

<p>DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO</p> <p>1437 Bannock Street Denver, CO 80202</p> <hr/> <p>STATE OF COLORADO, EX REL. CYNTHIA H. COFFMAN, ATTORNEY GENERAL,</p> <p>Petitioner,</p> <p>v.</p> <p>BRELVIS CONSULTING, LLC, D/B/A THE STUDENT LOAN HELP CENTER, A FLORIDA LLC,</p> <p>Respondent.</p>	<p style="text-align: center;">^ COURT USE ONLY ^</p>
<p>CYNTHIA H. COFFMAN, Attorney General JENNIFER H. HUNT, #29964* First Assistant Attorney General DAVID L. COATS, #51561* Assistant Attorney General Ralph L. Carr Colorado Judicial Center 1300 Broadway, 7th Floor Denver, CO 80203 Jennifer.hunt@coag.gov; david.coats@coag.gov Phone: 720-508-6215 *Counsel of Record</p>	<p>Case No.</p>
<p style="text-align: center;">APPLICATION FOR RELIEF UNDER C.R.S. § 6-1-109 FOR FAILURE TO RESPOND TO CIVIL LAW ENFORCEMENT INVESTIGATIVE SUBPOENA</p>	

Petitioner, the State of Colorado, by and through Cynthia H. Coffman, Attorney General (the “Attorney General” or the “State”), respectfully applies for an order pursuant to C.R.S. § 6-1-109 enforcing the investigative subpoena served on Respondent Brelvis Consulting, LLC, d/b/a The Student Loan Help Center

("Student Loan Help Center" or the "Respondent") on November, 15, 2017. For such application, the State states as follows:

INTRODUCTION

Under the Colorado Consumer Protection Act ("CCPA"), C.R.S. §§ 6-1-101, *et seq.* (2016), the Attorney General may issue pre-filing investigative subpoenas to require the attendance of witnesses or the production of documents whenever she has cause to believe that any person has engaged or is engaging in a deceptive trade practice. C.R.S. § 6-1-108(1). After receiving several complaints from consumers, the Attorney General became aware that Student Loan Help Center has made false representations to Colorado consumers and targeted Colorado consumers with unwanted telephone calls.

Because reasonable cause exists to believe that Student Loan Help Center has engaged and is engaging in deceptive trade practices in violation of the CCPA, the State personally served a subpoena on Student Loan Help Center on November, 15, 2017. Student Loan Help Center has refused to respond to the subpoena, has not produced any documents responsive to the subpoena, and has made no effort to engage with the State to discuss production of documents.

Therefore, the State seeks an order requiring Student Loan Help Center to cooperate with the Attorney General's investigation, comply with the subpoena, and prohibit it from advertising, entering contracts, or providing services until it fully

complies with the subpoena. The State also seeks an order requiring Student Loan Help Center to pay the State's reasonable attorney's costs and fees in making this application.

VENUE

Venue is proper in the City and County of Denver. The CCPA provides that "actions instituted pursuant to [the CCPA] may be brought in the county where an alleged deceptive trade practice occurred." C.R.S. § 6-1-103. Student Loan Help Center has taken money from consumers in Denver and called consumers in Denver despite consumers' requests that Student Loan Help Center no longer call them. Student Loan Help Center has also contacted consumers in other counties in Colorado. Because the State alleges that Student Loan Help Center engaged in deceptive trade practices in the City and County of Denver, venue is proper there.

BACKGROUND

Identity of Respondent

Student Loan Help Center is a Florida limited liability company with a principal place of business at 2660 Cypress Ridge Blvd, Suite 101, Wesley Chapel, FL 33544. Bruce Mesnekoff organized Student Loan Help Center, is listed as the registered agent, and, upon information and belief, is the owner of Student Loan Help Center. *See* Ex. 1, Articles of Incorporation, Florida Sec. of State, p. 2. On its website, Student Loan Help Center has advertised that it "assists consumers with federal student loan consolidation preparation and filing services" and that it

“requires a fee” for those services. *See* Ex. 2, Student Loan Help Center’s website “Compliance” section. The Student Loan Help Center is not affiliated with the Department of Education.

Student Loan Help Center’s Alleged Deceptive Trade Practices

At least six Colorado residents have formally complained that Student Loan Help Center took their money but did not perform the promised services. According to these complaints, the company promised to file consolidation paperwork with lenders. The six complaining consumers each paid Student Loan Help Center for the service of filing the paperwork but later discovered that the paperwork had not been filed. When the consumers demanded their money back, the Student Loan Help Center said the consumers were under contract with them and had to pay them even more to finish the contract. In the end, consumers paid Student Loan Help Center for services it promised but never delivered and then refused to refund consumers for its failure to perform.

In addition, seventeen Colorado consumers have complained to the Attorney General’s office about the Student Loan Help Center’s telemarketing practices. Several claimed that Student Loan Help Center called them repeatedly despite the consumers’ requests that they be taken off of the call list. Some consumers stated that Student Loan Help Center misrepresented its location. Another Colorado consumer complained that the Student Loan Help Center representative stated that they were affiliated with the Department of Education and that they were checking

for qualification for loan forgiveness. Student Loan Help Center is not registered with the Colorado Attorney General's office as required by C.R.S. § 6-1-303(1).

Based on the State's preliminary investigation, Student Loan Help Services has made misleading and deceptive statements to Colorado consumers, obtained money from Colorado consumers without providing the services for which they contracted, caused Colorado consumers to incur unnecessary expenses, created confusion among Colorado consumers, and made telemarketing calls in the state of Colorado without first registering with the Colorado Attorney General. Through its subpoena, the State is attempting to further investigate Student Loan Help Center's business practices in Colorado.

Student Loan Help Center's Refusal to Respond to the Subpeona

On November 15, 2017, the State personally served a subpoena for the production of documents on Student Loan Help Services to its registered agent, Mr. Bruce Mesnekoff. Ex. 3, Aff. of Service & Subpeona, Nov. 15, 2017. The subpoena seeks records and information from January 1, 2014 through November 15, 2017 relating to:

- All documents identifying each person residing in Colorado with whom Respondents entered into any agreement, oral or written;
- Complete copies of all agreements, correspondence, and documents relating to the relationship between Student Loan Help Center and any person residing in Colorado with whom Student Loan Help Center entered any agreement;

- Complete accounting of all monies received by Student Loan Help Center from any person residing in Colorado by amount, date, and payor, including the financial institution and account number, in which such funds were deposited;
- For each person residing in Colorado whom Student Loan Help Center entered into any agreement, all documents demonstrating that Student Loan Help Center provided assistance to that person relating to student loan debt relief;
- For each person residing in Colorado whom Student Loan Help Center entered into any agreement, all documents maintained by Student Loan Help Center relating to notes, case files, and correspondence reflecting work performed, including the employees or agents who performed the work;
- For each person residing in Colorado with whom Student Loan Help Center entered into any agreement, oral or written records, relating to any assistance with student loan debt during the relevant period, and all documents where those persons requested a refund or credit as well as all documents demonstrating that Respondents issued refunds or credits, including documents where people requested that Student Loan Help Center honor its money-back guarantee and Student Loan Help Center's response;
- A complete copy of all Student Loan Help Center's mailers and advertisements, including internet advertisements and telephone, email, text, or electronic solicitations, used by Student Loan Help Center during the relevant period relating to assistance with student loan debt, including the number of mailers and advertisements used by Student Loan Help Center and the markets in which they were distributed;
- A complete accounting of all monies transferred or paid by Student Loan Help Center to any third party relating to assistance with student loan debt during the relevant period, including for advertisement, referral, or assistance;
- All training materials, manuals, directives, scripts and materials used by any of Student Loan Help Center's agents or employees during the relevant period relating to assistance with student loan debt;

- A complete list by full name and contact information of all employees and agents, current and former, used by Student Loan Help Center during the relevant period relating to assistance with student loan debt;
- Documents sufficient to describe all services offered by Student Loan Help Center during the relevant period;
- Any complaints received relating to Student Loan Help Center's services from any source, its response to those complaints, and the final resolution of those complaints during the relevant period;
- Documents relating to the formation and organization of Student Loan Help Center, including all trade names and doing business as names, during the relevant period, including documents indicating all names under which Student Loan Help Center does or did business;
- Student Loan Help Center's policy, if any, on destruction or disposal of personally identifiable information and any prior versions of such policy during the relevant period.

Id., Subpoena, at 5, 6.

Student Loan Help Center's response to the subpoena was due on December 15, 2017. *Id.* at 1. Student Loan Help Center has received and ignored similar subpoenas from both the Florida and the Oregon Attorney General's Offices. Ex. 4. Florida Subpoena Enforcement, p. 4, 5.; Ex. 5. Oregon Subpoena Enforcement.

ARGUMENT

I. The Attorney General Has Statutory Authority to Issue and Enforce the Subpoena.

The CCPA prohibits deceptive trade practices. C.R.S. § 6-1-105. When the Attorney General has cause to believe that any person has engaged or is engaging in any deceptive trade practice she may: 1) examine any property, record, document,

account, or paper she deems necessary; and 2) issue subpoenas to require the attendance of witnesses or the production of documents in aid of any investigation. C.R.S. §§ 6-1-107(1) & -108(1); *see also* C.R.S. § 6-1-103 (granting the Attorney General authority to investigate deceptive trade practices). As set forth above and in the attached affidavit and exhibits, the State’s preliminary investigation of complaints about the Student Loan Help Center indicates that the company has engaged in and is currently engaging in deceptive trade practices.

A subpoena issued under C.R.S. § 6-1-108 must be “necessary to administer the provisions of the Consumer Protection Act,” including the Attorney General’s “duties of investigation and enforcement.” *People ex rel. MacFarlane v. Am. Banco Corp.*, 570 P.2d 825, 829 (Colo. 1977). The subpoena must be definite, not overbroad, and relevant to the purpose of the investigation. *Id.* at 830.

The requirement that the subpoena be definite and not overbroad is satisfied by a showing that the subpoena’s language exhibit such particularity of description that the person subpoenaed be able to know what he is being asked to produce and that there be such particularity of breadth that good faith compliance would not be unduly burdensome.

Id. A subpoena is relevant to a CCPA investigation if the Attorney General can show that “a relationship exists between the documents which must be produced and the purposes of the inquiry.” *Id.*; *see also* *Benson v. People*, 703 P.2d 1274, 1279 (Colo. 1985) (“The relevancy requirement is met if the government makes a prima

facie showing that the requested documents bear some general relationship to the subject matter of the investigation.”).

If any person fails to cooperate with any investigation pursuant to C.R.S. § 6-1-107 or fails to obey any subpoena issued pursuant to C.R.S. § 6-1-108, the Attorney General may apply to the district court for an order to effectuate the purposes of the CCPA. C.R.S. § 6-1-109(1). The application shall state that there are reasonable grounds to believe that the order is necessary to terminate or prevent a deceptive trade practice. *Id.* If the court is satisfied that reasonable grounds exist to terminate or prevent a deceptive trade practice, the court may:

- (a) Grant injunctive relief restraining the sale or advertisement of any property by such person;
- (b) Require the attendance of or the production of documents by such person, or both;
- (c) Grant such other or further relief as may be necessary to obtain compliance by such person.

C.R.S. § 6-1-109(1)(a) through (c). If the State successfully enforces the subpoena pursuant to the CCPA, the court shall award costs and attorneys’ fees. C.R.S. § 6-1-113(4).

II. Reasonable Grounds Exist to Believe that Enforcing the Subpoena is Necessary to Terminate or Prevent Deceptive Trade Practices.

The State has a reasonable basis to believe that Student Loan Help Center may have violated or is violating various provisions of the CCPA, including but not limited to, §§ 6-1-105(1)(a), (b), (c), (e), (i), (l), (m), (u), (cc), and § 6-1-302(1) by:

- Knowingly passing off services as those of another;
- Knowingly making false representations as to the source, sponsorship, approval, or certification of services;
- Knowingly making a false representation as to affiliation, connection, or association with or certification by another;
- Knowingly making a false representation as to the characteristics, uses, benefits of services or a false representation as to the sponsorship, approval, status, affiliation or connection of a person therewith;
- Advertising services with intent not to sell them as advertised;
- Making false or misleading statements of fact concerning the price of services;
- Failing to deliver to the customer at the time of an installment sale of services a written order, contract, or receipt setting forth the name and address of the seller, the name and address of the organization which he represents, and all the terms and conditions of the sale, including a description of the goods or services, stated in readable, clear, and unambiguous language;
- Failing to disclose material information concerning services which information was known at the time of an advertisement or sale if such failure to disclose such information was intended to induce the consumer to enter into a transaction;

- Engaging in any commercial telephone solicitation constituting an unlawful telemarketing practice as defined in C.R.S. § 6-1-304.
- Making commercial telephone sales calls without first registering with the Colorado Attorney General's office.

The documents sought by the subpoena are relevant to the State's investigation, which must determine whether Student Loan Help Center engaged in deceptive trade practices in violation of the CCPA. The subpoena is directed at learning more about Student Loan Help Center's business activities in connection with its advertising and contracting with Colorado consumers. The subpoena is not unduly burdensome because it is limited to the time period from January 1, 2014 to the present and is narrowly tailored to issues relevant to Student Loan Help Center's activities targeted to Colorado consumers.

Accordingly, reasonable grounds exist to enforce the subpoena. Student Loan Help Center's failure to comply has already delayed the State's investigation. This failure should not allow Student Loan Help Center to continue to engage in deceptive trade practices or evade liability for past CCPA violations.

RELIEF REQUESTED

The State respectfully requests that this Court enter an order against Student Loan Help Center requiring the company to:

1. Produce all documents responsive to the State's subpoena within seven days pursuant to C.R.S. § 6-1-109(1)(b); and

2. Pay the State's reasonable attorney's fees and costs in connection with this application pursuant to C.R.S. § 6-1-113(4).

The State also respectfully requests that this Court enter an injunction against Student Loan Help Center ordering it to refrain from calling Colorado consumers, advertising services, or entering into contracts with Colorado consumers until it complies with the State's subpoena pursuant to C.R.S. §§ 6-1-109(1)(a) & (c).

Respectfully submitted this 22nd day of February, 2018.

CYNTHIA H. COFFMAN
Attorney General

/s/ David L. Coats

JENNIFER H. HUNT*
First Assistant Attorney General
DAVID L. COATS*
Assistant Attorney General
Attorneys for the State of Colorado
*Counsel of Record