

DISTRICT COURT, ADAMS COUNTY,
COLORADO

1100 Judicial Center Drive
Brighton, Colorado 80601

STATE OF COLORADO, ex rel. JOHN W. SUTHERS,
ATTORNEY GENERAL, and
LAURA E. UDIS, ADMINISTRATOR, UNIFORM
CONSUMER CREDIT CODE

Plaintiffs,

v.

REAL TALK NETWORK, INC. d/b/a REAL TALK
NETWORK and GET REAL WITH DAVE, a Colorado
corporation,
REAL TALK, LLC, a Colorado limited liability
company,
REAL TALK RADIO SHOW NETWORK, LLC, a
Colorado limited liability company,
INSTITUTE OF CONSUMER ECONOMIC
EDUCATION, LLC, a Colorado limited liability
company,
DAVID ALLEN BURKE, individually, and
ERIK SALE, individually.

Defendants.

▲ COURT USE ONLY ▲

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Case No.:

PLAINTIFFS' COMPLAINT

Plaintiffs, the State of Colorado, upon relation of John W. Suthers, Attorney General for the State of Colorado, and Laura E. Udis, Administrator of the Uniform Consumer Credit Code (“Administrator”), by and through undersigned counsel, state and allege as follows:

INTRODUCTION

1. This is a law enforcement action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-101 *et seq.* (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. The Administrator of the Uniform Consumer Credit Code (“UCCC”) also brings this action for Defendants’ violations of the UCCC, Colo. Rev. Stat. § 5-1-101 *et seq.*, the Colorado Credit Services Organization Act, Colo. Rev. Stat. § 12-14.5-101 *et seq.* (“CCSOA”), and the Federal Credit Repair Organizations Act, 15 U.S.C.A. § 1679 *et seq.* (“CROA”). The Administrator seeks injunctive relief, penalties, consumer refunds, and actual and punitive damages permitted by statute.

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. Laura E. Udis is the Administrator of the UCCC, and is authorized to bring actions to enforce the UCCC. *See* Colo. Rev. Stat. §§5-6-103; 5-1-301 (2); 5-6-113 and 114. Pursuant to Colo. Rev. Stat. §§ 5-6-11 and 113, and 12-14.5-110 (2), the Administrator may maintain an action to enjoin violations of the UCCC and CCSOA. The Administrator also is authorized to enforce the provisions of the federal CROA under 15 U.S.C.A. § 1679h(c).

4. Defendant Real Talk Network, Inc., d/b/a Real Talk Network and Get Real with Dave is a Colorado corporation with its principal place of business at 1333 West 120th Ave., Suite 113, Westminster, Colorado 80234. Real Talk Network, Inc. is one of the members of Defendant Real Talk, LLC.

5. Defendant Real Talk, LLC is a Colorado limited liability company with its principal place of business at 1333 West 120th Ave., Suite 113, Westminster, Colorado 80234.

6. Defendant Real Talk Radio Show Network, LLC, is a Colorado limited liability company with its principal place of business at 1333 West 120th Ave., Suite 113, Westminster, Colorado 80234.

7. Defendant Institute of Consumer Economic Education, LLC is a Colorado limited liability company with its principal place of business at 1333 West 120th Ave., Suite 208, Westminster, Colorado 80234.

8. Unless otherwise indicated, Defendants Real Talk Network, Inc., Real Talk Network, LLC, Real Talk Radio Show Network, LLC and Institute of Consumer Economic Education, LLC shall be collectively referred to in this Complaint as “RTN.”

9. Defendant David Allen Burke is an individual residing at 14890 Hanover Street, Brighton, Colorado 80602. Mr. Burke is one of the members of Defendant Real Talk, LLC, and is a Board member and the President of Defendant Real Talk Network, Inc. At all times relevant to this action, Mr. Burke has formulated, directed, controlled, or participated in the alleged unlawful acts or practices of RTN.

10. Defendant Erik Sale is an individual residing at 3121 E. Bellflower Drive, Vail, Colorado 81657. Mr. Sale was in charge of sales at RTN and conducted the vast majority of RTN’s sales presentations. At all times relevant to this action, Mr. Sale has formulated, directed, controlled, or participated in the alleged unlawful acts or practices of RTN.

JURISDICTION AND VENUE

11. Pursuant to the CCPA, Colo. Rev. Stat. §§ 6-1-103 and 6-1-110(1) and the UCCC, Colo. Rev. Stat. § 5-1-203(1), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability. Moreover, jurisdiction in this Court is proper because all parties reside in Colorado.

12. At all times relevant to this action, Defendants maintained RTN’s principal office in Adams County, Colorado. Accordingly, venue is proper under Colo. Rev. Stat. §§ 6-1-103 and C.R.C.P. 98.

RELEVANT TIMES

13. The conduct that gives rise to the claims for relief contained in this Complaint began in 2008 and continues through the present.

14. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 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 and practices is continuing in nature.

15. Under the UCCC, an action must be brought within four years of the due date of the last scheduled payment of the agreement pursuant to which the charge was made. *See* § 5-6-114 (1)(d).

16. This action is timely pursuant to 15 U.S.C.A. § 1679i, as it is being brought within five years of Defendants' violating the CROA.

PUBLIC INTEREST

17. Through the unlawful practices of their business, vocation, or occupation the Defendants have deceived, misled, and financially injured consumers both within and outside Colorado. Specifically, Defendants have convinced thousands of consumers to enroll in their debt reduction and credit repair program by making misrepresentations about the types of services RTN offers and the type of results that RTN can get for consumers. As a result, numerous consumers have paid thousands of dollars to Defendants and have received little or nothing in return. Moreover, when consumers refuse to pay RTN due to insolvency or RTN's lack of performance, RTN refers the consumer to a collections agency, causing the consumers to go further into debt and for their credit scores to decline.

18. Additionally, Defendants have made consumer credit sales and collected finance charges without first notifying the UCCC Administrator, have not permitted consumers notice or opportunity to cure payment default before accelerating their entire balance due, and have not provided consumers with required federal Truth in Lending Act disclosures. RTN also is a credit repair organization ("CRO") and has been operating in violation of both state and federal laws governing CROs.

19. Accordingly, Plaintiffs believe that these legal proceedings are in the public interest and are necessary to safeguard citizens both in and outside of Colorado from the Defendants' unlawful business activities.

STATUTORY BACKGROUND

A. The Colorado Consumer Protection Act

20. The CCPA prohibits deceptive trade practices as set forth in the statute. Colo. Rev. Stat. § 6-1-105 (2009).

21. The following activities are defined as deceptive trade practices under the CCPA:

- a. Knowingly making a false representation as to the source, sponsorship, approval or certification of services;
- b. Knowingly making a false representation as to affiliation, connection, association with or certification by another;

- c. Knowingly making a false representation as to the characteristics or benefits of a service or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith;
- d. Advertising services with the intent not to sell them as advertised;
- e. Fraudulently advertising or otherwise representing that services are guaranteed without clearly and conspicuously disclosing the nature and extent of the guarantee;
- f. Failing to disclose material information concerning services which was known at the time of an advertisement or sale to induce consumers to enter into transactions; and
- g. Failing to obtain governmental licenses or permits required to sell services as contracted for with a consumer.

See Colo. Rev. Stat. §6-1-105(1)(b), (c), (e), (i), (r), (u) and (z).

22. It is also a deceptive trade practice for a person, in the course of his business, vocation or occupation, to claim orally or in writing to possess an academic degree from an accredited institution unless the person has, in fact, been awarded that degree. *See Colo. Rev. Stat. § 6-1-707(1)(a)(I)(A).*

B. The Uniform Consumer Credit Code

23. The Uniform Consumer Credit Code (“UCCC”) applies to companies that engage in consumer credit sales. Pursuant to the UCCC, a consumer credit sale occurs when credit is granted by a seller who regularly engages in credit transactions to a buyer who is not an organization, the services are purchased primarily for a household purpose for less than \$75,000, and a finance charge is imposed. *See Colo. Rev. Stat. § 5-1-301 (11) (a).*

24. Any company that makes consumer credit sales and charges a finance charge must notify the Administrator and pay a fee before doing business in Colorado. *See Colo. Rev. Stat. §§ 5-6-201 through 203.*

25. Any creditor making a consumer credit transaction must make all required disclosures under the federal Truth in Lending Act, including disclosure of the annual percentage rate. *See Colo. Rev. Stat. § 5-3-101(2); 15 U.S.C.A. § 1601 et seq.; 12 C.F.R. §§ 226.17 and 226.18.*

26. Under the UCCC, creditors must allow a consumer an opportunity to cure a default consisting of failure to make a required payment prior to accelerating the balance due on a consumer credit transaction, and must provide the consumer with notice of his or her right to cure. *See Colo. Rev. Stat. §§ 5-5-110 and 111.*

C. The Colorado Credit Services Organization Act

27. The Colorado Credit Services Organization Act (“CCSOA”) was passed “to provide prospective buyers of services of credit services organizations with the information necessary to make an intelligent decision regarding the purchase of those services and to protect the public from unfair or deceptive advertising and business practices.” Colo. Rev. Stat. § 12-14.5-102(1)(c).

28. The CCSOA defines a credit service organization as “any person . . . who, with respect to the extension of credit by others, represents that such person can or will, in return for the payment of money or other valuable consideration by the buyer, improve or attempt to improve a buyer’s credit record, history or rating.” Colo. Rev. Stat. § 12-14.5-103(2).

29. Under the CCSOA, a credit services organization; its salespersons, agents, and representatives; and independent contractors who sell or attempt to sell the services of a credit services organization shall not:

- a. Charge or receive money or other valuable consideration prior to full and complete performance of the services that the credit services organization has agreed to perform for the buyer; or
- b. Make or use any untrue or misleading representations in the offer or sale of the credit services organization or engage, directly or indirectly, in any act, practice, or course of business that operates or would operate as fraud or deception upon any person in connection with the offer or sale of the services of a credit services organization.

Colo. Rev. Stat. § 12-14.5-104(1)(a), (c).

30. The CCSOA additionally requires that a credit services organization provide the buyer with a written statement containing specified information and disclosures prior to the execution of a contract or before the credit services organization receives any money or other valuable consideration. *See* Colo. Rev. Stat. § 12-14.5-106 and 107.

31. All contracts between a credit services organization and a buyer must be in writing and contain certain information, including a notice of the buyer’s right to cancel the contract five days after the date that the contract is signed, the terms and conditions of payment, and a full and detailed description of the services to be performed by the credit services organization, including the estimated date by which the services are to be performed or the estimated length of time for performing the services. Contracts are further required to include a cancellation form in duplicate, and consumers must be provided with a copy of the completed contract. *See* Colo. Rev. Stat § 12-14.5-108.

D. The Credit Repair Organizations Act

32. The United States Congress enacted the Credit Repair Organizations Act, 15 U.S.C.A. § 1679 *et seq.* (“CROA”), “to protect the public from unfair or deceptive advertising and business practices by credit repair organizations.” 15 U.S.C.A. § 1679 (b)(2).

33. Under the CROA, a credit repair organization is any person:

who uses any instrumentality of interstate commerce or the mails to sell, provide, or perform (or represent that such person can or will sell, provide, or perform) any service, in return for the payment of money or other valuable consideration, for the express or implied purpose of--

(i) improving any consumer's credit record, credit history, or credit rating; or

(ii) providing advice or assistance to any consumer with regard to any activity or service described in clause (i);

15 U.S.C.A. § 1679a (3)(A).

34. The CROA prevents a credit repair organization from making or using any untrue or misleading representation of the services of the credit repair organization, or from engaging, directly or indirectly, “in any act, practice, or course of business that constitutes or results in the commission of, or an attempt to commit, a fraud or deception on any person in connection with the offer or sale of the services of the credit repair organization.” *See* 15 U.S.C.A. § 1679b (a)(3) and (4).

35. The CROA additionally prohibits any credit repair organization from accepting payment for services prior to the service being fully performed, and requires credit repair organizations to provide consumers with a specific, detailed written disclosure prior to executing any contract or written agreement with the consumer. *See* 15 U.S.C.A. §§ 1679b(b), 1679c.

36. Under the CROA, a credit repair organization is required to have particular language in its contracts including, but not limited to, a full and detailed description of the services the organization will perform for the consumer, and a conspicuous statement that the consumer may cancel the contract without penalty or obligation before the third business day after the contract is signed. Contracts are further required to include a cancellation form in duplicate, and consumers must be provided with a copy of the completed contract. *See* 15 U.S.C.A. §§ 1679d and 1679e.

GENERAL ALLEGATIONS

37. RTN has been in operation since approximately March 2008. Through RTN, Defendants sell a program for consumers to improve their credit scores and eliminate their debt. According to RTN's current website (www.gortn.com):

The Get Real with Dave [RTN] network of professionals are dedicated to changing the social economics of our country. We are a coaching network that provides critical financial education to families across the country.

What we do:

Our primary mission is to help families get out of debt rapidly, using advanced financial techniques. We provide ongoing coaching support to ensure our techniques are understood and provide a lifetime of empowerment.

38. Defendants market RTN's program through its website at www.gortn.com, through radio programs, and through free sales presentations held throughout the Denver metropolitan area and in California.

39. In March 2010, RTN's website contained the following representations regarding its program:

Real Talk Presents: The New Banking and Credit Event

0% INTEREST ON CREDIT CARDS AND MORTGAGES? IS IT POSSIBLE?

Join us for a discussion and training on eliminating the interest in your life. Are you tired of losing money? If you are paying any interest on credit cards or your mortgage, you are losing. Come learn how to win in today's opportunistic market.

EXPLODE YOUR CREDIT SCORE AND GET CASH:

Learn the secrets to your credit score from the creator of the FICO scoring model. Put \$1,000-\$3,000 in your bank account in 45 days using the strategies you will learn in this webinar. Boost you score instantly and much much more.

PAY OFF YOUR HOUSE NOW:

Learn to accelerate the payoff of your home. No gimmicks, no games, just simple math and accountability that will have you own your home free and clear in under 10 years. If you don't own one now, how would you like to buy and own a home with no mortgage in six years.

ELIMINATE YOUR CONSUMER DEBT AND RETIRE SAFELY:

Learn and practice advance financial methodologies to wipe out all of your consumer debt and increase your monthly cash flow. Learn how to get up to a 40% raise in your household income.

Wipe out your debt NOW!

- **Credit Cards**
- **Mortgages**
- **Auto Loans**
- **Medical Loans**

40. RTN's current website explains how the RTN program is conducted as follows:

Our Coaching Workshops include one-on-one coaching, lectures about cash flow management techniques, and a personalized action plan that we help you create. We teach you how to maximize every dollar to maintain the lowest possible balances, which reduces your effective interest costs and gets you paying PRINCIPAL down instead of interest, and the secrets to your FICO score. Our program walks you through eliminating debt, so you can begin building wealth.

41. RTN's primary vehicle for attracting consumers is through radio programs. These programs are at least a half-hour long and feature Defendant David Burke.

42. On the radio programs, Defendant David Burke is described as a nationally-syndicated talk show host and financial expert.

43. In fact, RTN pays for the airtime on the radio, and the "talk show" hosted by Defendant David Burke is nothing more than an infomercial. Defendant Burke is not a nationally-syndicated talk-show host.

44. There is a brief disclosure at the beginning of each RTN broadcast stating that the show is a paid announcement, but the disclosure is not made at any

other time during or after the program, such that a listener who tunes in after the start of the program does not know that the program is a paid announcement. Moreover, commercials are played during the RTN program, furthering the misrepresentation that the consumer is listening to a radio talk show rather than a paid announcement.

45. Defendants David Burke and Erik Sale have made the following representations on the RTN radio infomercials:

- a. The RTN program can eliminate consumers' debt in 7 days to 7 years;
- b. The RTN program works for nearly 100% of all program participants;
- c. RTN's special banking relationships allow RTN members to obtain zero percent interest credit cards; and
- d. The RTN program works for everyone regardless of income, and that 90-100% of the people who participate in the RTN program will have 25 years of their mortgage cancelled.

46. Defendants David Burke and Erik Sale also have falsely implied that RTN is aligned with the government in providing their services. Specifically, Defendants Burke and Sale represented in RTN radio programs that they had an "urgent" message for residents of Adams, Arapahoe, Clear Creek, Elbert, Denver, Jefferson, Larimer, Lincoln, Park, Summit and Weld counties, and that they were "servicing" a special program for residents of these counties. Defendants David Burke and Erik Sale additionally state that the program is for consumers who are \$40,000 or more in debt, and is available only for a limited time.

47. Defendants also have claimed in these broadcasts that households who participate in this special program will have 78 to 90 percent of the interest on their mortgage cancelled, and will receive up to \$24,000 to pay off other consumer debt.

48. Most recently, Defendants have stated in these broadcasts that Defendant Institute of Consumer Economic Education, LLC, or "ICE" is facilitating the County Household Economic Program, or "C-HEP" for eligible county residents. In these recent broadcasts, Defendants have represented that they are holding five free seminars in Colorado this month only, that seating is limited, and that participants will be educated on how to obtain up to \$48,000 to cancel consumer debt and how to cancel 78 to 90 percent of the interest on their mortgages.

49. RTN currently broadcasts on the following Colorado radio stations at least once a week: 1600 AM KEPN; 94.7 FM KRKS; 710 AM KNUS; 630 AM KHOW; 100 FM KIMN; 105 FM KXKL; 92.5 FM KWOF; and 990 AM KRKS. The broadcasts may last from a half hour to an hour.

50. RTN currently broadcasts up to 27 radio infomercials a week in Colorado and California.

51. During these broadcasts, Defendant David Burke attempts to have consumers call in and register for an RTN “seminar.” The RTN free seminar is a two and a half to three hour sales presentation. These sales presentations are typically made by Defendant David Burke or Defendant Erik Sale.

52. Defendants employ high-pressure sales tactics at these presentations to encourage consumers to immediately sign a contract for RTN’s services. There is no break during the entire presentation, and at the end of the seminar, Defendants make it difficult to leave without signing a contract with RTN. At times, Defendants have physically barricaded the room exits to prevent consumers from leaving without first speaking to an RTN representative.

53. Moreover, Defendants make false representations about Defendant David Burke’s background in an attempt to bolster the credibility of the RTN program. Defendant David Burke is falsely represented at RTN sales presentations as a top financial expert in the world. Defendant Burke also falsely states at these presentations that he graduated from the University of Southern California, that he has a large ranch in Montana, that he recently came out of ten years of retirement to “help save American families in this time of crisis,” and that he has coached the House of Representatives and “a bunch of media figures.”

54. In reality, Defendant David Burke has filed for bankruptcy twice within the past thirteen years, and his last bankruptcy was terminated on October 25, 2007, only six months before incorporating Defendant Real Talk Radio Show Network, LLC. That bankruptcy, which was filed on February 2, 2000, involved a list of creditors to whom Defendant David Burke owed over \$360,000.

55. Defendants have charged consumers from \$1,497 to \$3,497 for the RTN program. Defendants currently charge consumers \$3,497 to join RTN. Unless a consumer can show that he or she does not have the ability to pay the entire \$3,497 up front, payment of \$3,497 is due upon the consumer’s execution of the RTN contract, before RTN has performed any services for the consumer.

56. Defendants represent to consumers that RTN will work with consumers who cannot afford to pay the entire \$3,497 up front. RTN offers to put consumers on a payment plan, but charges them an additional \$100 “processing fee” and requires them to pay in monthly installments.

57. Defendants have not notified and paid fees to the UCCC Administrator prior to collecting these processing fees.

58. Defendants employ numerous misrepresentations to get consumers, most of whom are already deeply in debt, to spend \$3,497 and become RTN

members. Defendants misrepresent the overall results that can be achieved through the RTN program, RTN's abilities to improve consumers' credit scores, RTN's special relationships with banks, RTN's abilities to obtain low or no interest lines of credit for its members, and the types of services that RTN offers. Additionally, the RTN contract is misleading and unlawful, and Defendants make misrepresentations to consumers regarding payment plans and refund policies to induce consumers to sign the RTN contract.

A. Defendants Misrepresent the Overall Results That Consumers Can Achieve Through Joining RTN

59. Defendants misrepresent that all consumers can use the RTN program to pay off their debt entirely in a short period of time, and that many consumers can be debt-free in a matter of weeks or months.

60. On RTN's radio infomercials, Defendants David Burke and Erik Sale have represented that consumers can pay off their debt in seven months to seven years using the RTN program.

61. Similarly, at an RTN sales presentation on March 29, 2010, Defendant David Burke stated that "68 percent of you, we're going to pay off all your credit cards, all your loans and everything in the next four to six weeks, and there's going to be no interest, no payments."

62. At the same sales presentation, Defendant Burke told the audience that they were all 40 to 84 months away from owning their homes free and clear.

63. RTN's website in March 2010 stated that RTN could help consumers own their homes in ten years, or that consumers buying a home could pay off their mortgages in six years.

64. Defendants additionally represent that RTN can accomplish these results for every consumer regardless of income or debt level. For example, Defendant David Burke stated at a March 29, 2010 seminar that, "Our methodologies, math, access, tools, all that stuff is not dependent upon income, believe it or not, it doesn't matter what your income is – it simply works for everybody, regardless of your income – your income means nothing."

65. Similarly, at a March 7, 2010 seminar, Defendant David Burke stated that with the RTN program everyone in the room would get \$1,000 to \$4,000 "free money" to open a new bank account in 14-30 days.

66. Defendants further claim that their program does not require consumers to change their lifestyle, and that the RTN program will allow all consumers to increase their cash flow and pay off debt simply by minimizing or eliminating the

interest paid on their debt. According to Defendants, all consumers can then use the money saved in interest to pay off a larger portion of their debt.

67. Contrary to Defendants' claims, the RTN program does not work for everyone.

68. Defendants represent that the RTN program uses "advanced financial techniques" to create personalized action plans for all consumers to get them out of debt. However, the RTN program consists of nothing more than common-sense strategies that only work to eliminate debt for a small subset of consumers.

69. The RTN program largely depends upon minimizing or eliminating interest payments. Defendants instruct consumers to minimize their interest by paying credit cards on the closing date rather than the due date, by obtaining low or zero interest lines of credit and using that to "park" paychecks and to pay living expenses, and by paying additional principal on their mortgages.

70. These strategies do not work for everyone. First, paying credit cards on the closing date rather than the due date ostensibly pays off more principal prior to interest being assessed, causing the consumer to incur less interest. This only works to "eliminate" interest if the entire balance is paid off on the credit card. Most of the consumers that come to RTN have extensive credit card debt that they cannot pay off in full. Accordingly, this strategy does not eliminate interest for most consumers.

71. Second, Defendants advise consumers to obtain low interest or zero interest lines of credit. Many of the debt-ridden consumers attracted to RTN have poor credit scores that do not allow them to qualify for low interest lines of credit, and RTN membership does not improve those consumers' chances of obtaining low interest credit, contrary to Defendants' assertions. Very few banks will extend low interest lines of credit in today's economic climate, and bank regulators would not allow a bank to extend a personal line of credit for zero percent interest.

72. Finally, Defendants' representations regarding consumers' ability to accelerate their mortgages can only apply to consumers that have significant excess income to put toward their principal. Many of the consumers who signed up for RTN's services are in debt because their income has declined and they cannot make additional mortgage payments. Moreover, the RTN program rarely results in increased cash flow that consumers can put toward their mortgage.

73. Despite the clear limitations to the RTN program, Defendants have marketed and sold the RTN program to consumers for whom the RTN model will not work, including consumers that are unemployed, are already in debt settlement programs, owe more money on their homes than their worth, or who are on a fixed income, such as Social Security.

B. Defendants Misrepresent That RTN Can Improve Consumers' Credit Scores

74. Defendants claim that the RTN program can help consumers acquire low or no interest credit in part through helping consumers improve their credit scores.

75. Defendant David Burke specifically represents that RTN retains the creator of the FICO scoring model and works with the nation's leading credit attorney to analyze clients' credit reports and remove negative items from their credit reports 69.7 percent of the time. Defendant Burke claims RTN clients receive a software platform that beats the FICO scoring model. Defendant Burke further represents that RTN can get bankruptcies removed from credit reports even if the bankruptcy occurred three months prior.

76. Defendant David Burke also claimed at a March 2010 sales presentation that all of the attendees would have a 760 or greater credit score in a matter of weeks if they signed up with RTN.

77. Defendants do not deliver the aforementioned results to RTN clients. RTN does not retain the creator of the FICO scoring model to analyze RTN clients' credit reports. Nor can RTN exponentially raise consumers' credit scores as they claim.

78. In fact, Defendants regularly contribute to the decline of consumers' credit scores. If a consumer fails to comply with RTN's payment plan, RTN will send the consumer's account to a collections agency, which negatively impacts the consumer's credit. RTN will report nonpayment even when nonpayment occurs as a result of a consumer's legitimate complaint of misrepresentations made by Defendants, or if the consumer simply is financially unable to make payments (a fact Defendants knew or should have known at the time of contracting with the consumer).

79. RTN, despite representations to the contrary, is unable to remove recent bankruptcies from credit reports. Bankruptcy information remains in credit reports for up to ten years.

C. Defendants Misrepresent That RTN Has Special Relationships With Banks

80. In both their advertising and their sales presentations, Defendants frequently represent that RTN has special relationships with banks that allow RTN members unique access to low or no interest lines of credit.

81. At a March 29, 2010 seminar, Defendant David Burke made the following specific representations regarding RTN's special relationships with banks:

- a. “[RTN counselors] have special banking relationships. And you may say why, because we had 7,700 people go through our program and over half of them wiped out their mortgage in 48 months. The banks know it.”
- b. RTN is in alignment with Compass Bank and is RTN’s “biggest collaborator;”
- c. Going to a particular loan officer at Compass Bank would permit any RTN member with a 680 credit score or higher to obtain a line of credit with a checking account that would require no income verification;
- d. With RTN’s tools, eventually all members can get a credit line from Compass Bank. “No one ever gets turned down because we know what happens before you go in. We have a 1% mistake ratio;” and
- e. US Bank offers RTN members, with credit scores of 640 or higher, a credit card with a limit of up to \$20,000. Every RTN member with a 640 score is approved for a credit card with a \$5,000 limit, and these offers are only available to RTN members.

82. None of the assertions made by Defendant David Burke as set forth in the previous paragraph are true.

83. Contrary to Defendants representations, RTN does not maintain special relationships with banks that would allow RTN members preferential treatment over any other bank customer. At best, some RTN coaches have relationships with specific loan officers at particular bank branches such that the coach can contact the loan officer and determine what products are available to any bank customer.

84. Consumers who have joined RTN and have attempted to use RTN’s “special relationships” with banks have not been successful in obtaining products that would not otherwise be available to those consumers. In fact, consumers have been routinely rejected by banks with whom RTN claims to have a special relationship.

**D. Defendants Misrepresent That Consumers
Can Obtain Zero Percent Interest Credit
Cards Through RTN**

85. A central tenet of RTN’s program is the claim that RTN can obtain zero percent interest credit cards for its members. Defendants repeatedly tell consumers in RTN radio infomercials and in RTN sales presentations that RTN can get all consumers zero percent interest credit cards.

86. For example, at an RTN sales presentation on March 7, 2010, a large easel at the front of the room displayed the phrase “Access 0% Credit Cards!” The RTN website at that time also advertised access to zero percent interest credit cards.

87. The majority of consumers that have signed up with RTN and have attempted to obtain zero percent lines of credit through RTN have been entirely unsuccessful.

88. Moreover, there is no such thing as a true zero percent interest credit card. A former RTN coach said that the only zero percent interest credit card she could find for the RTN clients she coached had an introductory rate that went up exponentially after six months and included transfer fees. This coach concluded that such a card would not be suitable for debt-ridden consumers.

E. Defendants Misrepresent the Nature of Services Offered by RTN

89. Defendants induce consumers to sign a contract with RTN by presenting the RTN program as an opportunity for consumers to receive personalized coaching from highly-trained financial counselors who will help them devise a plan to get out of debt. Defendants further represent that counselors will use “advanced financial techniques” in formulating individualized debt elimination plans for consumers.

90. When consumers sign up for RTN, they do not receive the services RTN purports to offer. First, very few of RTN’s counselors have any financial background. One of RTN’s coaches entire previous work experience consisted of fast-food delivery.

91. RTN coaches receive little or no training in counseling consumers on ways to eliminate their debt. When consumers sign up for RTN, they are given a detailed spreadsheet to complete regarding their income, expenses and debt. RTN coaches are trained primarily in how to assist the consumer in filling out this spreadsheet.

92. The “advanced financial techniques” that RTN coaches use are little more than encouraging consumers to apply for additional credit cards and/or lines of credit that may have lower interest rates than the consumers’ existing credit cards.

93. RTN coaches additionally advise consumers to engage in common-sense strategies to reduce their debt, such as taking a second job, renting out a room in their home, or eliminating unnecessary expenses.

94. Defendants also misrepresent the consumers’ ability to gain access to RTN coaches. According to RTN’s contract, consumers must complete twelve coaching sessions within 120 days of executing the contract in order to fully participate in the RTN program. In February of 2010, Defendants employed nine RTN coaches, and signed up approximately thirty to fifty consumers a week. Defendants employed only three people in customer service who were responsible for

scheduling coaching sessions. Accordingly, it took consumers an average of five weeks to get their initial coaching session scheduled.

95. Additionally, consumers rarely get the same coach for coaching sessions and receive conflicting advice from different coaches.

96. Because RTN coaches were not trained financial professionals, and because consumers could not obtain the intensive one-on-one coaching that RTN promised, consumers did not obtain the services that RTN advertised.

F. The RTN Contract is Misleading and Does Not Comply with State or Federal Law

97. Defendants further sold RTN services through false representations in the RTN contract.

98. At the end of each RTN sales presentation, Defendant David Burke or Defendant Erik Sale request that consumers form two lines at the back of the room: one line for consumers who could pay the full \$3,497 up front, and one line for people who could not afford to pay the full \$3,497. A number of RTN salespeople are waiting at the back of the room to speak with consumers, and have clipboards with RTN contracts ready for consumers to sign.

99. Defendants do not provide any written disclosure to consumers prior to having consumers sign the RTN contract, as required by Colo. Rev. Stat. § 12-14.5-106 and 107, and by 15 U.S.C.A. § 1679(c).

100. The front of the RTN contract has changed several times since the inception of RTN. A recent version of the contract is attached hereto as **Exhibit A**. The front of the current contract provides that, “All sales of this Program are final. [RTN] does not provide refunds of any payments after the program is purchased.”

101. The RTN contract requires the consumer to sign on the front page. The contract does not state that additional terms and conditions are on the back of the contract.

102. The second page of **Exhibit A** is the back side of the current RTN contract, and is actual size. RTN sales representatives do not give consumers the opportunity to read the back side of the contract prior to signing it.

103. Contrary to Defendants’ repeated representations throughout the RTN sales presentation, the back side of the contract contains the following language:

As an inducement to [RTN] to accept Participant’s participation in the “[RTN] Coaching Program” . . . Participant expressly acknowledges and agrees that nothing in this document or any other written or oral communication relating to the Coaching Program, or any materials promulgated or distributed with respect to or commensurate with the Program shall constitute a representation or guarantee that Participant shall become debt free or increase their credit scores as a result of the [RTN] coaching program and/or use of the Coaching Program materials.

(language shown in actual type font size).

104. The current contract also states that the consumer “has been duly advised [*sic*] to seek the advice of their own legal counsel as to the nature and purpose of this document and as to whether or not to sign and/or enter the same.” However, RTN representatives do not advise consumers to consult an attorney prior to signing the contract. In fact, RTN representatives encourage consumers to sign the contract as quickly as possible.

105. No RTN contract has ever contained any language regarding the consumer’s right to rescind the contract within a specified period of time. Nor has any RTN contract ever included a cancellation notice as required by Colo. Rev. Stat. § 12-14.5-108(2) and 15 U.S.C.A. § 1679e (b).

106. Additionally, RTN contracts made with consumers who pay Defendants in installments do not include any disclosures required by the federal Truth in Lending Act, including, but not limited to, the annual percentage rate.

107. Earlier versions of the RTN contract have contained the following fraudulent statements:

- a. “Our refund policy and guarantee are simple – We guarantee results.”
- b. “Mortgages are guaranteed to be eliminated in 2-7 years, consumer debt in days, weeks, and months.”
- c. “If we determine, in your first one on one coaching session, that our program will not work for you we will provide a full refund.”
- d. “Real Talk Network Guarantee – We will save you, in interest, the cost of our program – All Sales Final.”

108. Moreover, Defendants have stated in the contract that consumers “must follow the steps and actions of your coaching to remain within our guarantee,” but do not elaborate on what those steps and actions entail. And, as explained in Section E of this Complaint, Defendants make it nearly impossible to complete 12 coaching sessions within 120 days as required in the contract.

109. Defendants rarely provide consumers with copies of their contract and financing terms with RTN as required by Colo. Rev. Stat. § 12-14.5-108(3) and 15 U.S.C.A. § 1679e(c) and by Colo. Rev. Stat. § 5-3-108.

110. Additionally, RTN sales representatives will frequently tell consumers that they are only obtaining “basic information” from the consumer and that the consumer is not yet signing a contract, then will charge the consumer and assert that the consumer has already executed a valid contract.

G. Defendants Misrepresent RTN's Payment Policies

111. Defendants misrepresent that RTN's primary goal is to "keep families safe," and that RTN will help consumers even if consumers cannot afford to join RTN.

112. Defendant David Burke made the following statements at a March 7, 2010 sales presentation:

- a. "If you can't afford it, I'm going to make the investment for you, is that okay?"
- b. "No one gets left behind. I'm going to ask all of you if you want to wipe out your debt. You're all going to raise your hand. If you can't afford it—I don't care—I won't say 'no'—we're going to assign you a counselor. I don't care about fees—I'll make the investment for you. . . . And your cash is going to go through the roof!"
- c. "We took 1,500-2,000 families in 2009 where we said, "You're behind in your mortgage, you have no business giving money to anybody—your family needs to be safe." \$700,000 payroll—6 months without getting a dime—why do we do that? Because we do what we say."

113. None of the statements made by Defendant David Burke set forth in the paragraph above are true.

114. Defendants' primary objective is to get full payment from consumers as quickly as possible. At a March 29, 2010 RTN sales presentation, Defendant David Burke warned the audience that if anyone attempted to get on a payment plan who could afford to pay the full \$3,497 up front, they would be kicked out of the RTN program.

115. Defendants have represented to unemployed consumers that they will not be charged anything for joining the RTN program until they are employed, and then have charged the consumer's credit card within a few days, when the consumer was still unemployed.

116. Defendants have continued to charge consumers on payment plans even when those consumers have alerted RTN that they can no longer afford to make payments. If those consumers refuse to make payments, Defendants send the full balance of the consumer's account to Conrad Credit Corporation, a collections agency, without giving consumers notice of their right to cure the default.

117. Defendants are reluctant to give consumers refunds or to cease charging consumers on payment plans even if the consumer has alerted Defendants

that the RTN program is not working for them. Consumers who attempt to contact RTN to request a refund are regularly ignored or told that they must schedule more coaching sessions and will not be given a refund.

H. Defendants Have Violated the Law

118. Defendants' countless misrepresentations regarding RTN's services and results have caused Defendants to repeatedly violate the Colorado Consumer Protection Act.

119. Defendants also have made consumer credit sales without following the requirements of the Uniform Consumer Credit Code.

120. Additionally, RTN is a credit services organization as defined in Colo. Rev. Stat. § 12-14.5-103(2) and is operating in violation of the Colorado Credit Services Organization Act (CCSOA).

121. Finally, RTN is a credit repair organization as defined in 15 U.S.C.A. § 1679a (3), and is operating in violation of the Federal Credit Repair Organizations Act (CROA).

FIRST CLAIM FOR RELIEF

(Knowingly Making a False Representation as to the Source, Sponsorship, Approval or Certification of Services)

122. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 121 of this Complaint.

123. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1) (b) (2009), by falsely representing that RTN works with the nation's leading credit attorney and the creator of the FICO scoring model to improve consumer's credit scores, and by implying that RTN services special "programs" on behalf of governmental entities.

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

SECOND CLAIM FOR RELIEF

(Knowingly Making a False Representation as to Affiliation, Connection or Association with or Certification by Another)

125. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 124 of this Complaint.

126. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(c) (2009), by falsely representing that RTN has developed special relationships with banks that allow RTN to obtain special treatment and/or products for its members.

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

THIRD CLAIM FOR RELIEF

(Falsely Representing the Characteristics, Uses, or Benefits of Services or Falsely Representing as to the Sponsorship, Approval, Status, Affiliation or Connection of a Person Therewith)

128. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 127 of this Complaint.

129. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(e) (2009), by falsely representing that RTN can offer special tools and techniques and special relationships that will enable any consumer to eliminate his or her debt.

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

FOURTH CLAIM FOR RELIEF

(Advertises Services With Intent Not To Sell Them As Advertised)

131. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 130 of this Complaint.

132. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1)(i) (2009), by advertising that RTN could help all consumers obtain certain results, such as securing low interest lines of credit, raising their credit scores by 50 to 100 points, and paying off their mortgage in less than ten years when RTN knew its program could not provide those results for all consumers.

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

FIFTH CLAIM FOR RELIEF

(Fraudulently Advertising or Otherwise Representing That Services Are Guaranteed Without Clearly and Conspicuously Disclosing the Nature and Extent of the Guarantee)

134. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 133 of this Complaint.

135. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act. § 6-1-105(1)(r) (2009), by guaranteeing that consumers would increase their credit scores and eliminate both consumer debt and mortgage debt with the RTN program without clearly and conspicuously disclosing the nature and extent of those guarantees.

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

SIXTH CLAIM FOR RELIEF

(Failing to Disclose Material Information Concerning Services Which Information Was Known at the Time of an Advertisement or Sale and Intended to Induce The Consumer into a Transaction)

137. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 136 of this Complaint.

138. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act. § 6-1-105(1)(u) (2009), by, in an effort to induce consumers to purchase their services, failing to disclose to consumers material information; for example, that said services could potentially help only a limited amount of people, that coaches frequently had little or no financial background, and that RTN did not have enough coaches to service the amount of people signing up with RTN.

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

SEVENTH CLAIM FOR RELIEF

(Failure to Obtain All Governmental Licenses or Permits Required to Sell Services)

140. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 139 of this Complaint.

141. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Consumer Protection Act. § 6-1-105(1)(z) (2009), by failing to notify and pay fees to the Administrator of the Uniform Consumer Credit Code prior to collecting finance charges on consumer credit sales.

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

EIGHTH CLAIM FOR RELIEF
(False Representation of Title or Degree)

143. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 142 of this Complaint.

144. Through the above-described conduct in the course of his business, occupation or vocation, Defendant David Burke has violated the Colorado Consumer Protection Act. § 6-1-707(1)(a)(I)(A) (2009), by falsely claiming that he graduated from the University of Southern California when he had not, in fact, been awarded a degree from that institution.

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

NINTH CLAIM FOR RELIEF
(Violations of the Uniform Consumer Credit Code)

146. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 145 of this Complaint.

147. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Uniform Consumer Credit Code, Colo. Rev. Stat. §§ 5-6-201 through 203, § 5-3-101(2), and §§ 5-5-110 and 111. Defendants have committed these violations by:

- a. Failing to notify the Administrator prior to collecting finance charges on consumer credit sales;
- b. Failing to disclose to consumers the information, disclosures and notices required by the federal Truth in Lending Act;
- c. Failing to provide consumers notice of their right to cure default prior to accelerating their entire balance due; and

- d. Failing to allow consumers an opportunity to cure a default on payment prior to accelerating the balance due.

TENTH CLAIM FOR RELIEF

(Violations of the Colorado Credit Services Organization Act)

148. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 147 of this Complaint.

149. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Colorado Credit Services Organization Act, Colo. Rev. Stat. §§ 12-14.5-104(1)(a), (c), 106, 107 and 108. Defendants have committed these violations by:

- a. Charging consumers prior to performing any promised service;
- b. Making misrepresentations in the sale of the RTN program;
- c. Not providing required written disclosures to consumers prior to receiving payment and execution of a contract;
- d. Not allowing consumers to rescind their contracts within five days of execution;
- e. Not including required information about RTN services in RTN contracts;
- f. Not including a cancellation form with the RTN contract; and
- g. Not providing consumers with copies of their contracts.

ELEVENTH CLAIM FOR RELIEF

(Violations of the Federal Credit Repair Organizations Act)

150. Plaintiff incorporates herein by reference all of the allegations contained in Paragraphs 1 through 149 of this Complaint

151. Through the above-described conduct in the course of their business, occupation or vocation, Defendants have violated the Federal Credit Repair Organizations Act, 15 U.S.C.A. §§ 1679b (a)(3) and (4), (b), 1679c, 1679d and 1679e. Defendants have committed these violations by:

- a. Making misrepresentations in the course of selling RTN's services;
- b. Receiving payment for services before RTN has performed any services;

- c. Not providing required written disclosures to consumers prior to executing a contract for services;
- d. Not including required language in RTN contract regarding RTN's services;
- e. Not advising consumers in writing of their right to rescind the RTN contract within three days of execution;
- f. Not including a cancellation form with the RTN contract; and
- g. Not providing consumers with copies of their contracts.

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 Consumer Protection Act, Colo. Rev. Stat. § 6-1-105(1) (b), (c), (e), (i), (u), (z) and Colo. Rev. Stat. § 6-1-707(1)(a)(I)(A); the Uniform Consumer Credit Code, Colo. Rev. Stat. §§ 5-6-201 through 203, § 5-3-101(2), and §§ 5-5-110 and 111; the Colorado Credit Services Organization Act, Colo. Rev. Stat. §§ 12-14.5-104(1)(a), (c), 106, 107 and 108 (2009), and the Federal Credit Repair Organizations Act, 15 U.S.C.A. §§ 1679b (a)(3) and (4), (b), 1679c, 1679d and 1679e.
- 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 CCPA and as set forth in this Complaint.
- C. 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 operating in violation of the UCCC, CCSOA and the CROA.
- D. Appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices and unlawful activities.
- E. An award 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).
- F. 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).

G. An order requiring Defendants to forfeit and pay to the Administrator penalties as set forth in Colo. Rev. Stat. § 5-6-203(4)(2009)

H. An order requiring Defendants to pay each Colorado consumer to whom they were required to make disclosures under the federal Truth in Lending Act twice the amount of the finance charge related to the transaction, pursuant to Colo. Rev. Stat. § 5-5-202 (1) (a) (2009).

I. An order requiring Defendants to refund excess charges to Colorado consumers and to pay consumer penalties as set forth in Colo. Rev. Stat. § 5-6-114 (1) (a) and (b) (2009)

J. An award of actual damages to consumers injured by the violations of the CROA under 15 U.S.C.A. § 1679h(c)(1)(B)(2009).

K. An award in an amount to be determined at trial for punitive damages pursuant to 15 U.S.C.A. § 1679g (2009).

L. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General and the Administrator, including, but not limited to, Plaintiffs' attorney fees, pursuant to Colo. Rev. Stat. § 6-1-113(4) (2009), Colo. Rev. Stat. § 5-6-114(3)(2009); Colo. Rev. Stat. § 12-14.5-110(3) (2009), and 15 U.S.C.A. § 1679h (c)(1)(C)(2009).

M. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA, the UCCC, the CCSOA and the CROA.

Dated this 7th day of July, 2010.

JOHN W. SUTHERS
Attorney General

/s

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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.