

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL
CIRCUIT IN AND FOR PALM BEACH COUNTY, FLORIDA

OFFICE OF THE ATTORNEY GENERAL
STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS,

Plaintiff,

Case No.: 2016CA006963XXXX-MB

vs.

CLIENT EXPERTS CARE, LLC, *a Florida
Limited Liability Company, formerly known as
FIRST CHOICE TECH SUPPORT, LLC, a
Florida Limited Liability Company;
CLIENT CARE EXPERTS, Inc., a
Florida Corporation; MICHAEL SEWARD,
an individual; KEVIN MCCORMICK, an individual;*
Defendants.

[FILED UNDER SEAL]

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs, brings this action under the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”), § 501.201 et seq., Fla. Stat., against Client Experts Care, LLC formerly known as First Choice Tech Support, LLC; Client Care Experts, Inc. (“Client Care”) (Corporate Defendants collectively referred to as “First Choice”); Michael Seward, an individual; and Kevin McCormick, an individual; (collectively referred to as “Defendants”), to obtain preliminary and permanent injunctive relief, restitution, the imposition of civil penalties, an award of attorneys’ fees, and other equitable relief, for Defendants’ acts or practices in violation of FDUTPA, and further states:

JURISDICTION AND VENUE

1. This action is brought pursuant to Florida's Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes ("FDUTPA"). This Court has jurisdiction pursuant to § 26.012, Florida Statutes, and FDUTPA.
2. Defendants at all times material to this Complaint, acting alone or in concert with others, provided goods or services within the definition of §501.208(8), Florida Statutes, solicited consumers within the definition of §501.203(7), Florida Statutes, and were engaged in a trade or commerce as defined by §501.203(8), Florida Statutes.
3. Venue is proper in the Fifteenth Judicial Circuit as the statutory violations alleged herein occurred in or affected more than one judicial circuit in the State of Florida while the principal place of business of First Choice is in Palm Beach County, Florida.

PLAINTIFF

4. The Attorney General is an enforcing authority of FDUTPA and is authorized by § 501.207(1)(b), Fla. Stat., to bring an action to enjoin any person who has violated, is violating, or is otherwise likely to violate FDUTPA and by § 501.207(3), Fla. Stat. to obtain further equitable relief, as appropriate.
5. The State of Florida has conducted an investigation, and the Attorney General has determined that an enforcement action serves the public interest, as required by § 501.207(2), Fla. Stat.

DEFENDANTS

6. Defendant Client Experts Care, LLC, formerly known as, First Choice Tech Support, LLC, (“First Choice”) is a Florida limited liability company organized under the laws of Florida on or about November 1, 2013 and at all times material to this complaint, has maintained a principal place of business at either 2637 East Atlantic Blvd, #139, Pompano Beach, Florida 33062 or 3301 Quantum Blvd, Suite 201, Boynton Beach, FL 33146. From November 12, 2013 until December 21, 2015, First Choice was registered with the Florida Department of State, Division of Corporations, under the name First Choice Tech Support, LLC. On December 22, 2015, First Choice filed an amendment with the Division of Corporations, changing its name to Client Experts Care, LLC. On February 23, 2016, First Choice registered the fictitious name, “Client Care Experts,” with the Division of Corporations. Since its inception, First Choice has marketed, advertised, and sold products and services to consumers relating to technical support services for personal computers.

7. Defendant Client Care Experts, Inc. (“Client Care”) is a Florida corporation organized under the laws of Florida on or about September 21, 2015 and at all times material to this complaint, has maintained a principal place of business at 3301 Quantum Blvd, Suite 202 or Suite 203, Boynton Beach, Florida 33146. Since its inception, Client Care has operated as a common enterprise with First Choice.

8. Defendant Michael Seward is an owner, officer, director, member, or manager of First Choice and Client Care. At all times material to this Complaint, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of First Choice and Client Care, set forth in this Complaint. More specifically,

Seward is the sole Manager registered with the Division of Corporations for Client Experts Care LLC f/k/a First Choice Tech Support, LLC, and the filing fee payments made to the Division of Corporation were made by Seward. Seward is also the Registered Agent for Client Care Experts, Inc., located at the same address as Client Experts Care, LLC. Moreover, Client Experts Care, LLC applied to the Florida Department of Agriculture and Consumer Services for a telemarketing license, and the application lists Michael Seward as the Manager and Registered Agent. Notably, Seward holds himself out as the Chief Operating Officer of Client Care Experts on communications with employees as well as the social media website, LinkedIn. Defendant Michael Seward resides at 918 SE 10th Ct., Deerfield Beach, Florida 33441, is not in the military, and is otherwise *sui juris*.

9. Defendant Kevin McCormick is an owner, officer, director, member, or manager of First Choice and Client Care. From December 3, 2015 through the Present, acting alone or in concert with others, he has formulated, directed, controlled, had the authority to control, or participated in the acts and practices of First Choice and Client Care set forth in this Complaint. On or around December 3, 2015, an Articles of Amendment was filed listing Kevin McCormick as President of Client Care Experts, Inc. McCormick paid for Client Care Experts, Inc. filings with the Division of Corporations, and is listed as an Owner of Client Experts Care, LLC in its application to the Florida Department of Agriculture and Consumer Services for a telemarketing license. In addition, McCormick holds himself out to be the Chief Operating Officer of Client Care Experts on both the social media website, LinkedIn, and in communications with the Boynton Beach Police Department in an interview regarding an incident report about First Choice. Defendant Kevin McCormick resides at 4864 S. Classical Blvd., Delray Beach, Florida 33445, is not in the military, and is otherwise *sui juris*.

**DEFENDANTS' UNFAIR, DECEPTIVE,
AND UNCONSCIONABLE BUSINESS PRACTICES**

Overview

10. Defendants operate a tech support scam, registered with Florida's Department of State, under various names, including First Choice and Client Care (herein referred to as "First Choice"), exploiting consumers' fears about computer viruses, malware, hackers, and other security threats, in order to convince them to purchase costly technical support services and software products.

11. Defendants lure consumers to contact its inbound call center through deceptive internet pop-up windows, disguised as legitimate operating system warnings. Sometimes the pop-up windows appear to be messages from well-known computer and software companies, such as Microsoft or Apple. These pop-up windows often mislead consumers to believe that their computer is unusable, and instruct consumers to contact a toll-free telephone number for help. The toll-free number connects consumers to Defendants' inbound call center.

12. Consumers who dial the toll-free telephone number are connected to a sales agent of Defendants' call center, who then utilizes the consumer's misbelief, based on the deceptive pop-up, to further convince them that their computer is infected and in need of services and/or products.

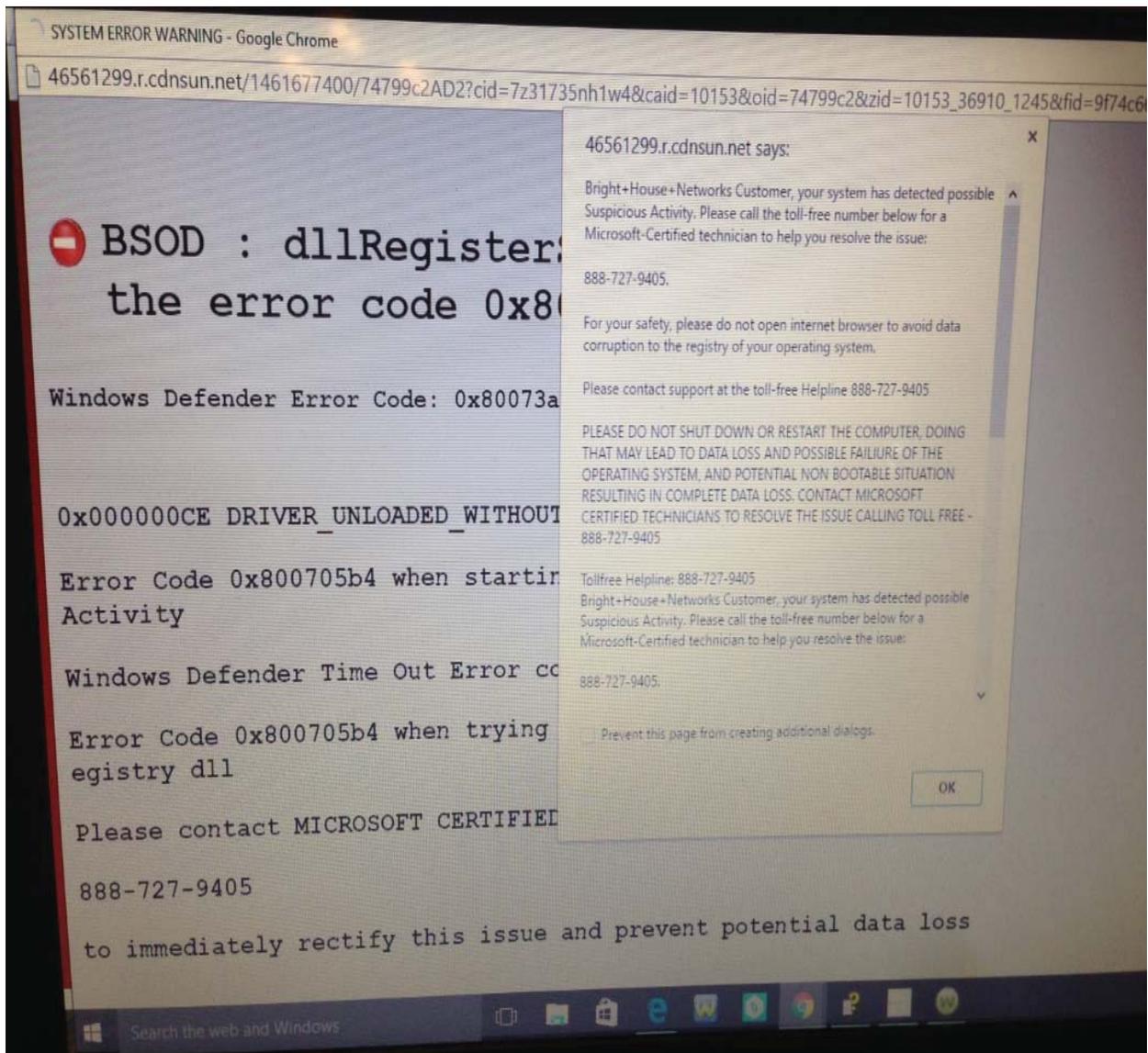
13. Defendants' sales agents offer consumers a free "diagnostic", which is really a scripted, manipulative, and high-pressured sales pitch, to determine the supposed computer issue causing the warning. Every consumer is led through the same diagnostic, which invariably leads to the same conclusion every time, that the consumer's computer is in need of immediate services and

products. This scam has enabled Defendants to deceive consumers nationwide, duping them into spending hundreds of dollars on computer and software services and products.

**Defendants Lure Consumers To Call Their
Inbound Call Center Through Deceptive Pop-Up Advertisements**

14. Defendants cause alarming pop-up messages (“pop-ups”) to be displayed on consumers’ computers, advising them that they have a serious computer problem or malware infection. These pop-ups instruct the user to call a toll-free telephone number to get help from a certified technician.

15. One of the pop-ups utilized by Defendants to mislead consumers, consists of two messages: (1) a grey screen, titled “SYSTEM ERROR WARNING,” with a message indicating an error had been detected, and directing the user to call a “Microsoft Certified” technician at 1-888-727-9405 in order to “immediately rectify issue and prevent potential data loss,” and (2) a window stating Bright House Networks Customer, your system has detected possible Suspicious Activity. Please call the toll-free number below for a Microsoft Certified technician to help you resolve the issue.” The second message warns the user to refrain from opening any internet browsers and/or shutting down or restarting the computer in order to prevent “data loss and possible failure of the operating system.” *See* Image 1 below.



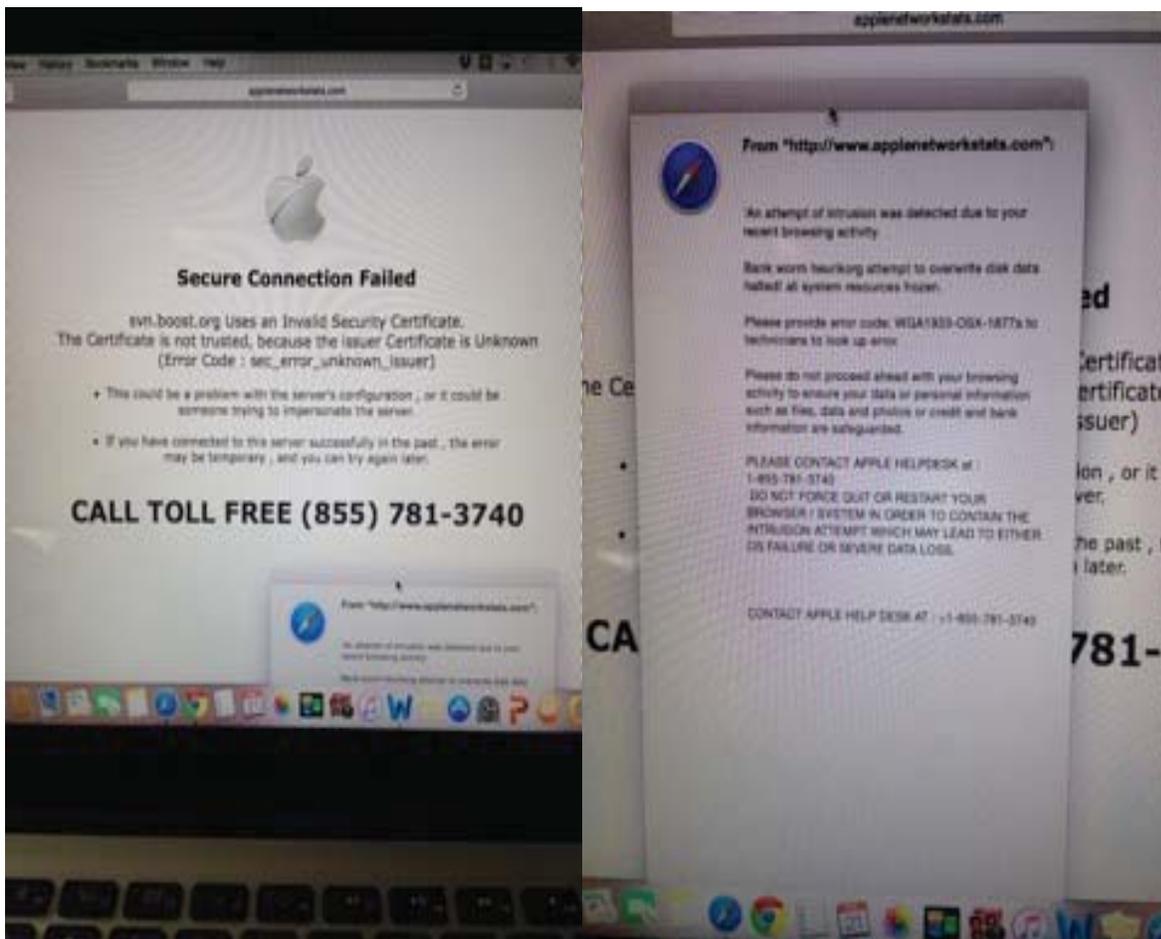
[Image 1]

16. In addition to the windows and text shown above, some pop-ups utilized by Defendants contain audio files, which produce a loud, alarm-type noise that plays while the webpage is open.

17. Efforts to close pop-ups often prove futile. For example, clicking on the “OK” box in the above pop-up window or the close button in the top right corner, will not remove the pop up.

Thus, Defendants generate pop-ups that mislead consumers to believe that their computer is unusable.

18. Another two-part, or layered, deceptive pop-up utilized by Defendants, misleads Macintosh users into believing that their Apple computer has been infected. Specifically, the pop-up states that a “Secure Connection Failed,” and provides a toll-free telephone number to call the “Apple Help Desk.” See Image 2 below.



[Image 2]

19. This pop-up misleads consumers to believe that the warning is coming from their Apple computer, and that the telephone number provided will connect them to an Apple help desk or

customer service representative. Indeed, the telephone number provided in this pop-up will not connect consumers to Apple; but rather, Defendants' call center.

20. Defendants' pop-ups are meant to scare consumers into believing that their computer is not only infected, but that any actions taken, other than calling the toll-free telephone number, will further compromise their computer and/or data. Further, the pop-ups are designed to appear as if they originated from the computer's operating system, leading consumers to believe that the message is legitimate and not a marketing tool employed by Defendants to drive consumers to contact their call center.

21. Consumers contacting Defendants' call center complain of a pop-up message on their computer, warning of some variation of "suspicious activity" or malware infection, affecting their computer. In fact, Defendants' internal employee instructions for sales agents to gain remote access ("PC Connection guide") reference "pop-ups" before the stated instructions on how to gain remote access to the consumer's computer to perform the "diagnostic." Thus, Defendants are aware that consumers contacting its call center are doing so due to a pop-up. For example, prior to step one in the connection process of the guide, there are instructions on how to minimize windows and calm customers' concerns regarding pop-ups, stating:

WIN + D [Simultaneously pressing the Windows and the D key on the keyboard] will bring back the desktop by minimizing all existing windows. If the computer is running really slow and they keep getting pop-ups calm the customer down and restart the PC. Let them know that they can completely ignore anything else that is popping up.

22. In addition, in Defendants' internal employee instructions for sales agents to gain remote access to Macintosh computers (Mac Connection guide), the first section is titled "Closing Safari and getting passed POPUPS/EXTENSIONS."

**Defendants Deceive Consumers Into
Purchasing Computer Security And Technical Support Services**

23. The consumers who dial the number, as instructed in Defendants' deceptive pop-ups, are connected to a sales agent in Defendants' call center, who exploit the consumers' misimpressions from the pop-up, to further convince them that they are in need of computer services and products.

24. Defendants' sales agents, to purportedly find the cause of the pop-up, offer to perform a free "diagnostic" on the consumer's computer. The "diagnostic" is actually a carefully-crafted, manipulative, scripted-sales pitch, which every time leads to the same conclusion that the consumer's computer is in need of immediate servicing.

25. After convincing a consumer that the pop-up indicates that there may be problems with their computer, and that Defendants are qualified to diagnose and fix the problem, the sales agent seeks permission to gain remote access to the consumer's computer in order to identify and resolve the problem. The sales agent directs the consumer to go to a website, enter a code, and follow certain prompts to begin a remote access session.

26. Gaining remote access to the consumer's computer is part of the manipulation involved in convincing the consumer that they need to have their computer immediately fixed. Specifically, the sales agent is not gaining remote access to look for computer-related issues; instead, the sales agent is using the remote access to ultimately convince a consumer that there are issues with their computer that are in need of immediate services and products. The remote

access allows the sales agent to control the mouse, pull up certain windows, and point out various graphics on the computer screen. The sales agents, using a script, point out innocuous graphics and programs, falsely stating that they represent severe issues with the consumer's computer.

27. First, the consumer is directed to open www.support.me and type in a specific six-digit code, in order to allow Defendants to have remote access to the consumer's computer.

28. The sales agent tells the consumer that they may have various malware or malicious software which could have caused the pop-up, and run a system analyzer, made by "Webroot," to scan the system for issues including malware. *See Image 3 below.*



[Image 3]

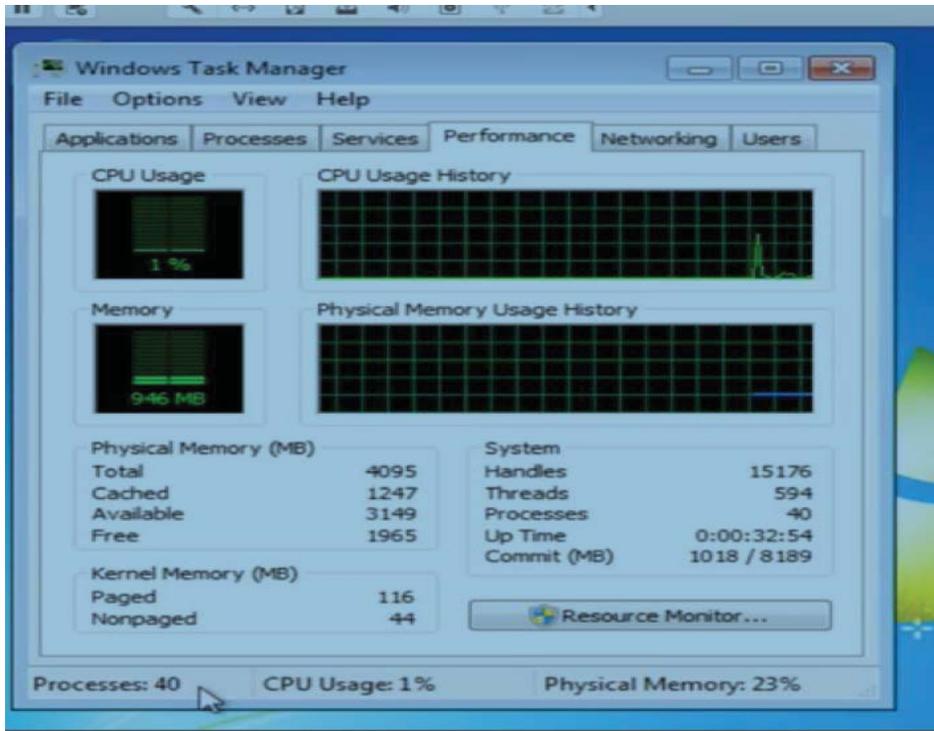
29. Regardless of the result of the Webroot scan, consumers are told by Defendants that their computer is in need of immediate servicing or products. Thus, even if a scan does not reflect that

the computer contains malware, sales agents will recommend virus removal and protection and system optimization.

30. Further, regardless of whether a consumer already has anti-virus software installed on their computer, sales agents always tell consumers that they need to purchase the anti-virus software sold by Defendants. Sales agents repeat this to consumers several times during the diagnostic, which sets the stage to easily upsell consumers on anti-virus software at the end of the diagnostic.

31. The sales script, disguised as the “diagnostic,” continues to instruct the sales agents to open various windows and point out certain graphics, misrepresenting their technical significance, in order to demonstrate to the consumer that their computer is in need of repair.

32. One window shown to consumers, as part of the diagnostic, is the Task Manager. The Task Manager displays running processes and shows various resource usage of the system. The script dictates that the sales agent select the Performance tab, and point out to the consumer the number of processes that are running. Consumers are always told, regardless of the number of processes running, that the number is a further indication that their computer needs to be repaired. *See* Image 4 below.



[Image 4]

33. Consumers are told that the results of the scan and diagnostic show that their computer is compromised and given the same recommendation, which includes “real time protection” and a “manual tune up, virus and infection removal performed by a certified technician.” The sales agent types these recommendations into the remote control software, as shown below. See Image 5 below.



[Image 5]

34. The sales agents also will open the properties of the computer to purportedly examine the memory and other configuration settings, all while commenting on how severely compromised the consumer's computer is. Sales agents have also misrepresented to consumers that the malware infection may have caused physical damage to the consumer's computer.

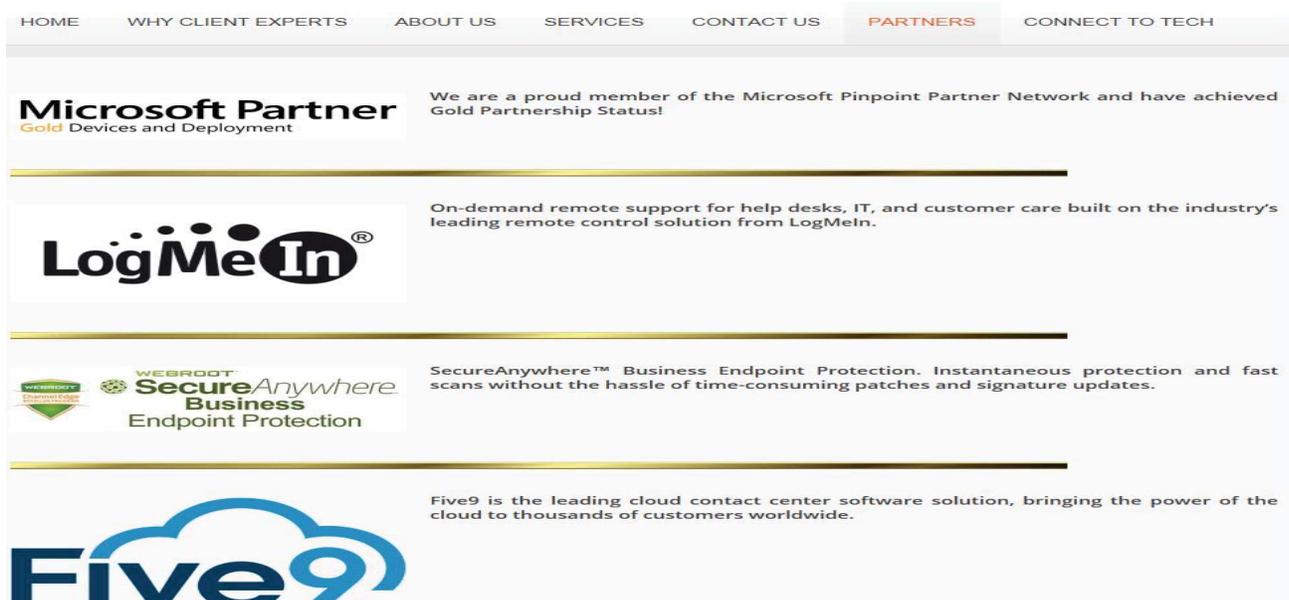
35. Defendants misrepresent the technical significance of their diagnostic tests, and in virtually every instance, claim that the tests have identified performance or security problems on consumer' computers that require immediate repair.

36. The consumers are then told that they need to sign up for services or purchase products to fix their computer issues. Sometimes consumers are told that their computers are infected and

that their computers should have already crashed; other times, consumers have been told that the personal information on their computers have been compromised. To further alarm consumers, Defendants claim that any security software currently running on consumers' computers is outdated and incapable of adequately protecting against the latest and most egregious threats.

37. Many times, consumers believe that they are speaking with a representative from a well-known computer and/or software company, such as Microsoft or Apple. For example, Defendants' purposely use First Choice's paid membership to be part of Microsoft's Pinpoint Network Program, in order to tell consumers that the company is affiliated with Microsoft. Consumers are told that the significance of this affiliation means that First Choice uses certified technicians, upholds certain business practices, and is subject to some level of oversight by Microsoft, which is not true.

38. In addition, Defendants' website, www.firstchoicetechsupport.com, contains a Microsoft Partner logo at the bottom of every subpage, and lists "Microsoft" as the top entry when consumers click on the subpage "Partners." This same logo also appears at the top of subpage, "About Us," and includes a link to the Defendants' Microsoft Pinpoint membership page. *See* Image 6 below.



[Image 6]

39. After being misled into believing that their computers have been compromised, and that First Choice is certified to resolve their computer issues, consumers are informed that they need to immediately bring their computers to a well-known retailer, such as Best Buy or Staples. However, Defendants warn that this option will be costly, take several days to complete, and possibly expose consumers' computers to additional harm caused by incompetent or unscrupulous technicians. As an alternative, Defendants offer to repair consumers' computers remotely that same day while consumers sit in the comfort of their own home.

40. Defendants will then attempt to upsell anti-virus software to consumers, stating that the software will prevent pop-ups, caused by malware infections, in the future.

41. After the consumer is deceived into purchasing the recommended services and software, they are told to leave their computers running to allow Defendants to complete the services within a given number of hours. They are told that a certified technician will repair any issues

on their system and improve the security and performance of their system, and install any programs they have purchased. Consumers are deceived into paying an average of \$300.00 for technical support services and security software.

COUNT I
(Violation Of The Florida Deceptive And Unfair Trade Practices Act)

42. § 501.204 of FDUTPA, Chapter 501, Part II, Florida Statutes, prohibits “unfair or deceptive acts or practices in the conduct of any trade or commerce.”

43. As set forth in Paragraphs 1-41, which allegations are incorporated as if set forth herein, in numerous instances, in the course of marketing, offering for sale, and selling computer security and/or technical support services, the Defendants represent or have represented, expressly or by implication, through a variety of means, including through internet communications and telephone calls, that they have identified problems on consumers’ computers that affect the performance or security of consumers’ computers.

44. In truth and in fact, in numerous instances in which the Defendants have made the representations set forth in Paragraph 43, many problems that the Defendants have identified do not affect the performance or security of consumers’ computers.

45. The Defendants’ representations as set forth in Paragraphs 1-41 of this Complaint are false and misleading and likely to mislead consumers acting reasonably, and/or consumers within the State of Florida were actually misled by the Defendants’ misrepresentations in violation of § 501.204 of FDUTPA.

46. Florida Statutes § 501.207, § 501.2075, and § 501.2077 authorize this Court to grant such relief as this Court finds necessary to redress injury to consumers resulting from Defendants’

violation of FDUTPA, including injunctive relief, the refund of monies paid, the disgorgement of ill-gotten monies, and civil penalties.

CONSUMER INJURY

47. Defendants' above-described acts and practices have injured and will likely continue to injure and prejudice the public and consumers in the State of Florida.

48. In addition, Defendants have been unjustly enriched as a result of their deceptive acts or practices.

49. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, the continued activities of Defendants will result in irreparable injury to the public and to consumers in the State of Florida for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, Attorney General, pursuant to the Florida Deceptive and Unfair Trade Practices Act ("FDUTPA"), Fla. Stat. § 501.201 et seq., requests that this Court:

- A. Award Plaintiff such preliminary injunctive relief as may be necessary to avert the likelihood of consumer injury during the pendency of this action and to preserve the possibility of effective final relief, including but not limited to, temporary and preliminary injunctions, and an order providing for immediate access, the turnover of business records, an asset freeze, the appointment of a receiver, and the disruption of domain and telephone services;

- B. Enter a permanent injunction to prevent future violations of the FDUTPA by Defendants;
- C. Award such relief as the Court finds necessary to redress injury to consumers resulting from the Defendants violations of the FDUTPA, including but not limited to, restitution to all consumers who are shown to have been injured, pursuant to § 501.207, Fla. Stat.; and such equitable or other relief as is just and appropriate pursuant to § 501.207, Fla. Stat., including but not limited to, disgorgement of ill-gotten gains and repatriation of assets necessary to satisfy any judgment.
- D. Assess civil penalties in the amount of Ten Thousand Dollars (\$10,000.00) as prescribed by § 501.2075, Fla. Stat. or Fifteen Thousand Dollars (\$15,000.00) for victimized senior citizens as prescribed by § 501.2077, Fla. Stat. for each act or practice found to be in violation of Chapter 501, Part II, of the Florida Statutes.
- E. Award attorneys' fees and costs pursuant to § 501.2075, Fla. Stat. or as otherwise authorized by law.
- F. Grant such other relief as this Court deems just and proper.

Dated this ____ day of June, 2016

Respectfully Submitted,

**PAMELA JO BONDI
ATTORNEY GENERAL**

/s/ Michelle Pardoll

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