

STATE OF COLORADO ATTORNEY GENERAL'S OFFICE CONSUMER PROTECTION SECTION	
IN RE: THE-RESULTS-TEAM.COM, INC. DBA GREATER GOOD COMPANY, a North Carolina corporation; SHAWN BUIGE, an individual; DOUGLAS K. SIMMONS & ASSOCIATES, PLLC, a North Carolina professional limited liability company; GALUSZKA, PRIMIANO & SIMMONS LAW, PLLC dba GPS LAW GROUP, a North Carolina professional limited liability company; and DOUGLAS K. SIMMONS, an individual. Respondents.	
PHILLIP J. WEISER, Attorney General JENNIFER MINER DETHMERS, Reg. No. 32519 Senior Assistant Attorney General NATALIE R. KLEE, Reg. No. 51223 Assistant Attorney General Colorado Department of Law Consumer Protection Section Ralph L. Carr Colorado Judicial Center 1300 Broadway, 7th Floor Denver, CO 80203	
ASSURANCE OF DISCONTINUANCE	

This Assurance of Discontinuance ("Assurance") is entered into by and between the State of Colorado, *ex rel.* Phillip J. Weiser, Attorney General for the State of Colorado ("Attorney General" or "State"), and Respondents The-Results-Team.com, Inc. dba Greater Good Company, Shawn Buige, Douglas K. Simmons & Associates, PLLC, Galuszka, Primiano & Simmons Law, PLLC dba GPS Law Group, and Douglas K. Simmons (collectively, "Respondents"). This Assurance is entered into pursuant to the Attorney General's powers under C.R.S. § 6-1-110(2) and is agreed to by the parties in lieu of the Attorney General filing a complaint against Respondents for the conduct described below.

PARTIES

1. Phillip J. Weiser is the duly elected Attorney General for the State of Colorado and has express jurisdiction to investigate and prosecute violations of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-101, *et seq.* (CCPA).

2. Respondent The-Results-Team.Com, Inc. dba Greater Good Company (“GGC”) is a subchapter S corporation registered with the North Carolina Secretary of State since 2002. The principal and mailing address for the The-Results-Team.Com, Inc. is 346 Summit Court SE, Concord, NC 28025. The business address of the Greater Good Company is 1 Buffalo Avenue, Suite 3306, Concord, NC 28025.

3. Respondent Shawn Buige is the president of GGC.

4. Respondent Douglas K. Simmons & Associates, PLLC (“Douglas K. Simmons & Associates”) is the predecessor entity to GPS and a North Carolina professional limited liability company with a business and mailing address of 8210 University Executive Park Dr., Suite 240, Charlotte NC 28262.

5. Respondent Galuszka, Primiano & Simmons Law, PLLC dba GPS Law Group (“GPS”) is a North Carolina professional limited liability company with a business and mailing address of 8210 University Executive Park Dr., Suite 240, Charlotte, NC 28262.

6. Respondent Douglas K. Simmons (“Simmons”) is a member and partner of GPS Law Group. He also is a member and partner of Douglas K. Simmons & Associates.

STATUTORY FRAMEWORK

7. A person engages in deceptive trade practices when, among other things, in the course of that person’s business, vocation, or occupation, the person knowingly makes a false representation as to the characteristics or benefits of goods, services, or property or fails to disclose material information concerning goods, services, or property that was known at the time of an advertisement or sale if the failure to disclose was intended to induce the consumer to enter into a transaction. *See* C.R.S. § 6-1-105(1)(e) and (u).

8. A person also engages in deceptive trade practices when the person knowingly enters into, or attempts to enforce, an agreement regarding the recovery of an overbid on foreclosed property if the agreement concerns the recovery of funds in the possession of (a) a public trustee prior to transfer of the funds to the state treasurer or (b) the state treasurer and does not meet the requirements for such an

agreement as specified in C.R.S. § 38-13-128.5. See C.R.S. § 6-1-105(1)(iii). An "overbid" is "the amount a property is sold for at a foreclosure sale that is in excess of the written or amended bid amount executed by the holder of the evidence of debt secured by the deed of trust or other lien being foreclosed." C.R.S. § 38-38-100.3(17.3). After payment to all lienors and the holder entitled to receive a portion of the overbid, any remaining overbid shall be paid to the homeowner. C.R.S. § 38-38-111(2).

9. An agreement to pay compensation to recover or assist in recovering an unclaimed overbid transferred to the state treasurer under C.R.S. § 38-38-111 is not enforceable unless entered into at least two years after the date of the transfer. C.R.S. § 38-13-128.5(1)(a).

10. An agreement to pay compensation to recover or assist in recovering an unclaimed overbid transferred to the state treasurer under C.R.S. § 38-38-111 is enforceable if: (1) the agreement is in writing and signed by the owner; (2) the agreement describes the property and the date of the foreclosure sale from which the overbid was derived; (3) the agreement sets forth the nature of the services to be provided; and (4) the compensation to be paid under the terms of the agreement does not exceed: (A) twenty percent of the amount of the overbid if entered into at least two years, but not more than three years, after the date of the transfer or (B) thirty percent of the amount of the overbid if entered into more than three years after the date of the transfer. C.R.S. § 38-13-128.5(1)(b).

11. A person who induces or attempts to induce another person to enter into an agreement for the recovery of overbids that does not comply with C.R.S. § 38-13-128.5 commits a misdemeanor and is subject to imprisonment in county jail for up to six months, a fine of up to ten thousand dollars, or both. C.R.S. § 38-13-128.5(2).

12. No commercial telephone seller may conduct business in Colorado without having registered with the Attorney General at least ten days prior to the conduct of such business. C.R.S. § 6-1-303. Failure to register as a commercial telephone seller is an unlawful telemarketing practice. C.R.S. § 6-1-304(1)(a). Engaging in unlawful telemarketing practices constitutes a violation of the CCPA. C.R.S. § 6-1-105(cc).

FACTUAL ALLEGATIONS

13. Simmons and Buige have a long-standing business relationship in which Simmons and his law firms, GPS and Douglas K. Simmons & Associates, assist GGC with the recovery of unclaimed or surplus funds, including unclaimed overbids.

14. GGC uses researchers to find homeowners with unclaimed funds, including homeowners in Colorado. Once GGC determines that there are unclaimed funds due to claimants, GGC sends mailers to those homeowners informing them about the funds and advertising its recovery services.

15. The 2016 version of the mailer states that GGC works “with unclaimed funds held by the court that do not appear on state unclaimed websites.” This statement is misleading in two ways. First, unclaimed overbid funds in Colorado are usually held by the public trustee or the state treasurer, not the court. Second, the unclaimed funds appear on state unclaimed websites that are accessible to the public.

16. The 2016 version of the mailer also emphasizes that it “requires extensive research to find the funds.” This is misleading because the list of homeowners entitled to overbid funds is available on many of the Colorado public trustee websites or on the state’s unclaimed property website.

17. Lastly, the 2016 mailer states that GGC will pay for any court or attorney costs. This statement is misleading, because in the vast majority of cases, there are no court costs for recovering overbid funds in Colorado.

18. GGC’s current mailers continue to deceptively state that GGC has found court held funds and that it “requires extensive research to find the funds,” even when the public trustee or state treasurer holds the funds. These statements mislead homeowners into thinking that the process to recover overbid funds is much more challenging than it really is.

19. In addition to mailings, GGC advertises its services by calling homeowners who may have overbid funds and their relatives. Neither the Greater Good Company nor the The-Results-Team.Com, Inc. are registered as commercial telephone sellers in the state of Colorado.

20. If a homeowner is interested in GGC’s recovery services, the homeowner enters into an “Unclaimed Funds Buyout Agreement” with GGC. Section 1 of the Unclaimed Funds Buyout Agreement (“Agreement”) states that the Original Claimant (“OC”) “conveys to GGC all of its right, title, and interest” to the unclaimed funds. GGC and Buige typically keep 70-75% of the overbid funds available to homeowners and give the remaining 25-30% to the homeowner. GPS and Douglas K. Simmons & Associates receive between 8-10% of the amount retained by GGC and Buige.

21. In one instance, the total overbid was \$38,913.42, but the homeowner received only \$10,119.70 (or 26%) while Respondents received \$28,793.72 (or 74%).¹

22. Section 2 of the Agreement provides that GGC will make two payments to the homeowner. The first payment is "nonrefundable" regardless of whether GGC recovers the funds. The second payment amount is paid "if and when" GGC recovers the funds.

23. Section 3 of the Agreement states:

OC agrees that the amount shown in section 2 above is reasonable and acknowledges that it is in no way unconscionable, particularly in light of the facts that GGC is paying over funds to OC without any guarantee that OC will successfully claim the unclaimed funds, that OC will benefit from the possession and use of such funds prior to completing a claim for the unclaimed funds, that GGC has contributed its experience, skills and insights, all of which OC does not possess, in order to locate and identify the unclaimed funds and to locate OC and notify OC of the existence of the unclaimed funds, and that GGC is assuming all risks of loss of the initial non-refundable payment as described above.

24. Section 3 of the Agreement gives the false and misleading impression that the business of recovering overbid funds involves a great deal of risk. However, GGC does not send the first buyout payment to the homeowner until a title search has been completed. As a result, there is little risk to GGC when entering into the Agreement because they have already confirmed that the homeowner is entitled to the funds after researching overbid funds and running a title search.

25. Section 3 also gives homeowners the false impression that recovering overbid funds and completing claim forms require special skills and expertise that the homeowners do not have. This is not true. The homeowner simply needs to complete a claim form and provide appropriate identification, including a copy of photo identification and a social security number, to recover overbid funds. If the funds have been transferred to the state treasurer, the process is even easier because the homeowner can fill out the claim form online and upload the required documentation. These misrepresentations in the Agreements emphasize similar statements in the direct mailers.

¹ GPS/Douglas K. Simmons & Associates received \$3,868.64 of the amount obtained by GGC/Buige.

26. Section 4 of the Agreement states that GGC shall assist the OC in obtaining counsel to assist with filing a petition to claim the unclaimed funds and shall provide assistance in preparing the petition.

27. In addition to signing the Agreement, the OC signs a "Limited Power of Attorney." The Limited Power of Attorney ("LPOA") appoints Simmons as the OC's attorney-in-fact for the "limited purpose of recovering monies and/or property being held by the funds holder." The LPOA authorizes Simmons to execute petitions, letters, agreements, and other documents in order to make a legal claim for the unclaimed funds. Second, it authorizes Simmons to receive the check for the overbid and disburse the funds according to all previous agreements. Third, the LPOA authorizes Simmons to conduct all necessary ministerial and custodial functions and use the firm address as the address of the OC for notifications and receipt of the check. Fourth, it authorizes Simmons to prepare, sign, and file any documents or forms required by the funds holder and deal with the fund holder on the OC's behalf. Finally, the LPOA authorizes Simmons to provide any and all necessary information required by the funds holder in order to claim the funds.

28. After GGC and/or Buige obtain signed documents and copies of identification from the homeowners due overbids, a closing coordinator with GPS and/or Douglas K. Simmons & Associates contacts the public trustee or treasurer in an attempt to secure the release of the overbid funds.

29. After receiving the signed Agreement and LPOA, the "Closing Coordinator" for GPS and Douglas K. Simmons & Associates emails and calls public trustees and the state treasurer's office requesting assistance with filing the overbid claim on behalf of the homeowners.

30. The Closing Coordinator also coordinates with Colorado attorneys hired to assist with the overbid fund recovery. In one example, the Colorado attorney advised the Closing Coordinator via email of Colorado laws concerning recovery of overbid funds: "You should be aware of both C.R.S. § 38-13-128 and its amendment, House Bill 1090. These statutes have significant limitation on recovery and how paid..."² The Closing Coordinator forwarded the email to Buige and Simmons. Buige responded to this email by commenting, "It isn't this guys [sic] issue. I appreciate the heads up, but his job is to make..." This email conversation establishes that Respondents knew of Colorado's laws regarding overbid funds, but chose to ignore those laws and knowingly enter into and attempt to enforce Agreements for the recovery of overbid funds.

² HB 16-1090 added subsection (iii) concerning agreements regarding the recovery of overbids to C.R.S. § 6-1-105(1).

31. In at least one instance, GGC and Buige requested that the homeowner sign a General Durable Power of Attorney and Financial Custodian Agreement. This document gave Buige or any officer or person with account signing privileges for GGC extremely broad powers, including

the full power and authority to open, administer and manage a bank account for the purposes of disbursing funds acquired from a court, in [homeowner's] name. . . . Powers expressly include the opening of an account, deposit and withdrawal of funds (by check, electronic transfer, or withdrawal slips), writing and cashing of checks in [homeowner's] name, and closing the account.

32. At least four homeowners with overbid funds in Colorado signed the Agreement and the LPOA appointing Simmons as the homeowners' attorney-in-fact. At least three of these Agreements and LPOAs violated C.R.S. § 6-1-101(1)(iii), because Respondents entered into and attempted to enforce the agreements when the overbids were either in the possession of the public trustee or less than two years after the funds were transferred to the treasurer. In addition, the three Agreements provided that 71%-75% of overbid funds went to GGC rather than the 20%-30% as set forth in C.R.S. § 38-13-128.5(1)(b)(IV).

33. Additionally, as set forth above, the direct mailers and Agreements used by Respondents contained deceptive misrepresentations.

CONSIDERATION

34. The parties enter into this Assurance as a compromise and settlement of all disputed claims. This Assurance is entered into without adjudication of any issue of fact or law or finding of liability of any kind, and nothing contained in this Assurance shall be construed or deemed an admission by Respondents of any wrongdoing or any violation of state or federal law or regulation. Respondents expressly deny any liability or wrongdoing under the CCPA or otherwise and are entering into this Assurance to avoid further inconvenience and costs of potential litigation.

35. The parties intend that this Assurance will finally and fully resolve all of the disputes between the Attorney General and Respondents arising out of the conduct investigated by the Attorney General that allegedly occurred prior to the Effective Date of this Assurance, including but not limited to all claims and/or causes of action for equitable relief, including injunctive relief, restitution, and disgorgement; fines and civil penalties; attorney fees; and/or costs.

ASSURANCES

36. Respondents assure the Attorney General that they, as well as any principals, officers, directors, members, agents, employees, representatives, successors, affiliates, contractors, consultants, or any person acting on their behalf, will comply with all provisions of the CCPA and C.R.S. § 38-13-128.5.

37. Respondents agree to develop a policy for destroying or properly disposing of paper documents containing personal identifiable information (PII) in accordance with C.R.S. § 6-1-713 within 30 days of the Effective Date of this Assurance.

38. Respondents agree to cease and refrain from obtaining, assisting, or offering to assist with the recovery of unclaimed funds, including but not limited to overbids, on behalf of any person who is entitled to receive the funds from property in Colorado. Respondents agree that they will not directly or indirectly enter or attempt to enforce an agreement regarding the refund of unclaimed property in Colorado.

39. To the extent that Respondents have made non-refundable initial payments to Colorado consumers prior to ceasing to work on their files, Respondents agree that those consumers may keep the initial payments and they will not request that the consumers return the funds.

MONETARY RELIEF

40. Respondents, jointly and severally, agree to pay \$33,000 to the Colorado Department of Law according to the following payment schedule: \$11,000 by February 19, 2019, \$11,000 by March 19, 2019, and \$11,000 by April 19, 2019.

41. All payments shall be made payable to the "Colorado Department of Law" with a reference to "*Greater Good Company/Douglas Simmons Settlement*." The cashier's check shall be delivered to:

Natalie Klee, Assistant Attorney General
Colorado Department of Law
Consumer Protection Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203

42. All payments will be held, along with any interest thereon, in trust by the Attorney General to be used for reimbursement of the Attorney General's actual costs and attorneys' fees, the payment of restitution, if any, and for future consumer

fraud or antitrust enforcement actions, or to support consumer education and public welfare.

ENFORCEMENT

43. The obligations set forth in this Assurance are continuing under this Assurance.

44. Proof by a preponderance of the evidence of a violation of any of the terms of this Assurance shall constitute a prima facie violation of the CCPA in accordance with C.R.S. § 6-1-110(2). In the event the Attorney General has a reasonable belief that any Respondent has violated any of the obligations of this Assurance, the Attorney General may file an action under the CCPA in any court of competent jurisdiction to seek an injunction or other appropriate order from such court to enforce the provisions of this Assurance.

45. In addition to any remedies provided under the CCPA, upon a finding by any Court of competent jurisdiction that a violation of the obligations in this Assurance has been proven by a preponderance of the evidence, the Attorney General may seek an order converting this Assurance into a permanent injunction against Respondents as if the parties had fully litigated all issues contained herein. In such event, Respondents agree to waive any and all defenses and counterclaims they may have had to such an action, except as to claims or defenses related to the violation of this Assurance or as to the need for injunctive relief. Respondents also agree to waive personal service of any demand, pleading, notice, or complaint from the Attorney General and agree notice as provided in Paragraph 63 below satisfied any notice requirements.

GENERAL PROVISIONS

46. Scope of Assurance. Unless otherwise provided, this Assurance shall apply to Respondents and their officers, directors, agents, servants, employees, affiliates, subsidiaries, successors, and assigns, together with the other parties described in C.R.C.P. 65(d).

47. Effective Date. The Effective Date of this Assurance shall be the date of signature of the last signatory to this Assurance.

48. Preservation of Law Enforcement Action. Nothing herein precludes the Attorney General from enforcing the provisions of this Assurance or from pursuing any non-released claims, including initiating any law enforcement action with respect to any acts or practices of Respondents not covered by this Assurance or any acts or practices in which Respondents engage after the Effective Date of this Assurance.

49. Compliance with and Application of State Law. Nothing herein relieves Respondents of their duty to comply with applicable laws of the state of Colorado nor constitutes authorization by the State for Respondents to engage in acts and practices prohibited by such laws. The laws of the state of Colorado shall govern this Assurance.

50. Non-Approval of Conduct. Nothing herein constitutes approval by the Attorney General of any of the Respondents' past, present, or future business practices, and Respondents shall not make any representation to the contrary.

51. Preservation of Private Claims. Nothing in this Assurance shall limit, constrain, abridge, abrogate, waive, release, or otherwise prejudice any private rights, causes of action, or remedies of any person against Respondents with respect to the acts and practices covered by this Assurance.

52. No Third-Party Beneficiaries Intended. This Assurance is for the benefit of the parties only and does not create or confer rights or remedies upon any other person, including rights as a third-party beneficiary. This Assurance does not create a private right of action on the part of any person or entity, whether to enforce this Assurance or otherwise, other than the parties hereto.

53. Execution in Counterparts. This Assurance may be executed in counterparts, each of which is an original and all of which are one and the same.

54. Cooperation. Respondents, including any person or entity acting on Respondents' behalf or under Respondents' direction or control, agree to cooperate with all investigations and other proceedings that the Attorney General may bring to enforce the terms of this Assurance. Included within this cooperation agreement are the obligations to:

- a. Appear for hearings, depositions, or to provide testimony in any form, including affidavits;
- b. Produce documents, records, electronic records, or any other tangible things in response to a subpoena or other written request issued by the Attorney General; and
- c. Accept a subpoena from the Attorney General without the need for formal service of process.

55. Severability. If any provision of this Assurance is held to be invalid, illegal, unenforceable, or in conflict with the law of any jurisdiction, the validity,

legality, and enforceability of the remaining provisions shall not in any way be affected or impaired.

56. Amendment. This Assurance may be amended solely by written agreement signed by the Attorney General and Respondents or their authorized representatives.

57. Complete Agreement. This Assurance represents the entire agreement between the parties hereto and a complete merger of prior negotiations and agreements. No other written or oral terms or agreements exist except for those contained in this Assurance.

58. Attorney Fees and Costs. Except as otherwise provided herein, each party shall bear its own attorneys' fees and costs in connection with this matter.

59. Public Record. Pursuant to C.R.S. § 6-1-110(2), this Assurance shall be a matter of public record.

60. Voluntary Agreement. Respondents acknowledge that they have had an adequate opportunity to review this Assurance and consult with legal counsel in connection with the negotiation, drafting, and execution of this Agreement. Each party and signatory to this Agreement represents that he, she, or it freely and voluntarily enters into this Agreement without any degree of duress or compulsion.

61. Assurance Jointly Drafted. For purposes of construing this Assurance, this Assurance shall be deemed to have been drafted jointly by both parties and, in the event of any dispute arising out of this Assurance, shall not be construed against or in favor of any party.

62. Entire Agreement. Respondents agree and represent that they have read and understand this Assurance, accept the legal consequences involved in signing this Assurance, and that there are no other representations, agreements, or understandings between Respondents and the Attorney General that are not stated in writing herein.

63. Notice. All notices required to be sent under this Assurance to the State shall be sent by email and United States Certified Mail, return receipt requested, to the following addresses:

Natalie Klee, Assistant Attorney General
Jennifer Miner Dethmers, Senior Assistant Attorney General
Colorado Department of Law
Consumer Protection Section
Ralph L. Carr Colorado Judicial Center

1300 Broadway, 7th Floor
Denver, CO 80203
Email: natalie.klee@coag.gov; jennifer.dethmers@coag.gov

All notices to Respondents shall be sent to the following:

For Respondents GGC and Buige:

Shawn Buige
Greater Good Company
1 Buffalo Ave., Suite 3306
Concord, NC 28025
Email: teambuige@gmail.com

For Respondents GPS, Douglas K. Simmons & Associates, and Simmons:

Douglas K. Simmons
GPS Law Group
8210 University Executive Park Dr., Suite 240
Charlotte, NC 28262
Email: doug@dsimmons.com

64. Signatures. Facsimiles of signatures and signatures provided by portable document format (".pdf") shall constitute acceptable, binding signatures for all purposes of this Agreement.

For the State

STATE OF COLORADO, *ex rel.*
PHILLIP J. WEISER, Attorney General

Natalie R. Klee
NATALIE R. KLEE
Assistant Attorney General
JENNIFER MINER DETHMERS
Senior Assistant Attorney General
Colorado Department of Law, Consumer Protection Section

Dated: 2/14/19

For the Respondents

The-Results-Team.com, Inc. dba Greater Good Company

The Results Team.com Inc dba
Greater Good Company Shawn Buige

Dated:

2/8/19

Print Name: THE RESULTS TEAM.COM LLC DBA

Title:

GREATER GOOD COMPANY BY
SHAWN BUIGE

Shawn Buige, individually

Shawn Buige

Dated:

2/8/19

SHAWN BUIGE

Douglas K. Simmons & Associates, PLLC

Douglas K. Simmons

Dated:

2/8/19

Print Name: DOUGLAS K. SIMMONS

Title:

OWNER

Galuszka, Primiano & Simmons Law, PLLC dba GPS Law Group

Douglas K. Simmons

Dated:

2/8/19

Print Name: DOUGLAS K. SIMMONS

Title:

PARTNER

Douglas K. Simmons, individually

Douglas K. Simmons

Dated:

2/8/19

DOUGLAS K. SIMMONS