

**IN THE CIRCUIT COURT OF THE  
SEVENTEETH JUDICIAL CIRCUIT  
IN AND FOR BROWARD COUNTY, FLORIDA**

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

**Plaintiff,**

**CASE NO.:**

**v.**

**ADVOCACY AND COLLECTIONS  
GROUP, INC., a Florida corporation and  
DENIS CHIRA, an individual, NANCY  
ALLEN, an individual, and RODERICK  
DARANG, an individual,**

**Defendants.**

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**PLAINTIFF'S MOTION AND SUPPORTING MEMORANDUM  
FOR TEMPORARY INJUNCTION WITH NOTICE**

Plaintiff, **OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS, STATE OF FLORIDA** (“**PLAINTIFF**” or “**ATTORNEY GENERAL**”), by and through the undersigned attorney, moves this Court for injunctive relief with notice pursuant to Section 501.207(3) of the Florida Statutes and Florida Civil Procedure Rule 1.610.

Specifically, the Attorney General seeks an order that prohibits Defendants **ADVOCACY & COLLECTIONS GROUP, INC., (“ACG”), a Florida Profit Corporation NANCY ALLEN (“ALLEN”), an individual, DENIS CHIRA**

**(“CHIRA”), an individual, and RODERICK DARANG (“DARANG”), an individual,** (“hereinafter collectively referred to as **“DEFENDANTS”**”) and their agents from, among other acts and practices:

- 1) Requesting, charging and/or receiving upfront payments from consumers for fee-recovery services, i.e., services purported to recover or otherwise assist consumers in obtaining the return of money or any other item of value paid for by consumers in previous telemarketing transactions;
- 2) Marketing, advertising, or making any representation which falsely states, misrepresents and/or omits material facts pertaining to the true nature and/or efficacy of Defendants’ fee recovery services; and
- 3) Submitting any application for registration or licensure under the Florida Telemarketing Act, Sections 501.601 through 501.626, Fla. Stat. and/or the Florida Commercial Collection Practices Act, Section 559.541 through 559.548, Fla. Stat. until the conclusion of this litigation or upon further order of this court.

## **I. INTRODUCTION**

Since at least January 2014, Defendants have falsely and deceptively promoted ACG as a “specialized” recovery service company, which purports to help victims of prior scams obtain a return of their lost funds.. Defendants’ marketing ploy is designed to assure these victims of ACG’s legitimacy, persuade

them they need ACG's services to recover their funds , and hide the fact that ACG has failed to negotiate even a single recovery on behalf of a client.

Consumers, misled into believing that ACG will be able to obtain substantial recoveries through its coordination with government agencies and attorneys, pay ACG hundreds to tens of thousands of dollars in advance fees. In reality, ACG does not coordinate with government agencies or provide legal services. Instead, Defendants' negotiation efforts consist of sending demand letters to the companies/individuals who perpetuated the initial fraud and mailing chargeback requests to consumers' credit card companies. Not surprisingly, consumers do not receive substantial recoveries and typically recover none of their prior losses. Rather, these consumers lose even more money to Defendants' scam. Simply put, Defendants prey on these victims' desperation and vulnerability, and end up victimizing them even further.

Furthermore, Defendants' other business acts and practices, such as the collection of upfront payments for services that assist telemarketing fraud victims and refusal to provide refunds, are practices expressly prohibited by law.

Defendants are no strangers to questionable telemarketing and fee recovery practices. Prior to opening ACG, Defendants Chira, Allen and Darang (the "Individual Defendants") worked for Consumer Collection Advocates, Corp. ("CCA"), another purported fee recovery company that is the subject of legal

action by both the Federal Trade Commission and this Department for similar unfair and deceptive practices. Additionally, Defendant Darang now operates Florida Capital Recovery, LLC, a putative fee recovery business which engages in acts and practices substantially similar to ACG and CCA.

As a result of Defendants' continuing unfair and deceptive acts and practices that harm victims of previous financial scams, Defendants should be enjoined from engaging in such practices.

## **II. STATEMENT OF FACTS**

The facts on which the instant motion is based are contained in the Aff. of John Konopka, attached hereto as Ex. A.

## **III. ARGUMENT**

This action is brought under the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes ("FDUTPA"). The Attorney General is the enforcing authority of FDUTPA. § 501.203(2), Fla. Stat.

Defendants' business is located in Florida, the conduct giving rise to the allegations occurred in Florida, and Florida consumers have been victimized by Defendants' conduct. Further, Defendants are engaged in "trade or commerce," defined by FDUTPA as "the advertising, soliciting, providing, offering or distributing . . . of any good or service, or any property . . . or thing of value." § 501.203(8), Fla. Stat. Consumers are defined as "an individual; . . . business; firm;

association; joint venture; partnership; . . . or any other group or combination.” § 501.203(7), Fla. Stat. Therefore, Defendants’ acts fall within the purview of FDUTPA.

### **A. Applicable Standard for Temporary Injunctive Relief**

Florida Rule of Civil Procedure 1.610 authorizes injunctive relief upon an appropriate showing. Generally, temporary injunctive relief is an extraordinary remedy to preserve the status quo and requires a showing of irreparable harm, an inadequate remedy at law, substantial likelihood of success on the merits and public interest. *Jouvence Ctr. For Advanced Health, LLC v. Jouvence Rejuvenation*, 14 So. 3d 1097, 1099 (Fla. 4th DCA 2009). However, in Florida it is well-established that, under FDUTPA, the enforcing authority may obtain temporary injunctive relief based simply upon a showing of a clear legal right:

However, because section 501.207(1)(b) expressly authorizes the Department to seek injunctive relief on behalf of the state, the Department does not have to establish irreparable harm, lack of an adequate legal remedy or public interest. ***The Department's sole burden at a temporary injunction hearing under FDUTPA is to establish that it has a clear legal right to a temporary injunction.***

*Millennium Communs. & Fulfillment, Inc. v. Office of the Attorney General, Department of Legal Affairs*, 761 So. 2d 1256, 1260 (Fla. 3d DCA 2000) (emphasis added; citations omitted).

In *State v. Beeler*, 530 So. 2d 932 (Fla. 1988), the Florida Supreme Court reviewed the issuance of a temporary injunction without notice. The court, in *Beeler*, felt “compelled to mention the sufficiency of the allegations” in language that is germane to the instant application and said:

The state’s complaint is replete with averments of fraud and misrepresentations against Beeler, including the creation of bogus mortgage paper, concealing funds, and inflating property values. Sworn Aff.s reveal that Beeler had to continuously seek out new investors to avoid the collapse of his scheme. ***In light of the evidence of an ongoing course of fraud and deception the trial court did not abuse its discretion when it issued the temporary injunction.***

*Id.* at 934 (emphasis added).

The language of the United States District Court for the Southern District of Florida in *U.S. v. Sene X Eleemosynary Corp., Inc.*, 479 F. Supp. 970 (S. D. Fla. 1979) is germane to the Attorney General’s request for injunctive relief: “Where an injunction is authorized by statute, it is proper to issue such an order to restrain violations of the law if the statutory conditions are satisfied.” *Id.* at 980. “Proof of irreparable harm . . . need not be established . . .” and “. . . the government is not bound to prove the absence of an adequate remedy at law where a statute authorizes an injunction.” *Id.* at 981.

Accordingly, the Attorney General need only show a clear legal right for temporary injunctive relief against Defendants in the present case. That clear legal right is amply present in light of Defendants' ongoing course of deception in violation of FDUTPA, as well as their acts and practices which violate the Telemarketing Sales Rule ("TSR"), 16 C.F.R. Part 310, as amended, and the Florida Telemarketing Act ("FTA"), §§ 501.601 through 501.626, Fla. Stat.

### **B. FDUTPA Violations**

FDUTPA provides 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." Misrepresentations, false statements or omissions of material fact constitute deceptive acts or practices prohibited by FDUTPA.

Additionally, pursuant to Section 501.203(3)(c), Fla. Stat., "a per se violation of FDUTPA occurs when the transgression stems from any law, statute, rule, regulation, or ordinance which proscribes unfair methods of competition or unfair, deceptive, or unconscionable acts or practices." *Williams v. Delray Auto Mall, Inc.*, 916 F. Supp. 2d 1294 (S.D. Fla. 2013).

## **C. Defendants' Acts and Practices Violate FDUTPA**

### *Summary of Defendants' FDUTPA Violations*

ACG has been in operation since at least January 2014. *See Ex. A, Konopka Affidavit, ¶ 6.* ACG markets its “specialized services,” which Defendants claim return funds lost in previous financial schemes to the victims of these prior scams. *See Ex. A, Konopka Aff., ¶¶ 7, 64.* In addition to these putative “fee recovery services,” Defendants claim to provide fraud protection services to consumers. *See Ex. A, Konopka Aff., ¶ 8.* Defendants cold call victims of financial scams, many of whom are seniors, to sell ACG’s purported fee recovery services. *See Ex. A, Konopka Aff., ¶¶ 11 - 14.*

Upon being confronted unexpectedly with the promise of receiving significant amounts of funds back, these frequently hesitant victims are ultimately convinced by Defendants’ aggressive marketing and false representations that Defendants will protect and help consumers. *See Ex. A, Konopka Aff., ¶ 15, 17 64 and 71.* These victims rely on Defendants’ false and misleading sales pitch, which leads them to believe that they will have a better chance of success getting their monies back by paying ACG to help them. *See Ex. A, Konopka Aff., ¶ 18.*

As described in further detail below, Defendants falsely advertise ACG’s fee recovery services as licensed commercial collection activities, routinely make false statements and misrepresentations, and omit material facts regarding the nature and

efficacy of Defendants' fee recovery services, among other deceptive acts and practices, in violation of FDUTPA. Furthermore, the Defendants collect upfront "retainer" fees from victims of previous telemarketing scams in violation of the TSR and refuse to provide refunds in violation of the FTA. These acts and practices constitute *per se* FDUTPA violations.

### ***1. Defendants' Illegal Upfront Fees***

The TSR prohibits deceptive and abusive telemarketing acts or practices. As amended, 16 C.F.R. Part 310.4(a)(3) prohibits Defendants from requesting or receiving upfront payments from consumers for "services represented to recover or otherwise assist in the return of money or any other item of value paid for by, or promised to, that consumer in a previous telemarketing transaction." Defendants engage in the exact practice that is prohibited by the TSR. ***See Ex. A, Konopka Aff.***, ¶¶ 20 - 22. Therefore, pursuant to Section 501.203(3)(c), Fla. Stat., Defendants' practice of charging the above-described upfront fees in violation of the TSR constitutes a *per se* FDUTPA violation subject to the penalties and remedies provided for such violations.

### ***2. Defendants' False Statements, Misrepresentations and Omissions***

False statements, misrepresentations and omissions of material fact constitute an unfair and deceptive act and/or practice in violation of FDUTPA. As described in further detail below, Defendants deceptively represent ACG's

business status and purported fee recovery services to induce consumers to pay substantial upfront “retainer” fees and enter into service agreements for ACG’s services.

*a. Defendants’ False Representations Regarding ACG’s Ability to Recover Funds*

Defendants routinely make false and misleading misrepresentations and omit material facts pertaining to the likelihood that ACG will quickly and successfully obtain substantial recoveries for consumers. Specifically, Defendants make the following misrepresentations to consumers:

- Funds are already available for the consumer and consumers simply need to hire ACG to claim the funds; **See Ex. A, Konopka Aff., ¶ 67(a)**
- Recovery on behalf of the consumer is guaranteed; **See Ex. A, Konopka Aff., ¶ 67(b)**
- ACG does not accept cases unless they [ACG] determine that the consumers’ lost fees are recoverable; **See Ex. A, Konopka Aff., ¶ 67(c)**
- ACG often returns 60-70% of funds as opposed to government agencies whose returns can be as low as 10%; **See Ex. A, Konopka Aff., ¶ 67(d)**, and
- We [ACG] do not lose; **See Ex. A, Konopka Aff., ¶ 67(e)**.

In truth and in fact, Defendants have not negotiated a single recovery on behalf of a client. **See Ex. A, Konopka Aff., ¶ 68 and 88**. In fact, ACG’s representations that “we do not loose [sic]” are admittedly “just a sale – just a confidence builder statement.” **See Ex. A, Konopka Aff., ¶ 70**. Furthermore,

neither ACG nor its representatives are privy to information that would indicate whether recovered funds were already available to a consumer. *See Ex. A, Konopka Aff., ¶ 69.*

*b. Defendants' False Representations Regarding ACG's Relationships and Coordination with Government Agencies*

Defendants routinely misrepresent ACG's coordination and relationships with State and Federal government agencies. Specifically, Defendants represent to consumers that ACG "works diligently and has extensive experience working with FINRA, SEC, CFTC, DOJ, FCC, Texas Railroad Commission, Dept. of Agriculture & Consumer Affairs, Attorney General's Office, BBB & the FBI." *See Ex. A, Konopka Aff., ¶ 72.*

In reality, ACG does not negotiate refunds for consumers if the government has taken action against that company. *See Ex. A, Konopka Aff., ¶ 73.* ACG's interaction with government agencies merely consists of forwarding them consumers' complaints and/or restitution documents and sometimes following up with phone calls. *See Ex. A, Konopka Aff., ¶ 74.* Defendants fail to inform consumers that their work with government agencies is limited to these actions, which are steps consumers could perform for themselves for free. *See Id.* Further, Defendants admit they provide these services primarily to consumers who are "senile" and/or "cannot write," which evidences their culpability in misleading

vulnerable consumers into purchasing their unnecessary services. *See Id.* In at least one instance, Defendants charged a consumer to forward his documents to a government agency, despite the fact that the deadline to submit such forms had passed. **See Ex. A, Konopka Aff., ¶ 81.**

Additionally, Defendants routinely falsely assure consumers that ACG's purported recovery services are legitimate commercial collection activities licensed by the Florida Office of Financial Regulation (FLOFR). **See Ex. A, Konopka Aff., ¶¶ 76 and 77.** In truth and in fact, ACG's services are not commercial collection agency activities. **See Ex. A, Konopka Aff., ¶ 77.** Consequently, ACG's commercial collection agency registration does not sanction its fee recovery services and cannot be marketed as approval by FLOFR. **See Ex. A, Konopka Aff., ¶ 77.**

*c. Defendants' False Representations Regarding Length of Time ACG works on Client Files*

Defendants falsely represent that ACG will "work" on a client's file for up to 15 or 90 days. ACG claims that if the company is unable to recover funds during this time frame, the consumer's case will be forwarded to an attorney affiliated with ACG. **See Ex. A, Konopka Aff., ¶ 78.** In reality, this decision is made on a case-by-case basis by Defendants Chira and Allen. **See Ex. A, Konopka Aff., ¶ 82.** In fact, ACG typically sits on client files longer than the 15

to 90-day period and does not perform any of its nominal “services.” *See Ex. A, Konopka Aff., ¶¶ 79 and 80.* For example, at least two client files retained by ACG in excess of ninety (90) days had no work performed on the file for at least four (4) months. *See Id.*

*d. Defendants’ False Representations Regarding ACG’s Legal Services*

A key false representation used by Defendants to deceive consumers is that ACG’s services include legal services. *See Ex. A, Konopka Aff., ¶¶ 83, 85 and 88.* Defendant Chira acknowledges making this claim and its effect on consumers, stating that “clients know ACG is associated with an attorney and their file will go to attorney at the end of the scenario.” *See Ex. A, Konopka Aff., ¶ 84.* Specifically, ACG makes the following false representations to consumers:

- ACG “takes you through every step of the process. Whether it be an arbitration [sic], a judgement [sic] or a claim.” *See Ex. A, Konopka Aff., ¶ 83(a);*
- “We are also affiliated with a local law firm based out of Fort Lauderdale, FL. Our partnership with our legal team is crucial in the legal aspect of recovering your money!” *See Ex. A, Konopka Aff., ¶ 83(b);*
- If ACG “cannot negotiate your case in house we then forward your case to the attorney’s office for them to process for litigation through the courts.” *See Ex. A, Konopka Aff., ¶ 83(c);*
- if a company does not respond to the demand letter ACG sends to the company, ACG then forward’s the consumers’ case to ACG’s attorneys. *See Ex. A, Konopka Aff., ¶ 83(d);* and

- “give a case update to let him know that we are ready to submit the cases to the Law Firm. . .” **See Ex. A, Konopka Aff., ¶ 83(e).**

ACG calls its fees a “retainer” in order to reinforce its services as legal. In reality, ACG does not provide legal services, nor does it use consumers’ substantial upfront “retainer” fees to provide legal services. **See Ex. A, Konopka Aff., ¶¶ 85, 87, 88 and 91.** ACG does not file court claims, obtain court judgments, or employ staff with a professional legal background. *Id.* ACG merely forwards clients’ sensitive personal information to an outside attorney; clients must pay additional fees for any legal services provided by that outside attorney. **See Ex. A, Konopka Aff., ¶¶ 87 and 93-97.** Moreover, despite ACG’s representations, the outside attorney does not accept every client referred by ACG. **See Ex. A, Konopka Aff., ¶ 86.**

At the time consumers enter into service agreements with ACG and pay substantial upfront fees, consumers are unaware that ACG’s services are limited to sending demand letters, requesting chargebacks, and forwarding their information to government agencies. **See Ex. A, Konopka Aff., ¶¶ 10, 75, 76, and 92.** Instead, these consumers reasonably believe ACG is licensed to engage in fee recovery activities, will likely recover their lost funds through coordination with government agencies and the assistance of an attorney, and that they are likely or

guaranteed to receive significant returns. *See Ex. A, Konopka Aff.*, ¶¶ 66, 71, 75, 76, 92 and 98.

Defendants' above-described misrepresentations, false statements and omissions mislead reasonable consumers and therefore constitute an unfair and deceptive act and practice in violation of FDUTPA.

### *3. Defendants' Failure to Provide Refunds to Consumers*

The FTA proscribes remedies for deceptive telemarketing practices. Pursuant to Section 501.615(6)(a), Fla. Stat, consumers who purchase services that are not as represented or are not received as promised are entitled to a refund. Pursuant to Section 501.203(3)(c), Fla. Stat., any violation of the FTA constitutes a *per se* violation of FDUTPA and is subject to the penalties and remedies provided for such violations.

Defendants represent to consumers that they can cancel and receive a partial refund at any time. *See Ex. A, Konopka Aff.*, ¶ 99. As discussed *supra*, Defendants' services are not licensed by the State of Florida and do not include coordination with government agencies or legal services. Additionally, Defendants grossly misrepresent the likelihood that consumers' lost funds will be returned to them. Defendants' misrepresentations and failure to provide the promised services entitle consumers to a refund. Defendants, however, have denied consumers' requests for refunds (*See Ex. A, Konopka Aff.*, ¶¶ 47, 100, 102 and 103),

claiming that a consumer can only obtain a refund if the outside law firm cannot resolve the consumer's case, or that Defendants spent all of the advance fees performing services for the consumer (*See Ex. A, Konopka Aff.*, ¶¶ 102 and 104). Defendants' practice of failing to provide refunds to consumers violates Section 501.615(6)(a), Fla. Stat. constitutes a *per se* FDUTPA violation subject to the penalties and remedies provided for such violations.

#### **D. The Attorney General has Met Its Burden**

As described in more detail *supra*, Defendants have engaged in and continue to engage in conduct that constitutes deceptive, unfair and/or unconscionable trade practices under FDUTPA. The Plaintiff's exhibits filed in support of this motion clearly present prima facie evidence that Defendants violate FDUTPA by, among other things, misrepresenting the nature and efficacy of Defendants' fee recovery services. Furthermore, Plaintiff's exhibits clearly present prima facie evidence that Defendants' practices violate the TSR and FTA, which constitute *per se* FDUTPA violations.

Furthermore, Defendants Allen, Chira and Darang engaged in substantially similar acts and practices prior to their opening of ACG during the time they were employed at CCA. *See Ex. A, Konopka Aff.*, ¶¶ 34, 50, and 59. Moreover, Defendant Darang is currently the President of Florida Capital Recovery, LLC, yet another purported fee recovery company which engages in acts and practices

substantially similar to those of ACG and CCA. *See Ex. A, Konopka Aff.*, ¶ 59. As a result, some consumers have paid substantial advance fees to two or three purported fee recovery businesses, which have employed and/or been operated by Defendants.

Defendants' acts and practices have injured and will continue to harm Florida consumers, as well as consumers across the United States, unless this injunction is granted.

### **E. Individual Liability for FDUTPA Violations**

Under FDUTPA, once corporate liability is established, individual defendants may be *individually* liable "if they participated directly in the deceptive practices or acts or they possessed the authority to control them." *Office of the Attorney General v. Wyndham Int'l, Inc.*, 869 So. 2d 592, 598 (Fla. 1<sup>st</sup> DCA 2004).

#### **1. Defendant Allen**

After Defendant Allen resigned from CCA, she assisted Defendants Chira and Darang with the opening of ACG and since April 2014 has been listed as ACG's Treasurer. *See Ex. A, Konopka Aff.*, ¶¶ 50 and 53. Since ACG began its operations, Defendant Allen has handled ACG's administrative matters, maintains financial records, and is responsible for customer/client relations. *See Id.* Defendant Allen is primarily responsible for submitting consumers' complaints and/or restitution claim information to government agencies and participates in

ACG's collection activities and investigations. *See Ex. A, Konopka Aff.*, ¶¶ 51 and 52. Furthermore, Defendant Allen participates in making the determination when ACG should stop "working" on a client's files and send the file to the outside attorney. *See Ex. A, Konopka Aff.*, ¶ 54. Subsequent to sharing the client's file with the outside attorney, Defendant Allen communicates with the outside attorney regarding ACG's client files. *See Ex. A, Konopka Aff.*, ¶ 55. Defendant Allen has knowledge of the above-described acts and practices; she purportedly warned Defendants Darang and Chira regarding ACG's false statements and misrepresentations. *See Ex. A, Konopka Aff.*, ¶ 46. Furthermore, Defendant Allen heard Defendant Chira make these same misrepresentations and use an alias during his telephone calls with consumers. *See id.* In addition to being aware of Defendants' deceptive acts and practices, Defendant Allen herself made misrepresentations to consumers with respect to ACG's work with government agencies and the legal services provided by ACG. *See Ex. A, Konopka Aff.*, ¶¶ 72 and 104. Defendant Allen is aware of the FTC and this Office's legal actions against CCA. *See Ex. A, Konopka Aff.*, ¶ 50.

Accordingly, Defendant Allen directly participates in and has authority to control ACG's violations of FDUTPA. Defendant Allen is therefore individually liable for ACG's violations of FDUTPA under either prong of the *Wyndham* analysis.

## 2. Defendant Chira

After Defendant Chira left CCA he used his personal funds to open ACG. *See Ex. A, Konopka Aff., ¶ 34.* Defendant Chira was aware that CCA was the target of legal action. *See Id.* At all relevant times, Defendant Chira has served as a principal of ACG. *See Id.* Currently, Defendant Chira is ACG's President, Vice President, and 100% shareholder. *See Id.* Defendant Chira controls, has knowledge of and participates in the operation of ACG including, but not limited to, ACG's personnel, contracts, licensing, telemarketing calls, marketing efforts and payment collection as well as the company's financial assets and bank accounts. *See Ex. A, Konopka Aff., ¶¶ 36 – 41 and 47 - 49.* Furthermore, Defendant Chira has knowledge of and directly participates in the above-described deceptive acts and practices. *See Ex. A, Konopka Aff., ¶¶ 42 - 46.* During calls with consumers, Defendant Chira has used an alias. *See Ex. A, Konopka Aff., ¶ 46.*

Defendant Chira directly participates in, directs and has the authority to control ACG's violations of FDUTPA. Defendant Chira is therefore individually liable for ACG's violations of FDUTPA under either prong of the *Wyndham* analysis.

### 3. Defendant Darang

After Defendant Darang left CCA, he incorporated ACG and used his personal funds to open ACG. *See Ex. A, Konopka Aff., ¶¶ 56, 59 and 60.* During the time Defendant Darang was associated with ACG, he served as ACG's President and was an equal partner with Defendant Chira. *See Ex. A, Konopka Aff., ¶ 61.* Defendant Darang participated in ACG's day-to-day operations including, but not limited to, researching client claims, providing advice about methods to recover clients' funds, drafting and following up on demand letters and participating in ACG personnel decisions. *See Ex. A, Konopka Aff., ¶ 62.* Furthermore, Defendant Darang was responsible for drafting ACG's initial service agreements, advised ACG regarding its professional licenses, and was responsible for ACG's licensing. *See Id.*

Finally, upon information and belief, Defendant Darang withdrew approximately fifty thousand dollars (\$50,000) in funds from ACG's bank account around the time he stopped participating in ACG's operations. *See Ex. A, Konopka Aff., ¶ 63.*

Defendant Darang directly participated in, directed and had the authority to control ACG's violations of FDUTPA. Defendant Darang is therefore individually liable for ACG's violations of FDUTPA under either prong of the *Wyndham* analysis.

#### IV. RELIEF SOUGHT

Due to the serious and ongoing nature of these violations, as previously set forth herein, the Attorney General seeks an injunction:

1. Prohibiting Defendants, their officers, agents, servants, employees, and attorneys, and those persons or entities in active concert or participation with any of them or acting on their behalf who receive actual notice from:

a. receiving upfront payment from consumers for services represented to recover or otherwise assist in the return of money or any other item of value paid for by consumers in a previous telemarketing transaction;

b. misrepresenting the nature of Defendants' fee recovery services in violation of applicable law;

c. misrepresenting that Defendants are working with or on behalf of governmental organizations;

d. misrepresenting that Defendants' services include legal services;

e. violating, or assisting others in violating, any provision of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes;

f. violating, or assisting others in violating, any provision of the Telemarketing Sales Rule (“TSR”), 16 C.F.R. Part 310, as presently promulgated or as it may hereinafter be amended;

g. violating, or assisting others in violating, any provision of the Florida Telemarketing Act, Sections 501.601 through 501.626, Fla. Stat.;

h. submitting any application for registration or licensure under the Florida Telemarketing Act, Sections 501.601 through 501.626, Fla. Stat. until the conclusion of this litigation or upon further order of this court;

i. submitting any application for registration or licensure pursuant to the Florida Commercial Collection Practices Act, Section 559.541 through 559.548, Fla. Stat. until the conclusion of this litigation or upon further order of this court.

j. destroying, mutilating, concealing, altering, or disposing of, in any manner, any information which has any connection to Defendants’ operations, including books, records, papers, consumer files and personal and financial information contained therein, computer disks, computer memory retention devices or the like, computers, electronically stored or accessible information, documents, correspondence, obligations or other property of Defendants herein until further order of this Court;

k. disclosing, using, or benefitting from consumer information, including name, address, telephone number, email address, social security number, other identifying information, or any data that enables access to a consumer's account (including a credit card, bank, or other financial account), of any person which any Defendant obtained prior to entry of this Order.

2. Ordering that no bond shall be required with respect to the relief requested herein as the Attorney General is an agency of the State of Florida and the public interest is served by this action;

3. Ordering that each Defendant, within five (5) business days of service of this Order, shall prepare and deliver the following documents to the Florida Office of the Attorney General, 110 S.E. 6th Street Ft. Lauderdale, FL 33301:

- a. For the Individual Defendants, a completed Credit Report Authorization and Release Form attached to the Proposed Order as **Attachment A** and captioned "Credit Report Authorization and Release";
- b. For the Individual Defendants, a completed Request for Transcript of Tax Return, which shall identify the Florida Office of the Attorney General, 110 S.E. 6th Street Fort Lauderdale, Florida 33301, as a third party to which the transcript or tax information should be mailed on

the form attached to the Proposed Order as **Attachment B** and captioned “Form 4506-T for Individual Defendant.”

- c. For ACG, a completed Request for Transcript of Tax Return, which shall identify the Florida Office of the Attorney General, 110 S.E. 6th Street Fort Lauderdale, Florida 33301, as a third party to which the transcript or tax information should be mailed on the form attached to the Proposed Order as **Attachment C** and captioned “Form 4506-T for Corporate Defendant.”
- d. For the Individual Defendants, a completed Request for Transcript of Tax Return, which shall identify the Florida Office of the Attorney General, 110 S.E. 6th Street Fort Lauderdale, Florida 33301, as a third party to which the transcript or tax information should be mailed on the form attached to the Proposed Order as **Attachment D** and captioned “Form 4506-T for Individual Defendant.”;
- e. For the Individual Defendants, a completed Individual Financial Affidavit, attached to the Proposed Order as **Attachment E** and captioned “Financial Affidavit for Individual Defendant”; and
- f. For ACG, a completed Corporate Financial Affidavit, attached to the Proposed Order as **Attachment F** and captioned “Financial Affidavit for Corporate Defendant.”

4. Ordering that within three (3) calendar days after service of this Order, Defendants shall provide a copy of this Order to each of their agents, employees, directors, officers, subsidiaries, affiliates, attorneys, independent contractors, representatives, franchisees, and all persons in active concert or participation with Defendants. Within five (5) calendar days following this Order, Defendants shall provide the Attorney General with an Affidavit identifying the names, titles, addresses, and telephone numbers of the persons that Defendants have served with a copy of this Order in compliance with this provision.

5. Providing any other injunctive relief this Court deems just and proper.

WHEREFORE, the Plaintiff moves that this Court grant temporary injunctive relief against Defendants Advocacy and Collections Group, Inc.; Nancy Allen, individually; Denis Chira, individually; and Roderick Darang, individually.

Dated this 24<sup>th</sup> day of July, 2015.

Respectfully Submitted,

**PAMELA JO BONDI**  
**Attorney General of the State of Florida**

*Kristen Pesicek*

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By: Kristen Pesicek  
Assistant Attorney General  
Florida Bar No. 109212  
Sarah Shullman  
Assistant Attorney General  
Florida Bar No. 888451  
Office of the Attorney General  
Consumer Protection Division  
110 Southeast 6th Street  
Ft. Lauderdale, Florida 33301  
Telephone: 954.712.4600  
Facsimile: 954.527.3708  
Primary: Kristen.Pesicek@myfloridalegal.com  
Secondary: Heidi.English@myfloridalegal.com  
Primary: Sarah.Shullman@myfloridalegal.com  
Secondary: Brenda.Kellman@myfloridalegal.com