

**IN THE CIRCUIT COURT OF THE SIXTH CIRCUIT
IN AND FOR PINELLAS COUNTY, FLORIDA
CIVIL DIVISION**

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

Plaintiff,

v.

**SHANTI CC CLEARWATER, LLC, a Florida
Limited Liability Company, d/b/a RED ROOF
INN CLEARWATER, SHANTI CC
HOLDING, LLC, a Delaware Limited Liability
Company, PACKARD HOSPITALITY
MANAGEMENT, LLC, a Foreign Limited
Liability Company, and MICHAEL
GOLDSTEIN, an Individual,**

Defendants.

Case Number:

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Attorney General”), sues Defendants, Shanti CC Clearwater, LLC (“Shanti”) d/b/a Red Roof Inn Clearwater (“Red Roof”), Packard Hospitality Management, LLC (“Packard”), Shanti CC Holding, LLC (“Shanti Holding”), and Michael Goldstein, an individual (“Goldstein” and together with Shanti, Packard, and Shanti Holding, “Defendants”), and alleges the following:

JURISDICTION AND VENUE

1. This is an action for injunctive relief, restitution, disgorgement, civil penalties, attorney's fees and costs, and other statutory relief against Defendants pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes ("FDUTPA"), and Section 501.160, Florida Statutes (2016), prohibiting unconscionable prices in the rental or sale of essential commodities during a declared state of emergency.

2. This Court has jurisdiction pursuant to the provisions of FDUTPA. The Attorney General seeks relief in an amount greater than Fifteen Thousand Dollars (\$15,000.00), exclusive of interest, costs, and attorney's fees.

3. Defendant Shanti's principal place of business is located in Pinellas County. The statutory violations alleged herein affect or occurred in the Sixth Judicial Circuit in and for Pinellas County, Florida. Accordingly, the venue is proper in Pinellas County and in the Sixth Judicial Circuit, pursuant to the provisions of FDUTPA.

4. All actions material to this Complaint occurred in 2016, and within four (4) years of the filing date of this action.

5. The Attorney General has conducted an investigation of the matters alleged herein, and the head of the enforcing authority, Attorney General Pamela

Jo Bondi, has determined that this enforcement action serves the public interest, as required by Section 501.207(2), Florida Statutes (2016).

6. All conditions precedent to this action have been performed, or have occurred.

PARTIES

7. Plaintiff, the Attorney General, is an enforcing authority pursuant to Section 501.203(2) of FDUTPA and Section 501.160(8), Florida Statutes, and is authorized to bring this action and seek injunctive and other statutory and equitable relief pursuant to FDUTPA and Sections 501.160 and 501.164, Florida Statutes.

8. Defendant Shanti is an active Florida limited liability company registered with the State of Florida, Department of State, Division of Corporations, since January 2016, with its principal place of business located at 3580 Ulmerton Road, Clearwater, FL 33762. Shanti conducts and, at all times material hereto, has conducted business from within the state of Florida.

9. Defendant Shanti operates and, at all times material hereto, has operated, Red Roof, an overnight lodging business, which offers rooms for rent (“Lodging Business”) at 3580 Ulmerton Road, Clearwater, FL 33762.

10. Defendant Shanti, at all times material hereto, has done business as Red Roof; however, it has never registered Red Roof as a fictitious name in the state of Florida and is thereby in violation of Section 865.09, Florida Statutes. In

March 2016, Defendant Shanti entered into a franchise agreement with Red Roof Franchising, LLC.

11. Defendant Shanti Holding is an active Delaware limited liability company. Defendant Shanti Holding is and, at all times material hereto, has been a manager of Defendant Shanti.

12. Defendant Packard is an active foreign limited liability company registered with the State of Florida, Department of State, Division of Corporations to transact business in Florida since October 2012, with its principal place of business located at 9555 Chesapeake Drive, Suite 202, San Diego, CA 92123.

13. Defendant Packard manages and, at all times relevant hereto, has managed Defendant Shanti's Lodging Business.

14. Defendant Michael Goldstein is an individual who, upon information and belief, resides and, at all times material hereto, has resided in San Diego, CA 92123.

15. Defendant Goldstein is, and at all times material hereto, has been a managing member of Shanti Holding.

16. Defendant Goldstein, upon information and belief, directly participates in, manages, operates, and controls and, upon information and belief, at all times material hereto, has participated in, managed, operated, and controlled the operations of Shanti, Shanti Holding, and Packard, including, but not limited

to, upon information and belief, making all operational and financial decisions for Shanti, Shanti Holding, and Packard.

17. Upon information and belief, Defendant Goldstein holds either a direct or indirect interest in Shanti, Shanti Holding, and Packard.

18. Defendants engage and, at all times material hereto, have engaged in “trade or commerce” as defined in Section 501.203(8), Florida Statutes, by offering rooms for rent.

DEFENDANTS’ COURSE OF BUSINESS

19. On October 3, 2016, Florida Governor Rick Scott, following the forecast from the National Hurricane Center, which suggested that large portions of the East Coast of Florida may face significant impact from Hurricane Matthew, issued Executive Order 16-230 declaring a state of emergency in every county in the state of Florida (“State of Emergency”). Upon declaration of the State of Emergency relating to Hurricane Matthew, Attorney General Pamela Jo Bondi activated a price gouging hotline to enable consumers to contact the Attorney General and report excessive increases in the prices of essential items, such as food, ice, gas, hotels, lumber, and water during the State of Emergency, in violation of Section 501.160, Florida Statutes.

20. On October 6, 2016, Hurricane Matthew strengthened into a dangerous category 4 hurricane, with sustained winds ranging from 130 mph to

156 mph, and began hitting Florida in an expected 500-mile trek of life-threatening winds and storm surge from West Palm Beach to South Carolina. Governor Scott issued a warning to over 1.5 million coastal residents located in certain evacuation zones that Hurricane Matthew may become deadly and urged them to leave their homes and seek shelter. President Obama declared a state of emergency in more than two dozen Florida counties as a potentially catastrophic storm approached. Residents along the East Coast of Florida fled for their safety and sought accommodations at hotels in the Tampa Bay area.

21. On October 7, 2016, Hurricane Matthew moved very close along the Eastern Coast of Florida as a category 4 hurricane, with wind gusts reported as high as 87 mph in Jacksonville, 91 mph in Daytona Beach, and 107 mph in Cape Canaveral, causing major wind and flood damage to homes and businesses, and leaving over one million Floridians without power. In Florida, at least 11 deaths can be attributed to either the storm itself, events leading up to the storm, or its aftermath.

22. Section 9 of Executive Order 16-230 issued by Governor Scott on October 3, 2016 provides as follows:

“Pursuant to Section 501.160, Florida Statutes, it is unlawful and a violation of Section 501.204 for a person to rent or sell or offer to rent or sell at an unconscionable price within the area for which the state of emergency is declared, any essential commodity including, but not limited to, supplies, services, provisions, or equipment that is

necessary for consumption or use as a direct result of the emergency.”

23. During a State of Emergency, a price for the rental or lease of any dwelling unit is considered “unconscionable” under Section 501.160, Florida Statutes, if it represents a “gross disparity” between the price being charged during the emergency and the average price in effect during the thirty (30) days prior to a state of emergency. In this instance, when Governor Scott issued the order on October 3, 2016 declaring a state of emergency for Hurricane Matthew, Pinellas County was still under a previously declared, 60-day state of emergency in Executive Order 16-205 for tropical Depression #9, which later became Tropical Storm Hermine.

24. Defendants engaged in unconscionable pricing practices in violation of Section 501.160 when the prices charged during Hurricane Matthew are compared both to the average prices being charged thirty (30) days prior in September, when the state of emergency for Hermine was in effect, and thirty (30) days prior to that in August, when no state of emergency was in effect for Pinellas County.

25. Defendants’ unconscionable pricing practices and unconscionable, deceptive and unfair acts and practices in trade or commerce during the State of Emergency are illustrated by the following facts:

A. Red Roof raised room rates on October 6 and 7, 2016 (“Evacuation Days”) for many guests who were evacuating their homes due to Hurricane Matthew. By way of example, at least twenty-seven (27) Red Roof guests paid approximately between \$117.00 and \$210.00 per night on Evacuation Days. This is a gross disparity between the average price charged for rooms in August and September which ranged from \$62.00 in August to \$61.00 in September. The October increases during Hurricane Matthew represent nightly room rate increases of approximately 89% to 238% over the average nightly rate of \$62.00 paid in August. Some guests were charged \$148.00 more than the average nightly rate during the relevant period.

B. In the days following Hurricane Matthew, Red Roof reduced their nightly rates to an average of \$61.00 per night.

26. Many Floridians paid extremely high and unconscionable prices for rooms at Red Roof during the Evacuation Days, when compared to the average nightly rates charged in August, thirty (30) days prior to the State of Emergency declared related to Hermine, as well as in September, thirty (30) days prior the State of Emergency declared related to Hurricane Mathew.

COUNT I
UNCONSCIONABLE PRICING
DURING DECLARED STATE OF EMERGENCY
(VIOLATIONS OF SECTION 501.160, FLORIDA STATUTES)

27. The Attorney General re-alleges and incorporates by reference paragraphs 1-26 above.

28. Pursuant to Section 501.160(3), Florida Statutes, charging unconscionable prices for the rental or lease of any dwelling unit is unlawful.

29. Section 501.160, Florida Statutes, provides that it is *prima facie* evidence that a price is unconscionable if there is a gross disparity between the present price charged and the average price charged, in the usual course of business, during the 30 days prior to a declaration of a state of emergency, or the price grossly exceeds the average prices at which the same or similar goods were available 30 days immediately prior to the state of emergency.

30. By engaging in the activities described in paragraph 25 above, such as increasing its nightly room rates by approximately 89%-238% and in some instances charging guests \$148 more than the average nightly rate during the relevant period prior to the State of Emergency, Defendants have charged grossly excessive and unconscionable nightly rates and have violated Section 501.160, Florida Statutes.

31. Pursuant to Section 501.164, Florida Statutes, Defendants are subject to a penalty of up to \$1,000.00 per violation with an aggregate total not to exceed \$25,000.00 for any 24-hour period.

32. These above-described acts and practices of Defendants have injured the public.

33. Defendants willfully engaged in the acts and practices when they knew or should have known that said acts and practices were unfair or deceptive or prohibited by law.

COUNT II
FLORIDA DECEPTIVE AND UNFAIR TRADE PRACTICES ACT
(VIOLATIONS OF SECTION 501.204, FLORIDA STATUTES)

34. The Attorney General re-alleges and incorporates by reference paragraphs 1-26 and further alleges:

35. Section 501.204(1), Florida Statutes (“FDUTPA”), declares unconscionable acts or practices in the conduct of any trade or commerce to be unlawful.

36. As set forth in Section 501.160(3), Florida Statutes, charging unconscionable prices in a declared state of emergency is a violation of FDUTPA. By undertaking the activities described in paragraph 25 herein, such as increasing its nightly room rates by approximately 89%-238% and in some instances charging guests \$148 more than the average nightly rate during the relevant period prior to the State of Emergency, Defendants have engaged in unconscionable, unfair, and/or deceptive acts and practices in violation of Section 501.204, Florida Statutes.

37. As set forth in paragraph 25, above, Defendants have 1) committed acts or practices in trade or commerce, which shock the conscience, engaged in representations, acts, practices or omissions, which are material, and which are likely to mislead consumers acting reasonably under the circumstances; 2) committed acts or practices in trade or commerce which offend established public

policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers; and/or 3) engaged in acts or practices that are likely to cause substantial injury to consumers, which are not reasonably avoidable by consumers themselves or outweighed by countervailing benefits to consumers or competition. Thus, Defendants have engaged in unfair or deceptive acts or practices in the conduct of any trade or commerce in violation of FDUTPA.

38. These above-described acts and practices of Defendants have injured the public.

39. Defendants have willfully engaged in the acts and practices when they knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law. Defendants are subject to civil penalties for willful violations of FDUTPA in the amount of Ten Thousand Dollars (\$10,000.00) for each violation pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000.00) for each violation that victimized or attempted to victimize, a senior citizen pursuant to Section 501.2077, Florida Statutes.

RELIEF REQUESTED

WHEREFORE, the Attorney General respectfully requests that this Court enter judgment:

A. Permanently enjoining Defendants, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with

them, who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of FDUTPA and Section 501.160, Florida Statutes, as specifically alleged above and any similar acts and practices relating to charging unconscionable prices for rooms during a state of emergency;

B. Awarding equitable remedies, including refunds to consumers and disgorgement of revenues;

C. Assessing against Defendants civil penalties in the amount of Ten Thousand Dollars (\$10,000.00) for each violation of FDUTPA in accordance with Section 501.2075, Florida Statutes, Fifteen Thousand Dollars (\$15,000.00) for each violation that victimized or attempted to victimize, a senior citizen in accordance with Section 501.2077, Florida Statutes, and up to One Thousand Dollars (\$1,000.00) for each violation with an aggregate total not to exceed Twenty-Five Thousand Dollars (\$25,000.00) for any 24-hour period, in accordance with Section 501.164, Florida Statutes;

D. Awarding the Attorney General reasonable attorney's fees and costs pursuant to the provisions of Section 501.2105 of FDUTPA, and as otherwise allowable by applicable statutes or law;

E. Ordering Defendants to register all fictitious names, including Red Roof Inn Clearwater, with the state of Florida, pursuant to Section 865.09, Florida Statutes (2016); and

F. Awarding any other equitable relief pursuant to Section 501.207, Florida Statutes, and such other relief as the interests of justice shall require and that this Honorable Court may deem just and proper.

Dated this 20th day of December, 2016.

Respectfully Submitted,
PAMELA JO BONDI
ATTORNEY GENERAL

By: /s/ Robert J. Follis

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