

<p>DISTRICT COURT, BOULDER COUNTY, COLORADO 1777 Sixth Street Boulder, Colorado 80306</p> <hr/> <p>STATE OF COLORADO, ex rel. JOHN W. SUTHERS, ATTORNEY GENERAL,</p> <p>Plaintiff,</p> <p>v.</p> <p>FRONT RANGE CHARITABLE SERVICES, a Colorado non-profit corporation, HERNANDO HENNINGS, an individual, COLLEEN GARDENOUR (a/k/a Colleen Gardenour Holmes and Colleen Holmes), an individual, JOHN DOES 1-10, independent contractors or employees of Front Range Charitable Services, and JANE DOES 1-10, independent contractors or employees of Front Range Charitable Services,</p> <p>Defendants.</p>	<p>FILED Document CO Boulder County District Court 20th JD Filing Date: Aug 29 2006 3:06PM MDT Filing ID: 12218945 Review Clerk: Debra Crosser</p> <p style="text-align: center;">▲ COURT USE ONLY ▲</p>
<p>Attorneys for Plaintiff: JOHN W. SUTHERS Attorney General AMY L. PADDEN, 28372* Assistant Attorney General JAN M. ZAVISLAN, 11636 Deputy Attorney General 1525 Sherman Street, 5th Floor Denver, CO 80203 (303) 866-5079 (303) 866-4916 Fax *Counsel of Record</p>	<p>Case No.:</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 113 (2005) (“CCSA”) and the Colorado Consumer Protection Act, Colo. Rev. Stat. §§ 6-1-101 through 115 (2005) (“CCPA”), to enjoin and restrain Defendants from engaging in certain acts of charitable fraud and unlawful deceptive trade practices, for statutorily mandated civil penalties, for disgorgement, restitution, and for other relief as provided in the CCSA and the CCPA.

PARTIES

2. John W. Suthers is the duly appointed Attorney General of the State of Colorado and is authorized under Colo. Rev. Stat. § 6-1-103 (2005) to enforce the provisions of the CCPA.

3. Defendant Front Range Charitable Services (“FRCS”) is a Colorado non-profit corporation incorporated on or about January 6, 1997, with a principal place of business at 1421 Worley Drive, Denver, Colorado. FRCS purports to be a charity raising money to provide food, clothing, housing, school supplies, and health care products for indigent persons.

4. Defendant Hernando Hennings is an individual who currently resides in the State of California. During the times relevant to this action, Mr. Hennings resided at 3656 South Depew Street, Denver, Colorado. Defendant Hennings was a solicitor for and independent contractor of FRCS as well as other local charities.

5. Defendant Colleen Gardenour is an individual who currently resides at 31548 Hamburg Circle, Winchester, CA 92596. During the times relevant to this action, Ms. Gardenour resided at 7410 W. 9th Avenue, Lakewood, Colorado, and 1421 Worley Street, Denver, Colorado. Defendant Gardenour was and is the President of Front Range Charitable Services. Defendant Gardenour used the names of Colleen Gardenour Holmes and Colleen Holmes during the times relevant to this action

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

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

JURISDICTION AND VENUE

8. Pursuant to Colo. Rev. Stat. § 6-1-103 and § 6-1-110(1) (2005), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

9. The violations alleged herein were committed throughout the state of Colorado, and against a victim, Eleanor Sprague, who was at the relevant times a resident of Boulder County, Colorado. Therefore, venue is proper in Boulder County, Colorado, pursuant to Colo. Rev. Stat. § 6-1-103 (2005) and Colo. R. Civ. P. 98.

RELEVANT TIMES

10. The conduct that gives rise to the claims for relief contained in this Complaint began in 2003 and continues through the present.

11. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 (2005) 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

12. Through the unlawful practices of their business, vocation, or occupation, Defendants have deceived, misled, and financially injured consumers in Colorado. Specifically, Defendants have solicited money from Coloradans through the use of illegal methods, have improperly spent donations, and have repeatedly violated the Colorado Charitable Solicitations Act and the Colorado Consumer Protection Act. Therefore, the Colorado Attorney General believes these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' charitable fraud and unlawful business activities.

STATUTORY BACKGROUND

A. The Colorado Charitable Solicitations Act

13. 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 (2005). 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.*

14. Under the Act, any charitable organization that solicits or intends to solicit more than \$25,000 in a fiscal year must register with the Colorado Secretary of State and provide the information required by Colo. Rev. Stat. § 6-16-104(2). *Id.* § 6-16-104(1), (6)(c). This registration must be renewed on an annual basis and the charity must file a financial report on the fifteenth day of the fifth calendar month after the close of the charity’s fiscal year. *Id.* § 6-16-104(4), (5). The Act prohibits any charity that is required to register from soliciting any contributions prior to the charity complying with the registration requirements. *Id.* § 6-16-104(9).

15. 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).

16. 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 Colo. Rev. Stat. § 6-16-104.6(2).

17. 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(1) and that is signed by the charity.

18. During the course of solicitations by telephone, paid solicitors must comply with the disclosures set forth in Colo. Rev. Stat. § 6-16-105.3(7), including a disclosure that a donation is not tax deductible if the donation is not deductible. 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.

19. The Charitable Solicitations Act prohibits “charitable fraud” which is committed when a person:

- (a) Knowingly 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;

...

(d) With the intent to defraud, knowingly solicits contributions and, in aid of such solicitation, assumes, or allows to be assumed, a false or fictitious identity or capacity, except for a trade name or trademark registered in this state by that person or his employer;

(e) Knowingly fails to create and maintain all records required by section 6-16-109 to be created and maintained . . . ;

(f) Knowingly makes a misrepresentation of a material fact in any notice, report, or record required to be filed, maintained, or created by this article;

(g) With intent to defraud, devises or executes a scheme or artifice to defraud by means of a solicitation or obtains money, property, or services by means of a false or fraudulent pretense, representation, or promise in the course of a solicitation. A representation may be any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a material fact;

...

(i) Represents or causes another to represent that a contribution to a charitable organization will be used for a purpose other than the purpose for which the charitable organization actually intends to use such contribution;

...

Id. § 6-16-111(1)(a), (d)-(g), (i).

B. The Consumer Protection Act

20. The Colorado Consumer Protection Act (CCPA) prohibits deceptive trade practices as set forth in the statute. *Id.* § 6-1-105 (2005).

21. 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

22. Defendant FRCS is a Colorado non-profit corporation that purports to be a charitable organization. It is in the business, vocation, and occupation of soliciting donations from consumers.

23. In the past calendar year, Colorado consumers donated nearly \$165 million dollars to charities. http://www.sos.state.co.us/pubs/bingo_raffles/2005_annual_report_12-7-2005.pdf.

24. Unfortunately, some charities such as FRCS spend a very small percentage of the funds they solicit on any legitimate purpose. As explained further below, FRCS spends the majority of its money on fundraising and other expenses; only a small portion goes to any claimed charitable purpose.

25. In the course of soliciting donations and conducting the business of the “charity”, and as explained further below, Defendants have repeatedly ignored and violated Colorado law.

Defendant FRCS

26. Defendant Front Range Charitable Services (“FRCS”) was incorporated as a Colorado non-profit on January 6, 1997 by Defendant Colleen Gardenour. The corporation initially had three directors, who were not named in the articles of incorporation.

27. FRCS’s bank records for 2001 show that FRCS received contributions well in excess of \$25,000 for 2001. FRCS did not register as a charity with the Secretary of State at any time in 2001 as required by Colo. Rev. Stat. § 6-16-104. FRCS did not file, and never has filed, a financial statement for 2001 as required by Colo. Rev. Stat. § 6-16-104(5).

28. FRCS’s bank records for 2002 show that FRCS received contributions well in excess of \$25,000 for 2002. FRCS did not register as a charity with the Secretary of State at any time in 2002 as required by Colo. Rev. Stat. § 6-16-104. FRCS did not file, and never has filed, a financial statement for 2002 as required by Colo. Rev. Stat. § 6-16-104(5).

29. FRCS’s bank records for 2003 show that FRCS received contributions well in excess of \$25,000 for 2003. FRCS did not register as a charity with the Secretary of State at any time in 2003 as required by Colo. Rev. Stat. § 6-16-104. FRCS did not file, and never has filed, a financial statement for 2003 as required by Colo. Rev. Stat. § 6-16-104(5).

30. FRCS’s bank records for 2004 show that FRCS received contributions well in excess of \$25,000 for 2004. FRCS did not register as a charity with the Secretary of State at any time in 2004 as required by Colo. Rev. Stat. § 6-16-104.

31. FRCS finally registered as a charity on January 24, 2005—more than eight years after it was first incorporated.

32. In addition to failing to register as a charity in a timely manner, FRCS has no solicitation campaigns registered on its behalf. Because FRCS has used paid solicitors (rather than employees or volunteers) to conduct its campaigns, those paid solicitors are

required to register as paid solicitors under Colo. Rev. Stat. § 6-16-104.6 and are required to register specific campaigns under Colo. Rev. Stat. § 6-16-104.6(7). FRCS's paid solicitors have done neither.

33. FRCS's filings with the Secretary of State list Hernando Hennings as a paid solicitor. However, Defendant Hennings has never registered with the Secretary of State as a paid solicitor pursuant to Colo. Rev. Stat. § 6-16-104.6.

34. Because FRCS used paid solicitors, those solicitors were required to comply with section 6-16-105's requirements regarding written confirmations. At least some of the written confirmations given to donors did not comply with this section because they did not include the charity's registration number, a disclosure that the donations were not tax deductible, the disclosure required by Colo. Rev. Stat. § 6-16-105(1)(c), and the statement required by Colo. Rev. Stat. § 6-16-105(1)(h). Colo. Rev. Stat. § 6-16-105(1)(a), (b), (c), (h).

35. In fact, some of the written confirmations misleadingly implied that the donations were tax deductible. A sample confirmation is attached hereto as Exhibit A. It provides a "Federal Tax ID" number; however, donations to FRCS were not tax deductible because FRCS has not been granted 26 U.S.C. § 501(c)(3) status from the IRS. The Federal Tax number provided is FRCS's employer identification number and has nothing to do with tax-exempt status.

36. Further, those paid solicitors are required to maintain all of the records required by Colo. Rev. Stat. § 6-16-109, and, upon information and belief, have failed to do so.

37. Since its incorporation, FRCS has registered the following trade names: Colorado Crisis Center (on June 26, 1997), Santa's Wish List (on December 3, 1998), Rocky Mountain Family Center (on March 9, 1999), and Colorado Senior Center (on June 3, 2002).

38. FRCS made at least one solicitation in the name of Front Range Food Bank. FRCS never registered that name as a trade name, and therefore the use of this name violated Colo. Rev. Stat. § 6-16-111(d).

39. The only financial report that FRCS has filed with the Secretary of State is for 2004. Of the \$79,290 that FRCS solicited in contributions in 2004, it claimed to have used only \$19,452 (25%) for program services. The remaining money was used for fundraising—*i.e.*, to pay its paid solicitors—and other expenses.

40. In its 2004 financial statement filed with the State, FRCS stated that it solicited donations that were not tax deductible and responded yes to the following question "did the organization include with every solicitation an express statement that such contributions or gifts were not tax deductible?" However, at least some of the written information that FRCS

actually used did not include an express statement that the contributions were not tax deductible.

41. Pursuant to Colo. Rev. Stat. § 6-16-104(5), FRCS was required to file a financial report for the year 2005 by May 15, 2006. FRCS failed to do so and was sent delinquent notices by the Secretary of State on May 16, May 30, and June 14, 2006. An incomplete report was filed on May 26, 2006. The Secretary of State sent FRCS another delinquent notice on August 16, 2006.

42. To date, FRCS had failed to file a complete financial report and thus its charity registration is currently delinquent. However, FRCS has continued to solicit donations since May 16, 2006.

43. It is believed that FRCS collected donations from hundreds of individuals throughout Colorado, mainly in the Denver metropolitan area. Many of those solicitations were conducted at a time when FRCS was not registered as a charity as required by Colo. Rev. Stat. § 6-16-104, when Defendants Hennings and Doe were not registered as paid solicitors as required by Colo. Rev. Stat. § 6-16-104.6, and when there were no solicitation campaigns registered on behalf of FRCS as required by Colo. Rev. Stat. § 6-16-104.6

44. Written information FRCS provided to donors stated that donations would provide emergency services to local residents in crisis and be spent on food, shelter, clothing, health care kits, and school supplies. However, FRCS's bank records indicate that nearly all of the money collected in donations was and is being paid out to Defendant Gardenour, her relatives, and a few employees. There are very few checks written for any legitimate charitable purposes. For example, in April 2006, FRCS deposited \$4225 in donations. During that same time period, \$3726 was debited from FRCS's account. These debits included a \$200 telephone transfer to reopen Ms. Gardenour's personal checking account, another \$320 transfer to that personal account, an additional \$1200 in checks written to Ms. Gardenour, and over \$1000 in checks to Jeffrey Holmes, Ms. Gardenour's husband.

45. The legitimacy of the use of the small percentage of money that allegedly was spent on program services by FRCS is also questionable. Some of the purported "assistance" provided by the charity was paid to the charity's employees and subcontractors or to relatives and friends of individuals associated with the charity. For example the "memo" area of an FRCS check claims that the check is for rental assistance. However, the check was written to FRCS's manager and driver, who was being compensated hundreds or even thousands of dollars a month by the charity.

46. FRCS's failure to use the donations in a legitimate manner renders the purposes for which donors were told their funds would be used untrue. It also demonstrates that these donations were obtained under false pretenses and with an intent to defraud the donor.

Defendants' Solicitations of Eleanor Sprague

47. In the late summer of 2003, a number of local charities, including the non-profit Defendants, began to call and solicit donations from a then 84-year-old Boulder County resident, Eleanor Sprague.

48. The solicitation calls were extremely frequent—sometimes several a day—and demanded large sums of money as donations—sometimes in the thousands of dollars. The callers were very aggressive.

49. Over the course of the following months, Ms. Sprague wrote checks to various questionable “charities” for a total of more than \$20,000, including the following checks to FRCS or one of the trade names under which it was soliciting for a total of \$6095:

- a. On September 25, 2003, a \$695 check to CCC, which was deposited in an account for FRCS;
- b. On the following day, September 26, 2003, a \$1000 check to Rocky Mountain Family Center, which was also deposited in an account for FRCS;
- c. On October 10, 2003, a \$800 check to Front Range Food Bank, which was deposited in an account for FRCS;
- d. On that same day, October 10, 2003, another \$800 check to Santa’s Wish List, which was deposited in an account for FRCS;
- e. On October 19, 2003, a \$1100 check to Colorado Crisis Center, which was deposited in an account for FRCS;
- f. On October 24, 2003, a \$800 check to Family Center, which was deposited in an account for FRCS; and
- g. On November 4, 2003, a \$900 check to Rocky Mountain Family Center, which was deposited in an account for FRCS.

50. In late October 2003, Mrs. Sprague’s family members became aware of these large donations and informed police that they believed she was being improperly solicited by fraudulent charities.

51. The calls on behalf of Defendant FRCS to Mrs. Sprague were made by the Doe Defendant(s). Those checks were picked up by the Doe Defendant(s).

52. The checks that Mrs. Sprague wrote to FRCS (either payable to FRCS or one of its trade names) were written to FRCS at a time when FRCS was not registered as a

charity as required by Colo. Rev. Stat. § 6-16-104, when Defendant(s) Doe were not registered as paid solicitors as required by Colo. Rev. Stat. § 6-16-104.6, and when there were no solicitation campaigns registered on behalf of FRCS as required by Colo. Rev. Stat. § 6-16-104.6.

Defendants' Activities in Violation of the CCSA and CCPA

53. During the course of their business, vocation or occupation, Defendants violated section 6-16-111(1)(a), (d), (f), (g), and (i) of the Colorado Charitable Solicitations Act, and thereby committed charitable fraud, by, among other things:

- a. Knowingly soliciting contributions while knowingly violating the provisions of sections 6-16-104 to 6-16-107 and 6-16-110;
- b. With the intent to defraud, knowingly soliciting contributions by assuming a false or fictitious identity;
- c. Knowingly making misrepresentations of material fact in notices, reports, or records required to be filed, maintained, or created by the CCSA;
- d. With intent to defraud, devising a scheme or artifice to defraud by means of a solicitation or obtaining money, property, or services by means of a false or fraudulent pretense, representation (including any manifestation of any assertion by words or conduct, including, but not limited to, a failure to disclose a material fact), or promise in the course of a solicitation; and
- e. Representing or causing another to represent that a contribution to a charitable organization will be used for a purpose other than the purpose for which the charitable organization intends to use the contribution.

54. Defendants FRCS and Gardenour also violated the CCSA by, among other things:

- a. Failing to register as a charity as required by section 6-16-104;
- b. Failing to file financial reports as required by section 6-16-104, and/or failing to file them in a timely manner;
- c. Using paid solicitors who were not registered as required by section 6-16-104.6(1);
- d. Using paid solicitors without registering a solicitation campaign as required by section 6-16-104.6(7); and

e. Using paid solicitors without complying with the disclosures in section 6-16-105.

55. The individual Defendants also violated the CCSA by, among other things:

a. Failing to register as a paid solicitor as required by section 6-16-104.6;

b. Failing to register a solicitation campaign prior to conducting solicitations as required by section 6-16-104.6;

c. Knowingly failing to create and maintain all records required by section 6-16-109 to be created and maintained; and

d. Failing to comply with the disclosures in section 6-16-105.

56. By violating the Colorado Charitable Solicitations Act, Defendants have also violated the CCPA. Colo. Rev. Stat. § 6-16-111(5).

FIRST CLAIM FOR RELIEF

(Failure to Register as a Charity Before Conducting Solicitations)
(Against Defendants FRCS and Gardenour)

57. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 56 of this Complaint.

58. Through the above-described conduct in the course of their business, occupation or vocation, Defendants FRCS and Gardenour have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104(1), (9), 6-16-111(1)(a) (2005) by conducting solicitations prior to FRCS's registration on January 24, 2005, and by conducting solicitations from May 12, 2006 to the present when FRCS's registration is delinquent.

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

SECOND CLAIM FOR RELIEF

(Using Unregistered Paid Solicitors)
(Against Defendants FRCS and Gardenour)

60. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 59 of this Complaint.

61. Through the above-described conduct in the course of their business, occupation or vocation, Defendants FRCS and Gardenour have violated the Charitable

Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(1), 6-16-111(1)(a) (2005), by using unregistered paid solicitors.

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

THIRD CLAIM FOR RELIEF

(Conducting Solicitations Using Paid Solicitors without Registering a Campaign)
(Against Defendants FRCS, Gardenour, Hennings, and Doe)

63. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 62 of this Complaint.

64. 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), (f), (g) (2005), by conducting campaigns with paid solicitors without registering a solicitation campaign as required by § 6-16-104.6(7).

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

FOURTH CLAIM FOR RELIEF

(Failure to Register as a Paid Solicitor)
(Against Defendants Hennings and Doe)

66. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 65 of this Complaint.

67. Through the above-described conduct in the course of their business, occupation or vocation, Defendants Hennings and Doe have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-104.6(1), 6-16-111(1)(a) (2005), by failing to register as a paid solicitor.

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

FIFTH CLAIM FOR RELIEF
(Failure to Maintain Required Documents)
(Against Defendants Hennings and Doe)

69. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 68 of this Complaint.

70. Through the above-described conduct in the course of their business, occupation or vocation, Defendants Hennings and Doe have violated the Charitable Solicitations Act, Colo. Rev. Stat. §§ 6-16-109, 6-16-111(1)(e) (2005), by failing to maintain the records required by Colo. Rev. Stat. § 6-16-109.

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

SIXTH CLAIM OF RELIEF
(False Statements made in Financial Reports)
(Against Defendants FRCS and Gardenour)

72. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 71 of this Complaint.

73. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Charitable Solicitations Act, Colo. Rev. Stat. § 6-1-111(1)(a), (f) by falsely reporting in financial statements filed with the Secretary of State that every solicitation included an express statement that the donations were not tax deductible.

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

SEVENTH CLAIM FOR RELIEF
(Soliciting Under a False or Fictitious Identity)
(Against Defendants FRCS and Gardenour)

75. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 74 of this Complaint.

76. Through the above-described conduct in the course of its business, occupation or vocation, Defendant FRCS has violated Colo. Rev. Stat. § 6-16-111(1)(d) by, with the

intent to defraud, knowingly soliciting contributions and in aid of such solicitations, using the name “Front Range Food Bank,” which was not a registered trade name of FRCS.

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

EIGHTH CLAIM FOR RELIEF

(False Pretenses)

(Against Defendants FRCS, Gardenour, Hennings, and Doe)

78. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 77 of this Complaint.

79. Through the above-described conduct in the course of its business, occupation or vocation, Defendants have violated Colo. Rev. Stat. § 6-16-111(1)(g) by, with the intent to defraud, obtaining money by means of a false or fraudulent pretense, representation or promise.

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

NINTH CLAIM FOR RELIEF

(False Statements Regarding Purpose of Contributions)

(Against Defendants FRCS, Gardenour, Hennings, and Doe)

81. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 80 of this Complaint.

82. Through the above-described conduct in the course of its business, occupation or vocation, Defendants have violated Colo. Rev. Stat. § 6-16-111(1)(i) by representing that contributions would be used for purposes other than those for which they were actually used.

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

TENTH CLAIM FOR RELIEF

(Failure to Provide Required Disclosures in Written Confirmations)
(Against Defendants FRCS, Gardenour, Hennings, and Doe)

84. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 83 of this Complaint.

85. Through the above-described conduct in the course of its business, occupation or vocation, Defendants violated Colo. Rev. Stat. § 6-16-105(1)(a), (b), (c), (h) by providing written confirmations that did not include the charity's registration number, a disclosure that the donations were not tax deductible, the disclosure required by Colo. Rev. Stat. § 6-16-105(1)(c), and the statement required by Colo. Rev. Stat. § 6-16-105(1)(h).

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

ELEVENTH CLAIM FOR RELIEF

(Failure to File Financial Reports)
(Against Defendant FRCS and Gardenour)

87. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 86 of this Complaint.

88. 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(5), 6-16-111(1)(a), (e) (2005), by failing to file financial reports for 2001, 2002, 2003, and 2005.

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

TWELFTH CLAIM OF RELIEF

(Violations of CCPA)
(Against All Defendants)

90. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 89 of this Complaint.

91. The conduct described in counts one through eleven above constitute a deceptive trade practices pursuant to Colo. Rev. Stat. §§ 6-16-111(5) and 6-1-105(1)(hh).

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, 6-16-104.6, 6-16-105, 6-16-111 (2005), and the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(hh) (2005).

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) (2005).

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) (2005), or \$10,000 per violation pursuant to Colo. Rev. Stat. § 6-1-112(3) (2005).

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) (2005).

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 23rd day of August, 2006.

JOHN W. SUTHERS

Attorney General

/s

AMY L. PADDEN, 28372*
Assistant Attorney General

Consumer Protection Section

Attorneys for Plaintiff

*Counsel of Record

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