

<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>GARY E. MAES, individually and d/b/a APPOINTED PROFESSIONAL SERVICES and ASSOCIATION FOR POLICE AND SHERIFFS, INC.; JOHN DOES 1- 10, independent contractors or employees of Appointed Professional Services; and JANE DOES 1-10, independent contractors or employees of Appointed Professional Services.</p> <p>Defendants.</p>	<p>EFILED Document CO Denver County District Court 2nd JD Filing Date: Apr 12 2010 2:34PM MDT Filing ID: 30532400 Review Clerk: Stacey Johnson</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff: JOHN W. SUTHERS Attorney General ALISSA HECHT GARDENSWARTZ, 36126* Assistant Attorney General alissa.gardenswartz@state.co.us JAY B. SIMONSON, 24077* First Assistant Attorney General jay.simonson@state.co.us 1525 Sherman Street, 4th Floor Denver, CO 80203 (303) 866-5079 (303) 866-4916 Fax *Counsel of Record</p>	<p>Case No.:</p> <p>Div.:</p>
<p>COMPLAINT</p>	

Plaintiff, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, by and through undersigned counsel, states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-101 through -114

(2009) (“CCSA”) and the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 through -115 (2009) (“CCPA”), to enjoin and restrain Defendants from engaging in unlawful deceptive trade practices, for statutorily mandated civil penalties, for disgorgement, restitution, and for other relief as provided in the CCPA..

PARTIES

2. John W. Suthers is the duly elected Attorney General of the State of Colorado and is authorized under Colo. Rev. Stat. § 6-1-103 (2009) to enforce the provisions of the CCPA.

3. Defendant Gary E. Maes is an individual residing at 7091 Alan Drive, Denver, Colorado 80221, and doing business at 494 Sheridan Blvd, Denver, Colorado 80226. Defendant Maes is a paid solicitor for charitable organizations and operates under the name “Appointed Professional Services,” (“APS”). Defendant Maes solicits donations as a representative of Association of Police and Sheriffs, Inc. (“Assoc. for Police & Sheriffs”) and directs others to solicit on behalf of Assoc. for Police & Sheriffs.

4. Defendants John Does 1-10 are current or former independent contractors, employees, officers, or directors of APS who have yet to be identified.

5. Defendants Jane Does 1-10 are current or former independent contractors, employees, officers, or directors of APS who have yet to be identified.

JURISDICTION AND VENUE

6. Pursuant to Colo. Rev. Stat. §§ 6-1-103 and 6-1-110(1) (2009), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

7. At all relevant times during this action, Defendant Maes maintained a principal place of business and a residence in Denver, Colorado. Therefore, venue is proper in the City and County of Denver, Colorado, pursuant to Colo. Rev. Stat. § 6-1-103 (2009) and Colo. R. Civ. P. 98.

RELEVANT TIMES

8. The conduct that gives rise to the claims for relief contained in this Complaint began in 2004 and continues through the present.

9. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 (2009) in that it is brought within three years of the date on which false, misleading,

and deceptive acts or practices occurred and/or were discovered, and the series of false, misleading, and deceptive acts is continuing.

PUBLIC INTEREST

10. Through the unlawful practices of his business, vocation, or occupation, Defendants have deceived, misled, and financially injured Colorado consumers. Defendants have been soliciting donations on behalf of the Assoc. for Police & Sheriffs as a paid solicitor, but have not been properly registered as a paid solicitor, have been suspended by the Colorado Secretary of State from making charitable solicitations in Colorado, have not identified themselves as a paid solicitor during solicitations and, upon information and belief, are not associated with the Assoc. for Police & Sheriffs. Therefore, the Colorado Attorney General believes these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful conduct.

STATUTORY BACKGROUND

A. The Colorado Charitable Solicitations Act

11. The Colorado Charitable Solicitations Act was passed by the legislature after it found that "fraudulent charitable solicitations are a widespread practice in this state which results in millions of dollars of losses to contributors and legitimate charities each year." Colo. Rev. Stat. § 6-16-102 (2009). Specifically, the legislature found that "[l]egitimate charities are harmed by such fraud because the money available for contributions continually is being siphoned off by fraudulent charities, and the goodwill and confidence of contributors continually is being undermined by the practices of unscrupulous solicitors." *Id.* Accordingly, the legislature passed the Act to "protect the public's interest in making informed choices as to which charitable causes should be supported." *Id.*

12. Under the CCSA, a "paid solicitor" is "a person who, for monetary compensation, performs any service in which contributions will be solicited in this state by such compensated person or by any compensated person he or she employs, procures, or engages, directly or indirectly, to solicit for contributions." *Id.* § 6-16-103(7).

13. Under the Act, any paid solicitor must register prior to soliciting any contributions in Colorado on behalf of a charity. *Id.* § 6-16-104.6. All contracts between a paid solicitor and a charitable organization must be in writing and contain the information set forth in section 6-16-104.6(2).

14. At least 15 days before commencing any solicitations on behalf of a charity in Colorado, a paid solicitor must file a solicitation notice with the Secretary of State that contains all the information required by Colo. Rev. Stat. § 6-16-104.6(7)

and that is signed by the charity. Additionally, within ninety days after a solicitation campaign has concluded, and on the anniversary of the commencement of a solicitation campaign lasting over a year, a paid solicitor must file a financial report of the campaign. *See* §6-16-104.6(9).

15. During the course of solicitations by telephone, paid solicitors must comply with the disclosures set forth in Colo. Rev. Stat. § 6-16-105.3(1), including a disclosure that the person soliciting the charitable contribution is paid to make the solicitation. Further, a written confirmation must be provided to any person donating money in response to an oral solicitation by a paid solicitor and that confirmation must contain the disclosures set forth in Colo. Rev. Stat. § 6-16-105.

16. The Secretary of State may suspend the registration of any charitable organization or paid solicitor for not complying with registration requirements under the Charitable Solicitations Act. *See* §6-16-111(6)(a).

17. The Charitable Solicitations Act provides that an individual commits charitable fraud when he “[k]nowingly solicits any contribution and in the course of such solicitation knowingly performs any act or omission in violation of any of the provisions of sections 6-16-104 to 6-16-107 and 6-16-110.” §6-16-111(1)(a).

B. The Consumer Protection Act

18. The Colorado Consumer Protection Act prohibits deceptive trade practices as set forth in the statute. Colo. Rev. Stat. § 6-1-105 (2009).

19. Any violations of the CCSA are deceptive trade practices under the CCPA and subject the violator to the CCPA’s penalties. *Id.* §§ 6-1-105(1)(hh), 6-16-111(5).

GENERAL ALLEGATIONS

20. Association of Police & Sheriffs was a California-based charity registered with the Colorado Secretary of State. Association for Police & Sheriffs registered with the Colorado Secretary of State on January 14, 2003 and remained current with its registration until fiscal year 2007. Their renewal date was January 15, 2008 for fiscal year 2007. After filing for two extensions, Association for Police & Sheriffs was notified of its delinquent status on November 17, 2008, December 1, 2008 and December 16, 2008. The Secretary of State notified Association for Police & Sheriffs that it was suspended from raising money in Colorado on January 2, 2009.

21. Upon information and belief, Assoc. for Police & Sheriffs is no longer in business. The California Attorney General sued Assoc. for Police & Sheriffs on May 29, 2009. Both Assoc. for Police & Sheriffs and its president, Lloyd Jones, defaulted. Moreover, the California Franchise Tax Board suspended the Assoc. for Police & Sheriffs, preventing them from fundraising or engaging in any other activity.

22. Despite Assoc. for Police & Sheriffs being defunct, Defendant Maes is still soliciting donations on its behalf.

23. Defendant Maes, as Appointed Professional Services, originally registered as a paid solicitor with the Secretary of State on January 8, 2003.

24. On January 30, 2003, Appointed Professional Services filed a solicitation notice to conduct a solicitation campaign for Assoc. for Police & Sheriffs. The solicitation notice stated that the campaign was to begin on January 15, 2003 and to end on December 31, 2003.

25. APS never filed a campaign report for the solicitation campaign. The Secretary of State notified APS of its delinquency on March 31, April 29, and May 18, 2004, and then suspended APS on June 30, 2004. APS attempted to file a solicitation campaign report on December 15, 2004, but the report was never submitted.

26. APS also failed to renew its registration after initially registering in January 2003. After notifying APS of its registration delinquency on May 24, June 9 and July 16, 2004, it again suspended APS on August 11, 2004.

27. On or about February 12, 2010, Blu Iron Photography, a business in Wheat Ridge, Colorado, received a telephone solicitation for purchasing advertising space in the Association for Police & Sheriffs "Program Awareness Guide." Katie Hartkoop, owner of Blu Iron Photography, received a follow-up email from the email address appointed01@gmail.com. The email was from an Orlando Garcia at "Assoc. for Police and Sheriffs, Colorado Region."

28. On or about February 23, 2010, Lawrence Runn, investigator with the Colorado Secretary of State, went to the APS office on Sheridan. The office building directory had APS and Assoc. for Police & Sheriffs both listed in the same suite.

29. Mr. Runn spoke with Defendant Maes and informed him that both APS and Assoc. for Police & Sheriffs were suspended in Colorado and had to cease all operations in Colorado. Mr. Runn also informed Mr. Maes that if APS wanted to continue doing business in Colorado on behalf of Assoc. for Police & Sheriffs, he would have to file registration renewals for each year APS was in operation, file the missing solicitation campaign report, and file solicitation notices and campaign reports for each year that he was in operation. Mr. Runn also informed Defendant Maes that the Assoc. for Police & Sheriffs would have to file back registrations as well in order to collect donations in Colorado.

30. Defendant Maes has not filed any back registrations for APS, nor has the Assoc. for Police & Sheriffs filed anything with the Secretary of State to get in good standing.

31. On or about March 22, 2010, the Secretary of State received an anonymous complaint stating that he or she had several calls from a Jim Donovan on behalf of Assoc. for Police & Sheriffs requesting that he or she advertise in the “Association for Police & Sheriffs Community Awareness Guide.” The individual said that Donovan requested that payments be made by cash or credit card, and that a courier would be sent to pick up donations.

FIRST CLAIM FOR RELIEF
(Failure to Register as a Paid Solicitor)

32. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 31 of this Complaint.

33. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(1), 6-16-111(1)(a) (2009), and the CCPA, Colo. Rev. Stat. § 6-1-105(1)(hh) by failing to properly register and renew registrations as a paid solicitor.

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

SECOND CLAIM FOR RELIEF
(Conducting Solicitations Without Registering a Campaign)

35. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 34 of this Complaint.

36. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(7), 6-16-111(1)(a)(2009), and the CCPA, Colo. Rev. Stat. § 6-1-105(1)(hh), by conducting campaigns without registering a solicitation campaign as required by § 6-16-104.6(7).

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

THIRD CLAIM FOR RELIEF
(Failure to Make Required Disclosures as a Paid Solicitor)

38. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 37 of this Complaint.

39. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-105.3, 6-16-111(1)(a)(2009), and the CCPA, Colo. Rev. Stat. § 6-1-105(1)(hh), by not disclosing in phone solicitations that they were paid solicitors.

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

FOURTH CLAIM FOR RELIEF
(Failure to File Campaign Reports)

41. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 40 of this Complaint.

42. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(9), 6-16-111(1)(a)(2009), and the CCPA, Colo. Rev. Stat. § 6-1-105(1)(hh), by not filing solicitation campaign financial reports.

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

RELIEF REQUESTED

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

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6, 6-16-105.3, 6-16-111 (2009), and the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(hh) (2009).

B. An order permanently enjoining Defendants, their officers, directors, successors, assigns, agents, employees, and anyone in active concert or participation with any Defendant with notice of such injunctive orders, from engaging in any deceptive trade practices as defined in and proscribed by the CCSA or the CCPA and as set forth in this Complaint.

C. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. For a judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to Colo. Rev. Stat. § 6-1-110(1) (2009).

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 \$2,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(1) (2009), or \$10,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(3) (2009).

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 Colo. Rev. Stat. § 6-1-113(4) (2009).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA and the CCSA.

Dated this 12th day of April, 2010.

JOHN W. SUTHERS

Attorney General

/s

ALISSA H. GARDENSWARTZ, 36126*
Assistant Attorney General

Consumer Protection Section
Attorneys for Plaintiff
*Counsel of Record

Pursuant to C.R.C.P. 121, § 1-26(9), the original of this document with original signatures is maintained in the offices of the Colorado Attorney General, 1525 Sherman Street, Denver, CO 80203, and will be made available for inspection by other parties or the Court upon request.