

**IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT
IN AND FOR PASCO COUNTY, FLORIDA
- CIVIL DIVISION -**

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

**CASE NO.:
DIVISION:**

Petitioner,

vs.

**Brelvis Consulting, LLC, d/b/a
The Student Loan Help Center,
a Florida Limited Liability Company,**

Respondent.

**ATTORNEY GENERAL'S PETITION FOR AN ORDER COMPELLING
COMPLIANCE WITH AN INVESTIGATIVE SUBPOENA DUCES TECUM**

Petitioner, Office of the Attorney General, State of Florida, Department of Legal Affairs (the "Attorney General"), by and through the undersigned counsel, hereby petitions this Court pursuant to Section 501.206(3), Florida Statutes, for an order compelling respondent, Brelvis Consulting, LLC, d/b/a The Student Loan Help Center ("Respondent" or "Student Loan Help Center"), to comply with the Attorney General's *Investigative Subpoena Duces Tecum* ("Investigative

Subpoena”) issued to Respondent on November 4, 2016. In support of this Petition, the Attorney General states:

1. Chapter 501, Part II of the Florida Statutes is the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”). Pursuant to Section 501.203(2), Florida Statutes, the Attorney General is an “enforcing authority” under FDUTPA. Furthermore, according to Section 501.206(1), Florida Statutes, “[i]f, by his or her own inquiry or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates this part, he or she may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.”

2. The Attorney General has an open investigation of Respondent’s business practices, and on November 4, 2016, the Attorney General served the Investigative Subpoena on Respondent, a true and correct copy of which is attached hereto as **Exhibit A**.

3. This Court has jurisdiction over this Petition pursuant to Section 501.206(3), Florida Statutes, which states: “Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the enforcing authority may apply to the circuit court for an order compelling compliance.”

4. At all times material hereto, Respondent, whose business is located in Wesley Chapel, Pasco County, Florida, has been engaged in “trade or commerce,” as defined in Section 501.203(8), Florida Statutes, by, including but not limited to, offering or providing various student loan help consulting services, marketing student loan help services, and billing for student loan help services.

5. As a result of consumer complaints received by the Attorney General and the Better Business Bureau (“BBB”) against Respondent, the Attorney General initiated an investigation into the acts and business practices of Respondent, in accordance with FDUPTA.

6. To date, the Attorney General has received at least fourteen (14) complaints from consumers regarding Respondent’s business practices during the time-period of January 1, 2015 through the present day; the Attorney General received most of such complaints in 2016. Additionally, the BBB has received more than one-hundred and six (106) complaints from consumers relating to Respondent’s business practices during the time-period of January 1, 2015 through the present day; the BBB also received the majority of these complaints in 2016.

7. The possible FDUTPA violations under investigation affect more than one judicial circuit in the State of Florida.

8. Based upon the investigation conducted to date, the Attorney General has reason to believe that Respondent has engaged in, and may continue to be engaged in, acts or practices which violate FDUTPA.

9. Therefore, on November 4, 2016, the Attorney General issued and served the Investigative Subpoena on Respondent. The documents requested through the Investigative Subpoena were due on November 17, 2016.

10. Ms. Jacquelyn Mack-Majka, Esq., Respondent's counsel, contacted the Attorney General's office by email on November 16, 2016, requesting a twenty (20) day extension. The Attorney General granted an extension to comply with the Investigative Subpoena through December 14, 2016. However, the Respondent did not comply as of such date.

11. On January 4, 2017, the Attorney General's office called Respondent's counsel, Ms. Mack-Majka, and left a voice message inquiring about the status of the production for the subpoena.

12. On January 12, 2017, the Attorney General's office spoke to Ms. Mack-Majka, who requested an additional extension, and the parties agreed that Respondent had an additional extension to comply with the Investigative Subpoena by January 23, 2017. Respondent did not comply with this additional agreed extension.

13. Finally, almost three months after being served the Investigative Subpoena, on February 1, 2017, Respondent, through its counsel submitted a written objection (the “Objection”) to the Investigative Subpoena and failed to produce a single document in response thereto. Respondent’s Objection to the Investigative Subpoena is attached hereto as **Exhibit “B”**.

14. After receiving the Objection, the Attorney General attempted to schedule a conference call with Ms. Mack-Majka, and finally on March 13, 2017, counsel for the Attorney General and counsel for Respondent conferred and discussed the Objection.

15. On March 28, 2017, the Attorney General sent a letter to Respondent’s counsel to further confer on the Objection to the Investigative Subpoena. In this letter, in addition to responding to Respondent’s objections, the Attorney General also refined and clarified two of the requests in the Investigative Subpoena in an attempt to resolve some of Respondent’s objections. A copy of the March 28, 2017 letter is attached hereto as **Exhibit “C”**.

16. As of the date of this Petition, the Respondent has not produced any documents or other material in response to the Investigative Subpoena, nor has the Respondent provided a proper response outlining whether it has any responsive documents to requests set forth in the Investigative Subpoena.

17. Most of Respondent's objections to the Investigative Subpoena are premised on the argument that the Investigative Subpoena is not a properly authorized subpoena because it lacks "any factual allegations describing the investigation." Florida law does not require the Attorney General to specifically allege Respondent's wrongful conduct in the Investigative Subpoena. Rather, the Investigative Subpoena clearly states that it is investigating Respondent and that the investigation is pursuant to Sections 501.204 and 501.206, Florida Statutes, the full text of which are included in the Investigative Subpoena. Section 501.204 states that "unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce are hereby declared unlawful."

18. As stated above, the Attorney General received numerous complaints regarding Respondent's business practices of Student Loan Help Center. Such complaints include allegations of Respondent's failure to render services, misrepresentations regarding the amount of student loan reduction available, misrepresentations regarding services, harassing phone calls, and potential "do not call" violations. Section 501.206, Florida Statutes, provides that if the Attorney General "has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates this part, he or she may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence." Therefore,

because the Attorney General has reason to believe that Respondent has engaged in, or is engaging in, acts or practices that violate FDUTPA, the Investigative Subpoena was properly issued.

19. Additionally, the requests in the Investigative Subpoena are not too indefinite and the information sought is reasonably relevant to the Attorney General's investigation. In part, the caselaw cited by the Respondent discusses the production of all or a substantial part of the books and records of a subpoenaed party, and the Attorney General has not requested all, or a substantial portion, of the books and records of the Respondent. Rather, the requests are narrowly tailored for the investigation. For example, in Request No. 9, the Attorney General only requested the complete file for twenty-one (21) customers, as opposed to all of Respondent's customers. Furthermore, as stated above, the Attorney General attempted to confer with Respondent on the requests in the Investigative Subpoena and voluntarily refined two of the requests.

20. Finally, even if Respondent believed that the Investigative Subpoena was overbroad and unduly burdensome, then according to Section 501.206, Florida Statutes, Respondent had the burden "[w]ithin 5 days, excluding weekends and legal holidays, after service of a subpoena or at any time before the return date specified therein, whichever is longer" to file an objection in the circuit court and serve on the Attorney General a petition for an order modifying or setting aside the

subpoena. Respondent never filed an objection with the circuit court, nor did it file and serve a petition for an order modifying or setting aside the Investigative Subpoena.

21. Due to Respondent's lack of compliance with the Investigative Subpoena, the Attorney General has been required to file this petition to compel compliance. In addition to compelling the Respondent to comply with the Investigative Subpoena, the Attorney General requests that the Court impose a civil penalty, reasonable attorney's fees and costs in accordance with Section 501.206(5), Florida Statutes.

WHEREFORE, the Attorney General respectfully requests this Court to enter an Order compelling compliance by Student Loan Help Center with the Attorney General's Investigative Subpoena Duces Tecum, and the entry of a civil penalty and reasonable attorney's fees and costs against Student Loan Help Center in favor of the Attorney General, and for such other relief that is just and proper.

Dated this 16th day of May, 2017.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Jennifer Hayes Pinder _____

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