COMPLAINT</p>	

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101 *et seq.*, C.R.S. (2013) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for statutorily mandated civil penalties, for disgorgement, restitution, and other relief as provided in the CCPA.

2. Defendants Rocio Trujillo, Anthony Trujillo, and their companies, RNA Direct Marketing, LLC, America’s Elite Media, Inc., America’s Elite Magazines, Patriotic Readers Club, AA Publishers, LLC, and All American Publishers (hereinafter “Trujillo Defendants”) are telemarketers that sell magazines on behalf of Defendant Subscription Data Processing (“SDP”). The Trujillo Defendants deceive consumers into unwanted, duplicative “contracts” for magazine subscriptions valued at \$1,200. While SDP does not participate directly in the telemarketing, SDP had knowledge of the Trujillo Defendants’ fraudulent conduct and actively facilitated their illegal operations.

PARTIES

3. John W. Suthers is the duly elected Attorney General for the State of Colorado and has express authority under C.R.S. § 6-1-103 to enforce and prosecute violations of the CCPA.

4. Defendant Rocio Trujillo owns and controls the business operations of Defendants RNA Direct Marketing, LLC, America’s Elite Media, Inc., America’s Elite Magazine, Patriotic Readers Club, AA Publishers, LLC, and All American Publishers. Rocio Trujillo’s last known address is 2861 S. Golden Way, Denver, CO 80227.

5. Defendant Anthony Trujillo owns and controls the business operations of Defendants AA Publishers, LLC and All American Publishers. Anthony Trujillo also participated in and profited from the deceptive trade practices of Defendants RNA Direct Marketing, LLC, America’s Elite Media, Inc., America’s Elite Magazine, and Patriotic Readers Club. Anthony Trujillo’s last known address is 2861 S. Golden Way, Denver, CO 80227.

6. Defendant RNA Direct Marketing, LLC was formed by Defendants Rocio and Anthony Trujillo in March 2002. RNA Direct Marketing, LLC’s principal office address was 1800 S. Sheridan Blvd., No. 107, Denver, Colorado 80232. RNA Direct Marketing, LLC became delinquent in its filings with the Colorado Secretary of State on April 1, 2008 and was voluntarily dissolved on March 17, 2011.

7. Defendant America's Elite Media was formed by Defendant Rocio Trujillo on or around November 19, 2003. America's Elite Media's last known street address is 1800 S. Sheridan Blvd., Ste. 303, Denver, Colorado 80232, and its current status with the Colorado Secretary of State is "Noncompliant."

8. Defendant America's Elite Magazine is a corporate name used by the Trujillo Defendants to collect payments from consumers in connection with their deceptive telemarketing operations. At this time, the State is unaware of the corporate status of America's Elite Magazine, but to the extent it is a corporate entity, its business operations are controlled at 1800 S. Sheridan Blvd., Ste. 303, Denver, Colorado 80232.

9. Defendant AA Publishers LLC was formed by Defendant Anthony Trujillo on or around October 2, 2007. According to its filings with the Colorado Secretary of State, AA Publishers LLC's principal office street address is 6480 W. 4th Ave., Lakewood, Colorado 80226. However, AA Publishers LLC's business operations occurred primarily at 1800 S. Sheridan Blvd., Denver, Colorado 80232.

10. Defendant All American Publishers is a corporate name used by the Trujillo Defendants in connection with their deceptive telemarketing operations. At this time, the State is unaware of the corporate status of All American Publishers, but to the extent it is a corporate entity, its business operations are controlled at is 1800 S. Sheridan Blvd., Ste. 303, Denver, Colorado 80232.

11. Defendant Subscription Date Processing, Inc. is a Pennsylvania corporation that has been doing business in Colorado since July 2004. SDP's current address is 125 East 5th Street, Loveland, Colorado 80537.

12. Defendant Fulfillment Data Processing Inc. ("FDP") is a Colorado corporation that was formed on or around June 13, 2006. According to its filings with the Colorado Secretary of State, FDP's current address is 5499 Willow Springs Dr., Morrison, CO 80465. However, its business operations are controlled at least in part from 125 East 5th St., Loveland, Colorado 80537.

ACTS OF AGENTS

13. Whenever reference is made in this Complaint to any act or practice of Defendants, such allegation shall be deemed to mean that the principals, owners, employees, independent contractors, agents, and representatives of such Defendants performed, directed, or authorized such act or practice on behalf of said Defendants, while actively engaged in the scope of their duties.

JURISDICTION AND VENUE

14. This Court has jurisdiction to enforce the CCPA under C.R.S. sections 6-1-103 and 6-1-110, and to enter appropriate orders prior to and following an ultimate determination of liability.

15. Under section 6-1-103 of the CCPA, venue is proper in the City and County of Denver as to all Defendants because a portion of the deceptive trade practices occurred in Denver County.

RELEVANT TIMES

16. The conduct giving rise to the claims for relief in this Complaint began in 2002 and continues through the present date. Plaintiff therefore timely files this action pursuant to C.R.S. section 6-1-115 because Plaintiff commenced the action within three years of the date on which false, misleading, and deceptive acts or practices occurred or were discovered, and such practices were part of a continuing series of false, misleading, and deceptive practices.

PUBLIC INTEREST

17. Through the deceptive trade practices of their business, vocation, or occupation, Defendants, through their owners, officers, members, and agents, have deceived and misled thousands of consumers.

18. Defendants prey upon the most vulnerable in society, including the elderly.

19. In addition to harming consumers, Defendants' deceptive trade practices have injured legitimate businesses who have acted in accordance with the law and without the unfair advantage of the illegal deception used by Defendants.

20. Accordingly, these legal proceedings are in the public interest.

PERSONAL LIABILITY

21. This action is brought against various corporate defendants and against Defendants Rocio Trujillo and Anthony Trujillo, individually.

22. Defendant Rocio Trujillo has at all relevant times directly controlled, authorized, approved, and cooperated or participated in the unlawful conduct by Defendants RNA Direct Marketing, LLC, America's Elite Media, Inc., America's Elite Magazine, Patriotic Readers Club, AA Publishers, LLC, and All American Publishers.

23. Defendant Anthony Trujillo has at all relevant times directly controlled, authorized, approved, and cooperated or participated in the unlawful conduct by Defendants RNA Direct Marketing, LLC, America's Elite Media, Inc., America's Elite Magazine, Patriotic Readers Club, AA Publishers, LLC, and All American Publishers.

GENERAL ALLEGATIONS

I. Background

A. Defendants' Roles in the Magazine Industry

24. Defendant SDP enters into agreements with magazine publishers under which SDP is authorized to sell the publishers' magazines.

25. The Trujillo Defendants are telemarketers. The Trujillo Defendants have no direct business relationship with any publisher. Instead, they submit magazine orders to Defendant SDP, and SDP places the orders with the publishers or with fulfillment agencies affiliated with publishers. SDP refers to the telemarketers it does business with, including the Trujillo Defendants, as "subagents."

26. Under SDP's standard agreement with its subagents, the subagents, including the Trujillo Defendants, procure orders from consumers. The subagents collect money from the consumers and submit payment for the magazines to SDP at a rate set by the publishers and SDP. SDP passes payment along to the publishers at the rate set by the publishers. For each magazine order, SDP also collects a remittance from the subagent who submitted the order to SDP. The remittance amount for any given order is a set percentage of the publisher's price for that order.

27. After subscription orders are placed with the publishers, another entity, sometimes referred to as a "fulfillment house," puts address labels on the magazines and mails them to consumers.

B. The Trujillo Defendants' Business Model

28. The Trujillo Defendants are purportedly in the business of selling magazine subscriptions over the telephone. However, their true business model is to deceive consumers into expensive, duplicative magazine "packages" for which the Trujillo Defendants charge \$1,200.

29. The Trujillo Defendants seek out and purchase lists of consumers who have recently purchased magazines or who are currently making monthly payments

for magazines. The Trujillo Defendants purchase these “lead lists” from lead brokers and from other telemarketing companies that employ the same scam as the Trujillo Defendants.

30. The more information these “lead lists” contain about consumers, the more valuable they are to the Trujillo Defendants. The Trujillo Defendants routinely obtain lead lists that contain the magazines the consumer is currently receiving and financial information, such as the credit card or bank account numbers the consumer has previously used to pay for magazines.

31. The Trujillo Defendants place repeated, harassing telephone calls to consumers on the lead lists. The goal of these calls is to convince the consumers that the Trujillo Defendants are their current magazine providers. Once this is accomplished, the Trujillo Defendants deceive the consumers into participating in a recorded “verification,” which the Trujillo Defendants will later claim is an oral contract under which the consumer agreed to purchase a brand new magazine subscription package. The Trujillo Defendants’ typical magazine package supposedly provides the consumer with five magazine subscriptions, each of which runs from one to five years, at a cost of \$1,200.

C. Defendants SDP and FDP Facilitate the Trujillo Defendants’ Business Operations

32. Defendants SDP and FDP, Inc. (hereinafter “FDP”) provide a wide array of services to the Trujillo Defendants and SDP’s other subagents. These services include access to software called 4Star, which was developed by Tony Piscopo, one of Defendant SDP’s owners.

33. 4Star is a database that magazine telemarketers such as the Trujillo Defendants use to store all of their consumer information. 4Star:

- Allows order information to be submitted to SDP in the format preferred by publishers;
- Allows the telemarketer to process payments from the consumer’s credit or debit card in real time;
- Maintains a complete record on each customer, including the consumer’s address, telephone number, and financial account information; and details on the consumer’s “contract,” including the start and end date of the contract, total contract amount, the amount of payments received, the current balance, and any changes to the “contract”;

- Interfaces directly with automatic dialers used by telemarketers to directly populate the database when an “order” is secured; and
- Allows employees of SDP to log on “remotely” to the Trujillo Defendants’ computers in order to run queries and reports and provide other assistance.

34. 4Star also generates correspondence to consumers, including letters that purport to verify the terms of the “contract” and collection letters. The income derived from this service flows through Defendant FDP. FDP is owned by Tony Piscopo, his daughter Mandy Piscopo, and Michael Deardorff, who is also the President of Defendant SDP.

35. 4Star also aggregates consumer records to send consumers to collection agencies, a process that Deardorff personally facilitated on behalf of the Trujillo Defendants.

36. Without the authorization to sell orders through SDP and the other services provided by SDP and FDP, the Trujillo Defendants would not be able to conduct their business.

II. The Trujillo Defendants’ Deceptive Telemarketing

37. The Trujillo Defendants have generated more than 200 consumer complaints through the Better Business Bureau (“BBB”) and the Attorney General’s consumer complaint system.

38. Most of the Trujillo Defendants’ telemarketers are relatives of Defendant Rocio Trujillo.

39. The Trujillo Defendants’ phone calls to consumers are carefully orchestrated into three steps. In the first two steps, Defendants pretend to be the company that is currently providing magazines to the consumer and trick the consumer into disclosing his or her credit card or bank account number. Defendants also use the first two steps to prime the consumer for the third step: a recorded “verification” that Defendants will later claim is an “oral contract” under which the consumer has agreed to purchase the Defendants’ magazine subscription package.

A. The First Step – the Sales Pitch

40. The Trujillo Defendants refer to the first step as the “sales pitch.” Attached as **Exhibit A** is the Trujillo Defendants’ sales pitch. The script begins

with the false statement, “I’m with the credit & collection department for the publishers, we’re the folks that service magazines in your area.” **Exhibit A**.

41. The script continues with the false statements, “I didn’t call to collect any money, I was going through some of our preferred list here today, and I noticed you never got your 60-month bonus that was supposed to go on the end of your account.” **Exhibit A**.

42. According to the script, “You are receiving what you paid for. You just never got your 60-month bonus, so I thought I’d give you a call and let you know about it, just in case one of those other magazine companies call and try to get you to buy any more, or our company calls and tries to get you to add on, extend, or renew, you don’t have to; you’re set for a long time.” **Exhibit A**.

43. The script continues, “Now, in the next couple of days I will have someone call you back.” According to the script, that person will help the consumer to change the magazines they are receiving, because “we don’t want to give you bonus time on something that is going in the garbage.” **Exhibit A**.

44. Next, the script falsely says, “From here on out you’re going to receive all your magazines at our cost which is \$4.99 per week . . . I think you’ll find that saves you a fortune from what you are used to paying.” **Exhibit A**. In reality, the prices the Trujillo Defendants charge their customers are a tiny fraction of the amount they pay to Defendant SDP for the magazines. The prices are also significantly more than the prices a consumer could find on the website of the magazine publishers.

45. To begin the process of tricking the consumer into disclosing his or her financial information, the script says, “We also take a survey each month, this month it’s on the use of major credit cards. Do you carry Visa, Mastercard, American Express or Discover? Do you have a checking account?” **Exhibit A**.

46. The sales pitch contains no offer to sell a new magazine package to the consumer. In fact, the script actually tells the consumer that “you don’t have to” order any new magazines, because “you’re set for a long time” by virtue of Defendants’ “60-month bonus.” **Exhibit A**.

47. The sales pitch concludes by telling the consumer that “my supervisor will be calling you back to make sure I was polite and curteous [*sic*]” and “give you your new payment amount.” **Exhibit A**.

B. The Second Step – “Capping”

48. If the consumer does not hang up during the sales pitch, the Trujillo Defendants move to the second step: the “capping.” In the capping, a more experienced telemarketer (the “capper”) continues the process of convincing the consumer that the Trujillo Defendants are already providing magazines to the consumer.

49. When the lead lists contain the consumer’s credit card number and/or the magazines the consumer is receiving, the capper uses this information to convince the consumer that the Trujillo Defendants are the consumer’s current magazine provider. When the lead lists do not contain this information, the capper engages the consumer in conversation to determine which magazines the consumer is receiving and asks the consumer to “verify” his or her credit card or bank account information.

50. In some cases, the capper will explain the payment plan that the consumer has purportedly already agreed to pay. The payment plan the capper describes is usually far less than the \$1,200 plan that the Trujillo Defendants will later claim the consumer agreed to.

51. If the consumer questions the validity of the call or tells the capper that the Trujillo Defendants are not providing magazines to the consumer, the capper insists that the consumer already owes the Trujillo Defendants money.

C. The Third Step – the Recorded “Verification”

52. Having convinced the consumer that the Trujillo Defendants are the consumer’s current magazine provider, the capper moves to the third step, the recorded “verification.”

53. The verification script begins with a series of questions about the consumer, including the consumer’s name, address, home and work phone number, and employment information.

54. Next, the script continues the ruse that the Trujillo Defendants are affiliated with magazine publishers: “The publishers like to know a bit about their customers therefore I have a few quick questions to ask you.” The Trujillo Defendants have never been asked by any publisher for information about consumers.

55. The questions in this part of the verification script have nothing to do with magazine subscriptions and include how long the consumer has lived at his current address, whether he rents or owns, whether he is employed full time, what his income is, what year he was born, and the name of a personal reference. The Trujillo Defendants sometimes ask for a social security number.

56. After distracting the consumer with these questions, the capper “verifies” the Trujillo Defendants’ payment plan, which is typically \$49.95 per month for 24 months, for a total of approximately \$1,200. The capper often speaks very fast during this part of the verification, changing his intonation at key moments to make it difficult, if not impossible, to understand.

57. The verification script also falsely says that “we do process the order in advance.” In fact, the Trujillo Defendants only process part of the “package” order and only do so after a certain number of payments have been received from the consumer. The script says that “the order is not subject to cancellation.”

58. If the consumer asks a question or refuses to agree to this payment plan, the capper stops the recording and tells the consumer whatever is necessary to convince the consumer to participate in the recorded verification again. The capper then starts the recording device again and goes through the entire verification process – including the series of irrelevant questions – again. The recordings of the Trujillo Defendants’ verifications frequently contain multiple attempts at verification for individual customers, with exasperated consumers answering the same series of questions multiple times until the capper has completed a “clean” verification.

59. The Trujillo Defendants will later use the verification to claim that the consumer knowingly and willingly agreed to purchase the Trujillo Defendants’ magazine package.

60. While the Trujillo Defendants sought to use the recorded verifications as evidence of “oral contracts” with their customers, the recordings contain evidence of the Trujillo Defendants’ deceptive trade practices. The State has conducted a random sampling of 513 of the 14,321 verifications created by the Trujillo Defendants. As noted above, it is often difficult or impossible to understand the capper’s recitation of the payment plan, and the recorded verifications frequently contain questions and other statements from consumers that show that the consumers had no desire to pay Defendants over \$1,000 for a new magazine order. On the contrary, the verifications reveal that consumers are confused, upset, angry, and sometimes extremely distraught by the time they have reached the verification stage.

D. The Trujillo Defendants Target Consumers Who Previously Fell for the Scam

61. If a consumer falls for the scam, the Trujillo Defendants target the consumer again, using a different company name and the same deceptive sales scripts. Thus, for example, if the Trujillo Defendants have a \$1,200 contract with a

consumer through America's Elite Media, they will call consumer again and employ the same deceptive techniques to trick the consumer into a second \$1,200 "contract" under the name AA Publishers.

62. Based on its review of the Trujillo Defendants' 4Star databases, the State has identified more than 400 consumers who had accounts with more than one Trujillo Defendant. These consumers, who are frequently the most vulnerable in society, are being billed up to \$100 per month and have "contractual" obligations to the Trujillo Defendants in excess of \$2,000. (As set forth in more detail below, some of these consumers end up on "sucker lists" and may be under "contracts" with several companies at the same time).

E. Other Deceptive Trade Practices by the Trujillo Defendants

63. The Trujillo Defendants will stop at nothing to convince consumers to participate in the recorded verification. According to multiple consumer accounts and the testimony of one of the Trujillo Defendants' former telemarketers, if a consumer contests the Trujillo Defendants' claim that the consumer owes them money, the Trujillo Defendants bully the consumer and threaten to send him to collections unless he agrees to the Trujillo Defendants' payment plan.

64. The Trujillo Defendants will even tell consumers that although the consumers owe the company money, they will let them off the hook – as long as the consumer agrees to "verify" the terms of the contract on recording. No matter how they convince the consumer to participate in the verification, Defendants later claim the verification is a binding oral contract.

65. Shortly after the verification, using 4Star's automated system, Defendants send a letter to the consumer that purports to "confirm" the details of the consumer's "order." This letter informs the consumer, "We do maintain a no return, no refund policy."

66. Although the confirmation letter contains a phone number for customer service, the Trujillo Defendants fail to answer this phone or return messages left on the voice mail. The Trujillo Defendants also change their customer service telephone number and fail to update third parties such as credit card processors, which makes it even more difficult for consumers to reach them.

67. When a consumer is successful in getting in touch with the Trujillo Defendants to contest the "order," the Trujillo Defendants insist that the recorded verification establishes an oral contract under which the consumer is required to pay. If a consumer persists in requesting cancellation, the Trujillo Defendants charge a cancellation fee of \$400 during the first year of the "contract" and \$200 during the second year of the "contract."

68. The Trujillo Defendants sometimes fail to order the magazines that they tell consumers are included in the magazine package.

69. If the consumer stops paying or cancels her credit or debit card, the Trujillo Defendants begin aggressive collection efforts, which include multiple harassing phone calls in which the Trujillo Defendants threaten to report consumers to credit reporting agencies and impair their credit rating.

70. The Trujillo Defendants have also utilized third-party debt collectors. One of these debt collectors has accused the Trujillo Defendants of continuing to collect on accounts after they were sold to the debt collector.

III. Defendants SDP and FDP Knew of and Facilitated the Trujillo Defendants' Deceptive Telemarketing

71. Since 2005, Defendant SDP has processed more than 66,520 fraudulently obtained magazine orders on behalf of the Trujillo Defendants, affecting more than 10,000 consumers. Along with the remittance it collected for each of these orders, SDP collected fees for the Trujillo Defendants' use of 4Star.

72. Defendant SDP exercises a high degree of control over the conduct of the Trujillo Defendants and its other subagents. For example, SDP, not the subagents, determines what magazines may be sold. SDP also routinely passes along directions from publishers to its subagents.

73. Further, SDP's standard agreement with its subagents, including the Trujillo Defendants, sets forth detailed terms controlling the subagents' conduct, including a section headed, "Manner of Solicitation." This section requires the subagents to comply with all state and federal laws and regulations, as well as guidelines by publishers and the Alliance for Audited Media (formerly Audit Bureau of Circulations). The agreement also requires the subagents to maintain detailed records and provide SDP access to those records immediately upon SDP's request.

74. Further, although the fraudulent telemarketing itself was committed by the Trujillo Defendants, as explained below, Defendants SDP and FDP knew of and actively participated in the Trujillo Defendants' fraudulent conduct.

A. Defendant SDP's Knowledge of the Deceptive Trade Practices

75. In the past two years, the Attorney General has brought actions under the CCPA against more than two dozen of Defendant SDP's other telemarketing subagents. No less than ten of these subagents employed the same scam as the Trujillo Defendants until the Attorney General brought its actions against them.

As is the case with the Trujillo Defendants, none of these telemarketers could have been in business without the access to publishers and other services provided by SDP and FDP.

i. Defendant SDP Received Consumer Complaints About Its Subagents

76. Because Defendant SDP was the direct link to the magazine publishers for all of these telemarketers, publishers frequently forwarded consumer complaints to SDP. Consumers also complain directly to SDP.

77. In November 2009, Defendant SDP received one such consumer complaint that pertained to the Trujillo Defendants and several other subagents of SDP. SDP's Office Manager, Paula Rolfe spoke on the phone with the consumer's husband, who informed her that the consumer had dementia and had been receiving repeated phone calls from multiple telemarketers.

78. Rolfe informed Defendant Rocio Trujillo that SDP had processed more than two dozen orders for the consumer through several of SDP's subagents.

79. The Attorney General has reviewed the subscription records for the Trujillo Defendants and the other subagents the Attorney General previously investigated and sued. These records reflect that SDP in fact processed at least forty-six magazine orders for this consumer during the time period January 2006-November 2009.¹ These forty-six orders included seven separate orders of *Redbook* submitted by four different subagents, five separate orders of *Woman's Day* (for a total of nine years) submitted by three different subagents, and three orders of TV Guide submitted by two different subagents within a span of 6 months.

80. In December, after multiple telephone calls with the consumer's husband, Rolfe emailed Defendant Rocio Trujillo to inform her that the consumer's husband was about to file a complaint with the Better Business Bureau. Rolfe wrote to Trujillo, "We need to get this cleared up as soon as possible." Well aware of this consumer's condition, Rolfe asked Trujillo whether she planned to cancel the order, refund the consumer's money, or send the consumer to "collections."

81. The November 2009 situation was not an isolated incident. Defendants SDP's records reflect duplicative orders for many other customers, and SDP has received consumer complaints about the Trujillo Defendants (and about SDP's other subagents) for years.

¹ The Attorney General has records only for those subagents that it has investigated to date. Defendant SDP has other subagents, and SDP's records may reflect an even higher number of subscriptions for this consumer.

ii. Defendant SDP's Office Manager Handled the Trujillo Defendants' Consumer Complaints for Nearly Two Years

82. In August 2010, Michael Deardorff sent an email to Defendant Rocio Trujillo. Deardorff wrote, "I noticed you have an "F" rating with the BBB [Better Business Bureau]." Deardorff made no inquiry about the Trujillo Defendants' sales practices. Instead, he offered to have Paula Rolfe "handle all of your BBB complaints." Deardorff is Rolfe's supervisor.

83. Defendant Rocio Trujillo accepted the offer, and from August 2010 through June 2012, Rolfe was intimately involved in responding to Better Business Bureau complaints filed against the Trujillo Defendants.

84. During this timeframe, Defendant Rocio Trujillo gave Paula Rolfe access to more than thirty Better Business Bureau complaints that had been filed against the Trujillo Defendants. In December 2010, Trujillo instructed Rolfe that "no refunds will be given to those that requested."

85. The consumer complaints that Defendant Rocio Trujillo forwarded to Paula Rolfe showed an undeniable pattern of deceptive telemarketing by the Trujillo Defendants. Below are representative excerpts from the Better Business Bureau complaints that Rolfe handled on behalf of the Trujillo Defendants.

- "The company states that I opened up an account in Sepetember [sic] when I didn't. . . . Then in November I was told that if I didn't pay the bill I will be sent to court He then recorded me saying that I understood the payments but he didn't record me saying that I didn't do this nor did I approve this transaction." Katrina Tillman, filed December 21, 2010.
- "Took money from my checking account and informed me of a large balance that I alledgedly [sic] owed them. . . . I feel that this company is corrupt and uses unfair business practices to swindle people into buying their magazines. In hindsight, I believe that Americas Elite Media called my cell phone posing as the magazine company that I was already with, got my information, and through some verbal agreement signed me up for a subscription with their company." Raena Simmons, filed December 23, 2010.
- "Elite Media has been taking \$19.95 out of my account for over a year now I've never heard of them. They have started calling my house and cell phone daily and telling my account is overdue and threatening legal actions against me. This has been going on for over a year now and I would like it to stop. I believe this is a

scam and that they are collecting money from me illegally.” Craig Thornburg, filed July 27, 2011.

- “Made me think that I was receiving magazines from their company. Keep calling even after I told them to put me on their company’s Do Not Call List. . . . They already had information about me (Name, Address, Phone, and even my last four digits of my debit card) . . . When I called their number listed on my bank statement to find out what was going on they said I could not cancel and had to pay them in full. . . . I would have not knowingly ordered any new magazine subscriptions since I have been unemployed for two years.” Suzanne McNamara, filed September 13, 2011.
- “Calling every week. Tried to cancel my ‘account’, but they extended it. They sell my info to other magazine companies. . . . Misleading phone calls. Asked me for my credit info then they extended my contract without telling me. . . . All I want is for them to cancel the account I supposedly set up, stop sending me magazine, stop charging my credit card, stop calling me.” Thomas Jameson, filed October 4, 2011.
- “I have been receiving magazines for the past 3 months and didn’t order them. . . . I got numerous phone calls asking if I was receiving magazines and when I asked where they were coming from [*sic*] I wanted to cancel the person would hang up – I figured the whole thing was a scam.” Violet Besser, filed January 3, 2012.

iii. Defendant SDP Received a Copy of the Trujillo Defendants’ Fraudulent Sales Script in 2011

86. During the time period that Paula Rolfe was handling the Trujillo Defendants’ Better Business Bureau complaints, Defendant SDP received a copy of the Trujillo Defendants’ fraudulent sales pitch (**Exhibit A**).

87. SDP is subject to random audits by the Alliance for Audited Media (formerly Audit Bureau of Circulations), a non-profit organization that monitors magazine circulation. A primary purpose of the Alliance for Audited Media is to ensure that companies that wish to advertise in magazines have an accurate accounting of the paid circulation of any given magazine, *i.e.*, the number of people who pay to receive the magazine. When an audit request comes in, SDP asks its subagent to provide a number of requested documents, which usually include proof that the consumer paid for the magazine and, for orders sold over the telephone, the sales script used by the subagent.

88. In April 2011, the Trujillo Defendants faxed their sales pitch to Defendant SDP in response to an audit from the Audit Bureau of Circulations. In August 2011, SDP faxed the audit documents, including the script, to the Audit Bureau of Circulations.² See **Exhibit A**.

89. Even though they had every reason to know that the Trujillo Defendants were deceiving consumers, no one from SDP raised any concern with the Trujillo Defendants about their telemarketing practices. Instead, SDP continued to process magazine orders for the Trujillo Defendants, continued to make SDP's payment processing software available to them, continued to generate "confirmation letters" and collections letters addressed to consumers, and continued to assist with sending the Trujillo Defendants' consumer victims to third-party collections agencies.

90. Defendant SDP never terminated its relationship with the Trujillo Defendants and is still providing services to them as of the date of this filing.

B. Defendant SDP Directly Participated in the Fraud

91. As noted above, Defendants SDP and FDP assisted with the preparation of letters to consumers that purported to verify the terms of the fraudulently obtained "contracts" and actively assisted with sending the Trujillo Defendants' customers to third party collections agencies for collection on the illegitimate debt. Both of these acts constituted false and misleading representations and a continuation of the Trujillo Defendants' fraudulent conduct.

92. Further, in responding to Better Business Bureau Complaints on behalf of the Trujillo Defendants, Paula Rolfe represented to consumers and the Better Business Bureau that consumers had knowingly entered into the Trujillo Defendants' payment plan, even though Rolfe had every reason to know that the Trujillo Defendants were tricking consumers into the "contracts."

93. Rolfe also told consumers and the Better Business Bureau that refunds were not available because the magazines had already been paid for. In truth, the amount the Trujillo Defendants had paid for magazines for a consumer at any given time was a fraction of the amount that the Trujillo Defendants had charged the consumer.

94. Defendant SDP also helped the Trujillo Defendants save money by not ordering magazines that consumer victims were told were part of their magazine packages. On multiple occasions, after the Trujillo Defendants submitted their

² Although this script was covered by the State's investigative subpoenas to both SDP and the Trujillo Defendants, none of them produced it. The State obtained this script via a subpoena to the Alliance for Audited Media.

orders to SDP, Michael Deardorff informed them that the publisher's prices for certain magazines were comparably expensive. On one such occasion, Deardorff asked, "Should I just get rid of these or do you want them cleared?"

95. On multiple other occasions, Deardorff offered to replace the more expensive magazines with cheaper magazines. This saved the Trujillo Defendants money, but was inconsistent with what the Trujillo Defendants had represented to consumers in the recorded verifications. The Trujillo Defendants, of course, did not pass the savings along to consumers, who were still on the hook for \$49 per month.

C. Defendant FDP Knew of and Facilitated the Deceptive Trade Practices

96. FDP also knowingly facilitated and profited from the Trujillo Defendants' fraudulent telemarketing. Michael Deardorff, the president of SDP and co-owner of FDP, personally directed FDP's business operations.

97. Even after Michael Deardorff asked Paula Rolfe to handle the Trujillo Defendants' consumer complaints and Deardorff and Rolfe became well aware of the Trujillo Defendants' deceptive telemarketing practices, FDP continued to send 4star-generated correspondence to consumers, including "confirmation letters," bills, past due notices, and collections letters.

FIRST CLAIM FOR RELIEF

(Knowingly makes a false representation as to affiliation, connection, or association with or certification by another in violation of C.R.S. § 6-1-105(1)(c))

98. Plaintiff incorporate herein by reference all allegations contained in paragraphs 1 - 97 of this Complaint.

99. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made false representations as to their affiliation, connection, or association with or certification by another, including magazine publishers and the companies who are providing magazines to consumers.

100. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and other States.

SECOND CLAIM FOR RELIEF

(Knowingly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property in violation of C.R.S. § 6-1-105(1)(b))

101. Plaintiff incorporate herein by reference all allegations contained in paragraphs 1 - 97 of this Complaint.

102. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have knowingly made false representations as to the source, sponsorship, approval, or certification of their services by magazine publishers and the companies sending magazines to consumers.

103. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and other States.

THIRD CLAIM FOR RELIEF

(Knowingly makes a false representation as to . . . the sponsorship, approval, status, affiliation, or connection of a person therewith in violation of C.R.S. § 6-1-105(1)(e))

104. Plaintiff incorporate herein by reference all allegations contained in paragraphs 1 - 97 of this Complaint.

105. Through the conduct described in this Complaint and in the course of their business, occupation, or vocation, Defendants have knowingly made false representations as to the sponsorship, approval, status, affiliation, or connection of a person with Defendants' services.

106. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and other States.

FOURTH CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property in violation of C.R.S. § 6-1-105(1)(e))

107. Plaintiff incorporate herein by reference all allegations contained in paragraphs 1 - 97 of this Complaint.

108. Through the conduct described in this Complaint and in the course of their business, occupation, or vocation, Defendants have knowingly made false representations as to the characteristics and quantities of their magazine subscription packages.

109. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and other States.

FIFTH CLAIM FOR RELIEF

(Fails to disclose material information concerning goods, services, or property which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction in violation of C.R.S. § 6-1-105(1)(u)).

110. Plaintiff incorporates herein by reference all allegations contained in paragraphs 1 – ___ of this Complaint.

111. Through the conduct described in this Complaint and in the course of their business, vocation, or occupation, Defendants have failed to disclose material information concerning goods, services, or property at the time of sale. Such failures to disclose material information were intended by Defendants to induce consumers to enter into a transaction with Defendants.

112. After making multiple statements to consumers that would lead them to believe that the Defendants are affiliated, associated or connected with magazine publishers or other entities that are providing the consumer magazines, Defendants fail to inform the consumer that no such affiliation, connection, or association exists.

113. By means of the above-described conduct, Defendants have deceived, misled, and unlawfully acquired money from consumers from Colorado and other States.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests injunctive relief against Defendants as may be necessary to prevent the use or employment of deceptive trade practices in violation of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101 – 6-1-112, relating to magazine subscriptions and the other conduct described herein.

In addition, Plaintiff prays for judgment against the Defendants, personally, jointly and severally, for the following relief:

A. An order that Defendants' conduct violates the Colorado Consumer Protection Act, including sections 6-1-105(1)(b), 6-1-105(1)(c), 6-1-105(1)(e), and 6-1-105(1)(u);

B. A judgment pursuant to C.R.S. § 6-1-110(1) against Defendants to completely compensate or restore to the original position of any person injured by means of Defendants' deceptive practices;

C. An order pursuant to C.R.S. § 6-1-110(1) requiring Defendants to disgorge all unjust proceeds derived from their deceptive practices to prevent unjust enrichment;

D. An order pursuant to C.R.S. § 6-1-110(1) for an injunction or other orders or judgments relating to deceptive practices;

E. An order pursuant to C.R.S. § 6-1-112(1)(a) for civil penalties payable to the general fund of this state of not more than two thousand dollars for each such violation of any provision of the Colorado Consumer Protection Act with respect to each consumer or transaction involved not to exceed five hundred thousand dollars for any related series of violations;

F. An order pursuant to C.R.S. § 6-1-112(1)(c) for civil penalties payable to the general fund of this state of not more than ten thousand dollars for each violation of any provision of the Colorado Consumer Protection Act with respect to each elderly person;

G. An order pursuant to C.R.S. § 6-1-113(4) requiring Defendants to pay the costs and attorney fees incurred by the Attorney General; and

H. Any such further relief as this Court may deem just and proper to effectuate the purposes of the Colorado Consumer Protection Act.

Dated this 6th day of February, 2014.

JOHN W. SUTHERS
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