



## PARTIES

2. Cynthia H. Coffman is the duly-elected Attorney General of the State of Colorado (“The State”) and is authorized under § 6-1-103, C.R.S. (2015) to enforce the provisions of the CCPA.

3. Brian S. Kennedy (“Kennedy”) is a Florida resident. Kennedy uses pseudonyms in the course of operating his businesses. The pseudonyms include, but may not be limited to, the following: Eric Reinhard, Melvin Simmons, Brad Sullivan, and Steve Neece.

4. Florida-based ATG Solutions, Inc., also known as ATG Solutions, LC, (“ATG”) is wholly owned and operated by Kennedy. ATG Solutions, Inc.’s principle place of business is 1200 N. Federal Highway, Suite 200, Boca Raton, Florida. During relevant times ATG Solutions, Inc., and ATG Solutions, LC, have done business as The National Association of Pharmaceutical Sales Representatives.

5. The National Association of Pharmaceutical Sales Representatives (“NAPSRx”) and the National Association of Medical Sales Representatives (“NAMSR”) are wholly owned by Kennedy. From 2010 to present, NAPSRx’s and NAMSR’s principle operating offices have been located at 1200 N. Federal Highway, Suite 200, Boca Raton, Florida. Prior to 2010, NAPSRx was located at 11495 Chesterfield Airport Road, Chesterfield, Missouri.

## JURISDICTION AND VENUE

6. This Court, under §§ 6-1-103, 110(1), C.R.S. (2015), has jurisdiction to enter appropriate orders before and after an ultimate determination of liability.

7. The violations alleged herein were committed, in part, in the City and County of Denver, Colorado. Venue is proper in the county of Denver, Colorado, under §§ 6-1-103, C.R.S., and Colo. R. Civ. P. 98 (2015).

## RELEVANT TIMES

8. The conduct that gives rise to the claims for relief contained in this Complaint began in at least 2005 and continues to the present.

9. The State timely brings this action within three years of the date on which false, misleading, and deceptive acts or practices occurred, or the date on which the last in a series of such acts or practices occurred, or within three years after the

discovery of the false, misleading or deceptive trade practices. See, § 6-1-115, C.R.S. (2015).

### PUBLIC INTEREST

10. Through the unlawful practices of its business, Defendants have deceived, misled, and financially injured consumers in Colorado. The Colorado Attorney General therefore believes these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities.

### GENERAL ALLEGATIONS

11. Since at least 2010, Kennedy has deceptively posed as a recruiter for pharmaceutical and medical sales employers on websites such as CareerBuilder, Indeed, and ZipRecruiter, in an effort to steer Colorado consumers to invest in his sales training and certification products. Kennedy also misleads Colorado consumers to believe that his training products are accredited educational programs when in fact they are not, that his certifications will result in more job offers and higher salaries when in fact there is no evidence of such outcomes, and that his "associations" through which he offers the training and certifications foster direct relationships with major pharmaceutical and medical device companies when that is not the case.

#### **Defendants' Training and Certification Products**

12. Since 2003, Kennedy has solicited Colorado consumers to purchase vocational training designed to lead to a pharmaceutical sales certification, called Certification National Pharmaceutical Sales ("CNPR"), which Kennedy also sells and administers through his association NAPSRx.

13. Beginning in 2006, Kennedy began offering another vocational training designed to lead to a medical device sales certification, called Registered Medical Sales Representative ("RMSR"), which Kennedy sells and administers through his other association, NAMSRS.

14. Kennedy operates both the NAPSRx and the NAMSRS in the same office in Boca Raton, Florida. Prior to 2010, Kennedy operated the NAPSRx out of Chesterfield, Missouri. At relevant times, Kennedy has represented to Colorado consumers that the NAPSRx and NAMSRS offices are located in Washington, D.C. and Arlington, Virginia. However, Kennedy does not operate physical offices in these locations.

15. Kennedy charges between \$225.00 and \$269.00 for the pharmaceutical and medical sales training, depending on the package. The packages include the training manual, the certification test, quizzes, membership in the NAPSRx or NAMSr, and access to Defendants' online career center.

16. At any given time, Kennedy employed two individuals in the NAMSr/NAPSRx office in Boca Raton. Each employee used at least one pseudonym. Since at least 2005, Kennedy has assigned fake names to various business email accounts in order to give the false impression that the NAMSr and NAPSRx are large associations with multiple departments and employees.

17. Kennedy directs the content of the web sites for the NAMSr, <http://www.medicalsalescareer.com/rmsr.asp>, and the NAPSRx, <http://www.napsronline.org/>.

18. Kennedy entered into an agreement with Cengage Learning d/b/a ed2go (formerly Gatlin Education) in 2005 to offer his online certification courses to Colorado consumers through local colleges and universities. Although colleges and universities do not vet the online educational programs offered via ed2go, they do facilitate registration of ed2go courses.

19. Ed2go lists "Brad Sullivan" as the instructor of the CNPR certification course. Colorado students who enrolled in the CNPR course via their local campus and ed2go paid \$1,795.00. Kennedy would receive \$300 from ed2go for each certification course that a Colorado consumer purchased.

20. More than 500 Colorado consumers have purchased Kennedy's training and certifications since 2010.

### **Defendants' Deceptive Marketing**

21. Kennedy markets his certification training through search engine optimization, e.g. purchasing ad words including "medical sales training" and "pharmaceutical sales training" from Google, and through his relationship with ed2go.

22. Beginning in at least 2010, Kennedy also marketed his certification training through a scheme where he posed as a recruiter on career web sites including CareerBuilder, Indeed, ZipRecruiter, Monster, Yahoo Hot Jobs, MedReps, Med Device Jobs, and Sales Jobs, Inc. Kennedy spent hundreds of thousands of dollars to list job postings for pharmaceutical and medical device sales positions all over the country, including in Colorado.

23. When Colorado consumers submitted their resume to Kennedy's job postings, they would receive an email from any number of fake recruitment companies that Kennedy manufactured. The companies included the following names:

Expressrep-Staffing.com  
Healthcareerrecruiters-entry.com  
Healthcareersalesrepjobs.com  
Healthcaresourcestaffing.com  
Hoffmantaylor.com  
Keystone Group  
Keystone Staffing (keystonestaffinggroup.com)  
Medicalrepstaff.com  
Medical Sales Recruiters (medicalsalesagent.com)  
MedPro Recruiters (Medprorecruiters.com)  
MedPro Sales Recruiters  
MEDRep Source, LLC  
Modern Medical Solutions (modernmedical reps.com)  
MRI (mristaffing.com)  
Pharmaceutical Sales Recruiters (pharmaceuticalsales-recruiters.com)  
Pharmrepaagency.com  
Pharmrephire.com  
Repjob-finder.com  
Repjob-finder.com  
Rxrepstaffing.com  
Salesforcepersonnel.com  
Salespoweragency.com  
Salesreprecrutiers.com  
Salesrepsearch.com  
Salesstaffrecruiters.com  
DME Staffing (staffmedicalreps.com)  
Staffingsalesreps.com

24. Kennedy, posing as recruiters, would tell Colorado consumers that they have clients who were looking for qualified candidates, and that they work with the "top medical companies." He would also state, "Pharmaceutical sales prerequisites usually include industry training or education of some sort." He would advise Colorado consumers, "Based on your matching background we have additional questions to move forward on the Pharmaceutical Sales Rep position ... The decision maker has a few more questions about your background."

25. One of questions in the email would be, "Have you completed pharmaceutical sales training or any entry level pharmaceutical sales education (NAPSRx – [www.napsoronline.org](http://www.napsoronline.org), CPht – [www.ptcb.org](http://www.ptcb.org), or CMR – [www.ed2go.com](http://www.ed2go.com))?" One of the other certifications that Kennedy referenced in his email, CPht, is for pharmacy

technicians who work with pharmacists, not in pharmaceutical sales. Although CMR offers sales training, it is not offered by ed2go, and its web site does not list the cost of the certification.

26. If a Colorado consumer was interested in a medical device sales job, Kennedy, posing as recruiters, would state to Colorado consumers, "Have you completed entry level medical sales training or certification (NAMSR, DME or RAI)?" And then direct consumers to the NAMSR web site,

<http://www.medicalsalescareer.com/rmsr.asp>. Again, the other certifications that Kennedy mentions in his email, DME and RAI, are either designed for corporate, not individual, training, or cost more than twice as much as Kennedy's training.

27. Colorado consumers who received Kennedy's fake recruiter emails say that they chose the CNPR or RMSR training because it seemed most applicable to their goals of obtaining a medical or pharmaceutical sales job and because it cost less than the other options.

28. Many Colorado consumers purchased and completed Kennedy's training and certification program based on the recommendation of the fake recruiters who gave the impression that large employers were more likely to hire candidates with CNPR or RMSR certifications.

29. Kennedy did not disclose to Colorado consumers that the training he, posing as recruiters, was advocating would directly benefit him financially.

30. After Colorado consumers added the CNPR or RMSR certifications to their resumes and doubled back to contact the fake recruiters who had advised them to obtain the training in the first place, they heard nothing in response.

31. Many Colorado consumers told the Attorney General's investigator that they did not receive any interviews after adding the CNPR and RMSR certifications to their resumes. Other Colorado consumers who interviewed with medical device and pharmaceutical companies said that hiring personnel did not recognize their RMSR and CNPR certifications.

32. Kennedy went to great lengths to hide the fact that he was behind the recruiters who were posting jobs on the various career web sites. He utilized fake names and addresses when registering the recruiters with the career web sites; and he manufactured web sites to link to the fake recruiters, using Domains by Proxy to shield his identity as the sites' owner.

### **Defendants' False and Misleading Representations**

33. The NAMSAR and NAPSARx web sites display logos of pharmaceutical and medical device companies. Neither Kennedy nor NAMSAR or NAPSARx have direct relationships with the companies whose logos they displayed.

34. In addition to managing the content of the NAMSAR and NAPSARx web sites (<http://www.medicalsalescareer.com/rmsr.asp> and <http://www.napsronline.org/>), Kennedy also manages the content of the associations' electronic newsletters. Colorado consumers sign up for the newsletter when they purchase one of the training packages, by following a link on the NAMSAR and NAPSARx web sites, or by signing up on the fake recruiter web sites. Newsletters are suggestive of offering competitive tools to secure lucrative and sought-after medical device and pharmaceutical sales jobs.

35. Both the web sites and newsletters give the false impression that the associations and/or the certifications are endorsed or recognized by medical device and pharmaceutical employers. Neither NAMSAR and NAPSARx nor the CNPR and RMSR certifications are endorsed or recognized by the medical device and pharmaceutical companies whose logos are displayed on Defendants' web sites and newsletters.

36. Kennedy's description of the CRPR training program on ed2go's web site states that the program "will prepare you for a career in pharmaceutical sales and make you a more attractive candidate to pharmaceutical companies." There is no evidence to support this representation.

37. Kennedy also represents on the ed2go web site the existence of a CNPR "advisory board of pharmaceutical industry experts," when there is no evidence to substantiate that such a group of people exists or, even if it does, that it has a relationship with employers, which Kennedy suggests in the course description.

38. Kennedy also promotes and drives traffic to the NAMSAR and NAPSAR web sites by drafting and publishing online press releases through third party press release distribution companies.

39. Kennedy has published numerous press releases that tout the value of the CNPR and RMSR certifications. For example, in a January 5, 2015 press release Kennedy, using the pseudonym Brad Sullivan, states that "CNPR Certified Pharmaceutical Sales Reps Earn More Money with Fewer Sales Calls." The press release sources the statement to a survey conducted by the "NAPSARx CNPR Research Committee." The Attorney General's investigation did not find the existence of such a committee or survey.

40. Kennedy published another press release on February 13, 2015 that states, "The SBPT Group and Digital Mogul are both pleased to announce that the CNPR

Certification has been nominated for a prestigious Distance Learning Course award.” The Attorney General’s investigator could find no organizations called “SBPT” or “Digital Mogul.”

41. The press release goes on to say that the CNPR Certification is an “accredited pharmaceutical sales training course.” The NAMSRS and NAPSRx web sites also explicitly and impliedly state that the CNPR and RMSR are accredited.

42. However, neither CNPR nor RMSR are accredited by any educational accrediting agency or any third party organization. Kennedy admits that “neither NAPSRx nor the NAMSRS programs have accreditations with any accrediting body, if any exists for this field.”

43. Finally, the career center page of the NAPSRx web site includes a banner ad in the center of the page that depicts a beach scene, with the statement, “Rep of the Year, Winner receives a trip for 2 to Hawaii.” When a Colorado consumer clicks on the banner ad, they are directed to a form to sign up for membership in NAPSRx.

44. Although Kennedy claims that the banner ad is related to one of his advertisers on the web site, a now-defunct magazine called Pharmaceutical Representative, the banner ad’s location on the NAPSRx web site and the text of the ad indicate no such relationship.

#### **FIRST CLAIM FOR RELIEF**

(Knowingly makes false representations as to source, sponsorship, approval, or certification of goods, services or property.)

45. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 44 of this Complaint.

46. Through the above-described conduct in the course of their business, occupation or vocation, Defendants knowingly made false representations as to source, sponsorship, approval, or certification of their sales training and certification products, in violation of § 6-1-105(1)(b), C.R.S. (2015).

47. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from Colorado consumers.

#### **SECOND CLAIM FOR RELIEF**

(Knowingly makes a false representation as to affiliation, connection, or association with or certification by another.)

48. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 44 of this Complaint.

49. Through the above-described conduct in the course of their business, occupation or vocation, Defendants knowingly made a false representation as to affiliation, connection, or association with or certification by another of the NAMSR, NAPSRx, and the CNPR and RMSR training programs, in violation of § 6-1-105(1)(c), C.R.S. (2015).

50. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from Colorado consumers.

### **THIRD CLAIM FOR RELIEF**

(Advertises under the guise of obtaining sales personnel when in fact the purpose is to first sell a product or service to the sales personnel applicant.)

51. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 44 of this Complaint.

52. Through the above-described conduct in the course of their business, occupation or vocation, Defendants advertised under the guise of a recruiter working on behalf of an employer to obtain sales personnel when in fact the purpose was to first sell the CNPR and RMSR training product to the sales personnel applicant, in violation of § 6-1-105(1)(k), C.R.S. (2015).

53. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from Colorado consumers.

### **FOURTH 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.)

54. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 44 of this Complaint.

55. Through the above-described conduct in the course of their business, occupation or vocation, Defendants failed to disclose material information about their identity when recommending the CNRPR and RMSR training certification products, which information was known at the time when Defendants posed as recruiters corresponding with Colorado consumers, with the sole purpose of

inducing Colorado consumers to purchase the CNPR and RMSR training certification products, in violation of § 6-1-105(1)(u), C.R.S. (2015).

56. By means of the above-described unlawful deceptive trade practices, Defendants deceived, misled, and unlawfully acquired money from Colorado consumers.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiff prays for judgment against Defendants and the following relief:

- A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, § 6-1-105 (b), (c), (k) and (u), C.R.S. (2015).
- B. An order permanently enjoining Defendants, its owners, officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practices and unconscionable transactions as defined in and proscribed by the CCPA and as set forth in this Complaint.
- C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices and unconscionable transactions.
- D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to § 6-1-110(1), C.R.S. (2015).
- E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties in an amount not to exceed \$2000 per violation pursuant to § 6-1-112(1), C.R.S. (2015), or \$10,000 per violation pursuant to § 6-1-112(3), C.R.S. (2015).
- F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to § 6-1-113(4).
- G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Dated this 4<sup>th</sup> day of January, 2016.

CYNTHIA H. COFFMAN  
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