

**IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT
IN AND FOR LEON COUNTY, FLORIDA**

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

Plaintiff,

vs.

CASE NO.

**1ST SOURCE INFORMATION SPECIALISTS, INC.,
KENNETH W. GORMAN, STEVEN SCHWARTZ,
ONE OR MORE JOHN DOES, AND ONE OR MORE DOE CORPORATIONS,**

Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER STATUTORY RELIEF

Plaintiff, **STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, DEPARTMENT OF LEGAL AFFAIRS**, sues the Defendants, **1ST SOURCE INFORMATION SPECIALISTS, INC., KENNETH W. GORMAN, STEVEN SCHWARTZ, ONE OR MORE JOHN DOES, AND ONE OR MORE DOE CORPORATIONS** (collectively, the “Defendants”), for a temporary and permanent injunction and other relief, and alleges:

1. This is an action for temporary and permanent injunctive relief, brought pursuant to the Florida Deceptive and Unfair Trade Practices Act (FDUTPA), §§ 501.201, et seq., Fla. Stat. (2005).
2. The Plaintiff is an enforcing authority of the FDUTPA, §§ 501.201, et seq., Fla. Stat., and is authorized to seek injunctive relief and other statutory relief pursuant thereto.
3. This Court has jurisdiction pursuant to the provisions of said Act.

4. The Attorney General has reviewed this matter and determined that this action serves the public interest.
5. Defendant 1st Source Information Specialists, Inc. is a Florida for-profit corporation with its principal place of business at 7361 Granville Drive, Tamarac, FL 33321. This Defendant has designated Steven Schwartz, 7361 Granville Drive, Tamarac, FL 33321, as its registered agent for service of process. (See 1st Source Information Specialists, Inc., Articles of Incorporation attached hereto as **Exhibit A**).
6. Defendant Steven Schwartz is upon information and belief, and according to corporate documents on file with the Florida Secretary of State, a principal of Defendant 1st Source Information Specialists, Inc., with an address at 7361 Granville Drive, Tamarac, Florida.
7. Defendant Kenneth W. Gorman is upon information and belief, and according to corporate documents on file with the Florida Secretary of State, a principal of Defendant 1st Source Information Specialists, Inc., with an address at 574 Maple Terrace, Port Saint Lucie, Florida.
8. Defendants John Does, and Doe Corporations, whose names presently are unknown to Plaintiff, are one or more individuals and corporations that are affiliated, related to, owned, controlled by, doing business with, or in active concert or participation with, one or more Defendants, and, upon information and belief, are doing business in Florida. The John Does and Doe Corporations, upon information and belief, have illicitly obtained and disseminated private customer telephone records and/or have received proceeds from the sale of such information.
9. Upon information and belief, Data Find Solutions was a Tennessee Corporation that owned and/or operated websites, including locatecell.com, celltolls.com, datafind.org, and

peoplesearchamerica.com. Data Find Solutions, Inc. transferred these websites and operations to 1st Source Information Specialists, Inc. on or about the fall of 2005. (See Declaration of Kathleen Rehmer attached hereto as **Exhibit B**).

10. The statutory violations and Defendants' activities alleged herein occurred in or affect more than one jurisdiction, including this judicial Circuit and Leon County, Florida.
11. This Court has jurisdiction pursuant to § 817.568(16), Fla. Stat., that states, "Notwithstanding any other provision of law, venue may be commenced and maintained in any county in which an element of the offense occurred, including the county where the victim generally resides."
12. At all times material hereto, Defendants have solicited business throughout Florida and the United States using solicitations through the internet. This Court has personal jurisdiction over the Defendants in connection with the claims asserted in this Complaint in that the Defendant via email has delivered to Leon County, Florida, fraudulently obtained telephone records, including the detailed personal telephone records of a Leon County resident, setting forth the date, time, and duration of calls made by the resident from his Leon County address. Venue of the claims alleged in this Complaint is proper before this Court as the Defendants do business with customers in Leon County, Florida, and have delivered fraudulently obtained telephone records to Leon County, Florida, as well as to multiple jurisdictions within the State of Florida via the internet.
13. Plaintiff brings this action to stop Defendants from unlawfully obtaining and disseminating confidential customer telephone records and information through fraud and deception, to stop Defendants from selling such records and information over the internet, and to stop the Defendants from advertising on their websites that they will sell such records to members of the public.

14. In the case of Cingular Wireless LCC v. Data Find Solutions, Inc., et al., the United States District Court for the Northern District of Georgia, Atlanta Division, granted Cingular Wireless LLC a Temporary Restraining Order against Defendants, enjoining Defendants from attempting to obtain any information from Cingular regarding any of its wireless customers. (See Order, Case No. 05-CV-3269-CC issued January 13, 2006, attached hereto as **Exhibit C**). The instant action by Plaintiff seeks relief for all Florida landline and wireless telephone companies, and consumers.

THE COURSE AND CONDUCT OF DEFENDANTS' BUSINESS

15. The Defendants advertise over their websites, including peoplesearchamerica.com, locatecell.com, datafind.org, and celltolls.com, that they will sell telephone records, including records of outgoing telephone calls from any given telephone number for both wireless and landline telephones. (See copies of above-listed websites attached hereto as **Exhibits D, E, F, and G**).

16. After receiving payment for their services, Defendants use consumers' personal identification information to unlawfully and fraudulently obtain confidential customer telephone records, including call records, from telephone companies and distribute said records to their customers via the internet and/or electronic mail.

17. The telephone industry must comply with state and federal law, including § 364.24, Fla. Stat., and 47 U.S.C. § 222, that require telecommunications companies to maintain the privacy of customer proprietary information, including customer account records. These records are available to legitimate customers of the telephone companies through their customer service departments. Customers may access the customer service departments by

calling either the toll-free number provided by the company, or a designated access code from their wireless telephone for wireless companies.

18. On information and belief, Defendants have made “social engineering” telephone calls to telephone company customer service centers. In a “social engineering” call, the caller uses personal identification information to attempt to gain access to confidential information through deceit, either by impersonating a customer or employee, or otherwise convincing the customer service representative to provide private information on an account without the customer’s consent or knowledge. (See transcripts of telephone calls made from a subscribed telephone line of 1st Source to Verizon Wireless customer service, attached hereto as **Exhibit H**).
19. One telephone company with offices and customers in Florida, Verizon Wireless, received literally hundreds of telephone calls from six telephone lines to which 1st Source subscribed.
20. Defendants use personal identification information to wrongfully obtain and disseminate confidential consumer information, such as a consumer’s call records, through fraud and deception by engaging in “social engineering,” improper hacking, and/or unauthorized access to online account information.
21. The Defendants’ fraud is ongoing. Defendants have obtained, and continue to obtain, confidential customer records from telephone companies and continue to sell them to third parties over the internet without the consumer’s knowledge or consent.
22. On information and belief, in each of these calls, Defendants have used personal identification information without the consent or knowledge of the consumer and sought to extract confidential information on telephone company customers, and subsequently provided that information to third parties who paid Defendants for that purpose.

23. Upon information and belief, some of the Defendants, or all of them, are collaborating to wrongfully obtain confidential calling records and information to which they are not entitled, to the extreme detriment of Florida consumers.
24. Upon information and belief, the Defendants also work with or through other corporate entities and individuals (Doe Corporations and Does) that collaborate with Defendants to fraudulently obtain confidential information on telephone company customers.
25. Many Florida consumers have been irreparably harmed by the defendant's fraudulent receipt and sale of their personal telephone records. The sales were made without the knowledge or consent of consumers. These records include records of outgoing calls made, the number called and the time and duration of each call.
26. On December 29, 2005, as a test of 1st Source's services, the Florida Public Service Commission (PSC) staff in Tallahassee paid peoplesearchamerica.com \$185.00 to purchase the landline long distance records of a fellow employee residing in Leon County, Florida. Only the telephone number (and not the name) of said employee was given. PSC staff received acknowledgement of the order from peoplesearchamerica.com on December 29, 2005 at 7:52 AM. The list of the calls made from the provided number was received from peoplesearchamerica.com by electronic mail in Tallahassee, Florida, on December 29, 2005 at 3:18 AM. The list, which included the time and duration of the calls, matched exactly the calls on the employee's telephone bill. (See Facsimile from Public Service Commission attached hereto as **Exhibit I**).

COUNT I
Per Se Violations of §§ 501.201, et seq., Fla. Stat.

27. Plaintiff hereby incorporates by reference and re-alleges paragraphs 1 through 26, and further alleges:
28. Chapter 501, Part II, Fla. Stat. (2005) entitled the “Florida Deceptive and Unfair Trade Practices Act,” provides that violation of the Florida Deceptive and Unfair Trade Practices Act may be based on any law which proscribes “unfair, deceptive, or unconscionable acts or practices.” § 501.203(3)(c), Fla. Stat.
29. Section 817.568(1)(f), Fla. Stat. (2005), defines “personal identification information” as “any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any name, postal or electronic mail address, telephone number, social security number, [etc].”
30. Section 817.568(2)(a) makes it a felony offense for any person to “willfully and without authorization fraudulently [use], or possess with intent to fraudulently use, personal identification information concerning an individual without first obtaining that individual’s consent.”
31. As set forth in paragraphs 1 through 26, Defendants’ have repeatedly obtained, possessed, and fraudulently used personal identification information of consumers without their knowledge or consent in violation of § 817.568, Fla. Stat.
32. Section 817.568, Fla. Stat. describes an act that is unfair, deceptive, or unconscionable, and the Defendant’s violation of § 817.568, Fla. Stat., constitutes a *per se* violation of the FDUTPA.

COUNT II
Violations of §§ 501.201, et seq., Fla. Stat.

33. Plaintiff hereby incorporates by reference and re-alleges paragraphs 1 through 26 of the Complaint as if set forth completely herein, and further alleges:
34. As set forth in paragraphs 1 through 26, Defendants have engaged in acts and practices that are likely to place the confidential information of the consumers of the State of Florida at risk. Defendants' behavior is an unconscionable act and practice, and an unfair and deceptive act and practice, in the conduct of trade and commerce. Accordingly, Defendants' behavior constitutes a violation of the Florida Deceptive and Unfair Trade Practices Act, §§ 501.201, et seq., Fla. Stat.

COUNT III
Civil Conspiracy

35. Plaintiff hereby incorporates by reference and re-alleges paragraphs 1 through 26, and further alleges:
36. As set forth in paragraphs 1 through 26, and upon information and belief, in connection with the foregoing actions, Defendants and their customers who purchased personal telephone records, have entered into an agreement or confederation with a common design to engage in an unlawful purpose of converting confidential consumer information, through fraud and/or the violation of the FDUTPA, which agreement has caused the security of Florida telephone service consumers to be compromised and has caused them to suffer irreparable harm and damages.
37. Defendants have acted willfully and wantonly, and with malice.

38. In engaging in the foregoing conduct, one or more of Defendants have engaged in overt acts in furtherance of the conspiracy, which have been the actual and proximate cause of damage to consumers in the State of Florida.

RELIEF REQUESTED

39. Wherefore, Plaintiff, State of Florida, Office of the Attorney General, Department of Legal Affairs, asks for judgment under Counts I, II, and III herein, as follows:

A. Enjoin Defendants, their officers, agents, servants, and employees, and those persons and entities in active concert or participation with them who receive actual notice of the injunction, from engaging in methods, acts, or practices which are deceptive or unfair acts and practices. More specifically, Plaintiff asks the courts to enjoin Defendants as follows:

1. Prohibit any further attempts to obtain consumer information from any telephone company doing business in the State of Florida;
2. Prohibit using telephone company employees' and customers' identities for any purpose;
3. Prohibit any further contact with the customer service centers of any telephone company doing business in the State of Florida;
4. Prohibit providing any such consumer information currently in their possession to third parties; and
5. Prohibit possession of all documents, regardless of form or manner of storage, containing confidential consumer information.

B. Enter a declaratory judgment pursuant to § 501.211(1), Fla. Stat., declaring Defendants' practices to violate the FDUTPA.

- C. Require Defendants to relinquish all consumer telephone records and personal identification information in their possession.
- D. Assess against each Defendant civil penalties in the amount of \$10,000 for each violation of the FDUTPA pursuant to § 501.2075, Fla. Stat. (2005).
- E. Grant such other and further legal and equitable relief against Defendants to which Plaintiff may be entitled pursuant to § 501.211(2), Fla. Stat., including (i) accounting(s) of each and every person or entity that has been provided with Plaintiff's confidential consumer information, and (ii) accounting(s) of each and every consumer and telephone number that has been compromised and a listing of all personal telephone records that have been sold to third parties, and (iii) an award of compensatory damages and costs to each individual consumer and to the State of Florida, and an award of actual damages, attorney's fees and costs.

JURY TRIAL DEMANDED

Plaintiff demands trial by jury on all counts so triable.

Respectfully Submitted,
CHARLES J. CRIST, JR.
ATTORNEY GENERAL

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