

**IN THE CIRCUIT COURT OF THE FOURTH JUDICIAL CIRCUIT
IN AND FOR CLAY COUNTY, FLORIDA**

STATE OF FLORIDA,
OFFICE OF THE ATTORNEY GENERAL,

Plaintiff,

v.

Case No. _____

JOHN J. HACKER and CHRISTA L. CAPARELLA,

Defendants.

_____ /

COMPLAINT

Plaintiff, STATE OF FLORIDA, OFFICE OF THE ATTORNEY GENERAL, ("the Attorney General") sues Defendants JOHN J. HACKER and CHRISTA L. CAPARELLA, and alleges:

1. This is an action for injunctive relief, damages on behalf of consumers, civil penalties, attorney's fees and costs and other relief pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (2007) ("FUDTPA").

PARTIES AND JURISDICTION

2. The Attorney General is an enforcing authority of FUDTPA.

3. JOHN J. HACKER ("HACKER") is a resident of Clay County who lives at 1606 Bristol Place, Orange Park FL 32073.

4. CHRISTA L. CAPARELLA ("CAPARELLA") is a resident of Clayl County who lives at 1606 Bristol Place, Orange Park FL 32073.

5. The injurious business activities of HACKER and CAPARELLA affect consumers in more than one Florida judicial circuit as well as throughout the United States.

6. The Attorney General has determined that this enforcement action serves the public interest as required by Section 501.207(2).

7. This court has jurisdiction pursuant to Section 501.207(3).

THE DEFENDANTS' BUSINESS PRACTICES

8. HACKER and CAPARELLA engaged and continue to engage in practices that constitute deceptive, unfair or unconscionable practices in the conduct of trade or commerce in violation of Sections 501.204(1) and 817.806(1), Florida Statutes.

9. The business practices of HACKER and CAPARELLA include offering to negotiate reductions in debt owed by consumers, failing to negotiate with creditors as promised, charging fees greatly in excess of statutory limits, making unauthorized withdrawals from consumers' bank accounts and refusing to honor assurances that consumers could cancel at any time.

10. Beginning in approximately November 2003 until at least June 2006, HACKER and CAPARELLA devised, directed and otherwise engaged in the practices described herein while doing business as UNITED DEBT SOLUTIONS, INC., a Florida corporation located at 1567 Kingsley Park Avenue, Orange Park FL 32073

11. Beginning in approximately October 2005 until at least September 2007, HACKER and CAPARELLA devised, directed and otherwise engaged in the practices described herein while doing business as UNITED DEBT SPECIALISTS, INC., a Florida corporation located at 1567 Kingsley Park Avenue, Orange Park FL 32073.

12. HACKER was the president of UNITED DEBT SOLUTIONS, INC., and UNITED DEBT SPECIALISTS, INC., (collectively, "the UDS companies") and CAPARELLA was a corporate officer of the UDS companies.

13. After UNITED DEBT SOLUTIONS, INC., and UNITED DEBT SPECIALISTS, INC., became inactive in approximately June 2006 and September 2007 respectively, HACKER and CAPARELLA continued to engage in the practices described herein.

14. The UDS companies failed to comply with statutory requirements for debt negotiators including requirements governing audits, insurance and trust funds, and HACKER and CAPARELLA failed to comply with statutory requirements for debt negotiators including requirements governing audits, insurance and trust funds after the UDS companies became inactive.

15. Beginning in 2003, HACKER and CAPARELLA represented to the public at large that they would assist consumers who were in debt by negotiating with the consumers' creditors.

16. HACKER and CAPARELLA found customers by advertising on local and national television and the Internet.

17. HACKER and CAPARELLA told consumers that the typical reduction in debt they had obtained during their time as debt negotiators was 50 percent or more.

18. A webpage set up by HACKER and CAPARELLA described their service as follows: "[A] Debt Specialist negotiates with your creditors to SETTLE YOUR DEBTS FOR AMOUNTS SIGNIFICANTLY LESS THAN WHAT YOU CURRENTLY OWE, typically resulting in a 50-75% reduction in your existing debt principal! ... YOU HAVE NOTHING TO LOSE BUT YOUR DEBT!"

19. Using scripts provided by HACKER and CAPARELLA, a telephone sales team represented to callers that they would end up paying a half or less of what they owed, which would include all fees charged by HACKER and CAPARELLA.

20. Florida law limits debt negotiators' initial fee to \$50 and their fees thereafter to \$120 annually or the greater of 7.5 percent of the monthly amount allocated by the debtor for debt reduction or \$35 a month.

21. HACKER and CAPARELLA charged consumers who requested their services fees far higher than allowed by Florida laws governing debt negotiators.

22. The debt-reduction plan that HACKER and CAPARELLA offered to consumers consisted of (a) having customers set aside each month the sum they thought they could allocate to paying off their debts and paying that entire amount to HACKER and CAPARELLA for three months for initial fees, and (b) thereafter paying HACKER and CAPARELLA half the monthly sum for additional fees and setting aside the rest for eventual transfer to the creditors.

23. HACKER and CAPARELLA on average charged customers, including Florida residents, fees of approximately \$300 a month for the first three months and \$150 a month thereafter.

24. HACKER and CAPARELLA told new customers that they should immediately stop paying their creditors and ignore the creditors' attempts to collect.

25. HACKER and CAPARELLA failed to inform consumers of the adverse consequences that would result from the customers' failure to make payments to their creditors.

26. HACKER and CAPARELLA failed to disclose that during the time the consumers failed to pay their creditors late fees would accrue and creditors would pursue collection efforts and litigation.

27. In telephone scripts and written instructions, HACKER and CAPARELLA gave consumers the impression that they would be immediately "working with" new customers and that adverse consequences of not paying creditors were not likely.

28. HACKER and CAPARELLA failed to tell customers that during approximately the first three months after the new customers signed up HACKER and CAPARELLA would not contact creditors and would do nothing to assist the customers reduce or pay back debts.

29. During this early period of customers' enrollment, customers incurred late fees, were reported to collection agencies and experienced downgraded credit scores as a result of not paying their creditors.

30. In initial conversations with consumers, the sales team employed by HACKER and CAPARELLA told the consumers that they had to provide detailed information about their personal bank accounts before it could be determined whether they were eligible for assistance.

31. After the initial conversations, HACKER and CAPARELLA used consumers' personal bank information to debit funds from the consumers' accounts without the consumers' authorization.

32. When consumers complained about the unauthorized withdrawals, the sales team told them at the direction of HACKER and CAPARELLA that their earlier conversations with the sales team had been recorded and constituted authorization for the withdrawals.

33. HACKER and CAPARELLA failed to tell consumers who called about the debt-negotiation offer that major creditors had refused to deal with HACKER and CAPARELLA.

34. Creditors who told HACKER and CAPARELLA that they would not deal with them include Discover and Citibank.

35. In many instances, HACKER and CAPARELLA did nothing to negotiate with customers' creditors not only during the initial enrollment period but also after that period had ended.

36. HACKER and CAPARELLA secured debt reduction for only a small fraction of their customers.

37. It was not "typical" for customers of HACKER and CAPARELLA to obtain reductions in their total debt of 50 to 75 percent.

38. HACKER and CAPARELLA represented to consumers that they could cancel at any time.

39. A document HACKER and CAPARELLA mailed to consumers states: "Either party may discharge the other at any time by written notice."

40. When consumers became aware that HACKER and CAPARELLA were not negotiating with creditors, or had failed to reach any accommodation with creditors, they contacted the UDS companies to cancel.

41. HACKER and CAPARELLA would not accept any cancellations during the first three months of working with consumers, when HACKER and CAPARELLA were making the largest withdrawals from consumer accounts.

42. After the first three months, HACKER and CAPARELLA instructed consumers who telephoned to submit their requests to cancel in writing but, after consumers wrote in to cancel, HACKER and CAPARELLA refused to accept the written cancellations and told consumers to resubmit their written requests with notarized signatures.

43. During the time that consumers attempted to cancel by telephone and with written and notarized cancellation requests, HACKER and CAPARELLA continued to debit their accounts.

44. HACKER and CAPARELLA told customers that if they cancelled they would not be eligible for any refunds.

45. When HACKER and CAPARELLA experienced financial problems, paychecks to their employees bounced and HACKER and CAPARELLA began making additional unauthorized debits from consumer accounts to meet payroll.

46. HACKER and CAPARELLA made unauthorized withdrawals by debiting consumers' accounts twice on the same day, debiting the accounts of consumers who were no longer their customers and debiting accounts in advance of a previously agreed-upon date and then again on that date.

47. When consumers called to complain and request refunds or cancellations, HACKER and CAPARELLA instructed their staff to tell consumers that the debits were the result of bank or computer errors.

48. Unauthorized withdrawals by HACKER and CAPARELLA continued long after any working relationship with some consumers had ended, including an instance in which HACKER and CAPARELLA debited the account of a consumer two and a half years after he stopped payment on UDS checks, suffered a debilitating brain injury and was committed to a nursing home.

49. Dozens of consumers have complained to the Attorney General and the Better Business Bureau about the activities of HACKER and CAPARELLA.

COUNT ONE
DECEPTIVE AND UNFAIR TRADE PRACTICES
IN VIOLATION OF CHAPTER 501, PART II, FLORIDA STATUTES
JOHN J. HACKER

50. The Attorney General re-alleges paragraphs 1 through 49.

51. “Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce” are unlawful under Section 501.204(1) of the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes (2005).

52. At all times material hereto, Defendant JOHN J. HACKER engaged in "trade or commerce" as defined by Section 501.203(8), Florida Statutes.

53. JOHN J. HACKER engaged in and continues to engage in acts or practices that constitute deceptive, unfair or unconscionable acts or practices in the conduct of trade or commerce including but not limited to:

(a) representing to consumers that he would negotiate reductions of 50 percent or more in consumers' debts.

(b) instructing consumers to stop making payments to creditors without disclosing the negative consequences to consumers of so doing.

(c) representing to consumers that during the time that they did not make payments to creditors he would be negotiating with the creditors.

(d) failing to disclose to consumers that no efforts to negotiate with creditors would be made for approximately three months after the consumers became customers.

(e) failing in numerous instances to engage in any debt-reduction negotiations on behalf of customers.

(f) obtaining confidential bank account information on the pretext that it was needed to determine consumers' eligibility for the purported debt reduction program.

(g) using consumers' confidential bank account information purportedly obtained only to determine eligibility to make withdrawals

(h) failing to disclose to consumers that major creditors had told him that they would not engage in debt-reduction negotiations with him.

(i) representing to customers that they could cancel at any time but failing to allow them to cancel.

(j) making unauthorized withdrawals from customer accounts.

(k) making unauthorized withdrawals from the accounts of former customers.

(l) representing to consumers that his unauthorized withdrawals were the result of bank or computer errors.

(m) charging fees in excess of limits set forth in Section 817.806(1), Florida Statutes.

(n) failing to comply with requirements concerning audits set forth in Section 817.804(1)(a), Florida Statutes.

(o) failing to comply with requirements concerning insurance set forth in Section 817.804(1)(b), Florida Statutes.

(p) failing to comply with requirements concerning trust funds set forth in Section 817.805, Florida Statutes.

COUNT TWO
DECEPTIVE AND UNFAIR TRADE PRACTICES
IN VIOLATION OF CHAPTER 501, PART II, FLORIDA STATUTES
CHRISTA L. CAPARELLA

54. The Attorney General re-alleges paragraphs 1 through 49.

55. “Unfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce” are unlawful under Section 501.204(1) of the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes (2005).

56. At all times material hereto, Defendant JOHN J. HACKER engaged in "trade or commerce" as defined by Section 501.203(8), Florida Statutes.

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(e) failing in numerous instances to engage in any debt-reduction negotiations on behalf of customers.

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(p) failing to comply with requirements concerning trust funds set forth in Section 817.805, Florida Statutes.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, State of Florida, Department of Legal Affairs, Office of the Attorney General respectfully requests that this court:

(a) Temporarily and permanently enjoin Defendants JOHN J. HACKER and CHRISTA L. CAPARELLA from violating the Florida Unfair and Deceptive Trade Practices Act, Chapter 501, Part II, Florida Statutes;

(b) Order Defendants JOHN J. HACKER and CHRISTA L. CAPARELLA to reimburse consumers who were victimized by the unfair, deceptive and unconscionable business practices of HACKER and CAPARELLA;

(c) Order Defendants JOHN J. HACKER and CHRISTA L. CAPARELLA to pay civil penalties pursuant to Sections 501.2075 and 501.2077, Florida Statutes;

(d) Award the Attorney General reasonable attorney's fees and costs; and

(e) Grant such other relief as this Court deems just and proper.

Respectfully submitted,

BILL MCCOLLUM
ATTORNEY GENERAL

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