

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: January 14, 2016 9:40 PM CASE NUMBER: 2016CV30008 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p>
Plaintiff(s) ST OF COLO et al. v. Defendant(s) BRIAN S KENNEDY et al.	
Case Number: 2016CV30008 Division: 414 Courtroom:	
FINAL CONSENT JUDGMENT	

The motion/proposed order attached hereto: SO ORDERED.

Issue Date: 1/14/2016



KAREN L. BRODY
 District Court Judge

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO 1437 Bannock Street Denver, CO 80202	
STATE OF COLORADO ex rel. CYNTHIA H. COFFMAN, ATTORNEY GENERAL FOR THE STATE OF COLORADO, Plaintiffs, v. BRIAN S. KENNEDY a/k/a ERIC REINHARD, MELVIN SIMMONS, BRAD SULLIVAN and STEVE NEECE, individually; ATG SOLUTIONS, INC.; NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES REPRESENTATIVES, INC., and NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES, INC., Defendants.	^ COURT USE ONLY ^
	Case No. Courtroom
[PROPOSED] FINAL CONSENT JUDGMENT	

Plaintiff, the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General for the State of Colorado (the “State” or “Attorney General”), and Defendants, Brian S. Kennedy a/k/a Eric Reinhard, Melvin Simmons, Brad Sullivan and Steve Neece, individually, as well as, ATG Solutions, Inc., National Association of Medical Sales Representatives, Inc. and National Association of Pharmaceutical Sales Representatives, Inc. (collectively, the “Defendants”), hereby consent to entry of final judgment in this matter as embodied in this Final Consent Judgment to resolve fully and finally the claims and issues in the above-captioned case, without trial or hearing, and to avoid the time and expense associated with engaging in litigation.

The Court, having considered this matter and being otherwise fully advised on the grounds for this Final Consent Judgment,

DOES HEREBY FIND, CONCLUDE, ORDER, and ADJUDGE, as follows:

I. GENERAL PROVISIONS

1.1 Scope of Final Consent Judgment. The provisions of this Final Consent Judgment are entered pursuant to the Colorado Consumer Protection Act, C.R.S. § 6-1-101, *et seq.* (2015) (“CCPA”). This Final Consent Judgment shall apply to: Defendants and their officers, directors, principals, agents, servants, employees, representatives, affiliates, contractors, subsidiaries, heirs, and assigns, together with the other parties described in C.R.C.P. 65(d); all entities that Defendants may own, operate, or control, in whole or in part; and, all entities in which any Defendants have invested or loaned capital in an amount that exceeds \$25,000, other than any corporation the shares of which are registered and traded on a public stock exchange and with respect to which the Defendants in the aggregate own less than 10% of the authorized issued and outstanding shares.

1.2 Release of Claims.

(a) Subject to the conditions herein, the State agrees and acknowledges that entry of this Final Consent Judgment by the Court constitutes a complete settlement and release of all claims, causes of action, damages, fines, costs, and penalties under the CCPA on behalf of the State against Defendants that were asserted or could have been asserted under the CCPA in the Complaint, that arose prior to the Final Consent Judgment Date, and that relate to or are based upon any of the acts or practices which are the subject of the Complaint. Notwithstanding anything within this Section 1.2, the State reserves the right to institute an action or proceeding to enforce the terms and provisions of this Final Consent Judgment or take action based on future conduct by any of the Defendants.

(b) Upon full and timely completion of payments (or the provision for payment) in accordance with Section 4.1 of Article IV of this Final Consent Judgment, release all existing monetary claims of the State, which claims were asserted or could have been asserted in the Complaint, are and shall for all purposes be automatically released without need for any further action hereunder or otherwise. Any unpaid balance of payments required under Article IV may be asserted by the State in any subsequent proceeding to enforce this Final Consent Judgment, whether through execution, garnishment, or other legal proceedings, or through a proof of claim in any bankruptcy proceeding filed by any Defendant.

1.3 No Admission of Liability. The parties acknowledge and agree that none of the Defendants have admitted any liability under the Complaint or otherwise with regard to any matters set forth therein, and neither the execution nor delivery of, nor the performance by any of the Defendants under, this Final Consent Judgment constitutes nor may be construed or operate as any admission on the part of any of the Defendants of any liability under the Complaint or otherwise with regard to any matters set forth therein. All parties are entering into this Final Consent Judgment

solely for the purpose of compromising and resolving disputed claims and to avoid the expense of further litigation.

1.4 Preservation of Law Enforcement Action. Nothing herein precludes the State from enforcing the provisions of this Final Consent Judgment, or from pursuing claims which were not asserted or could not have been asserted in the Complaint and thus not released hereunder, including any law enforcement action with respect to the acts or practices of Defendants which are not the subject of the Complaint or not covered by this Final Consent Judgment or any acts or practices of Defendants conducted after this Final Consent Judgment has been approved by the Court.

1.5 Compliance With and Application of State Law. Nothing herein relieves Defendants of their duty to comply with applicable laws of the State of Colorado nor constitutes authorization by the State for Defendants to engage in acts and practices prohibited by such laws. This Final Consent Judgment shall be governed by the laws of the State of Colorado.

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

1.7 Preservation of Private Claims and Relation to Private Settlements. Unless otherwise noted, or otherwise limited by law, nothing in this Final Consent Judgment shall limit, constrain, abridge, waive, release, or otherwise prejudice any private rights, causes of action, or remedies of any person against Defendants with respect to the acts and practices covered by this Final Consent Judgment.

1.8 Use of Settlement as Defense. Defendants acknowledge that it is the State's customary position that a final consent judgment restraining certain conduct on the part of a defendant does not prevent the State from addressing subsequent conduct that occurs after the entry of such final consent judgment that could have been prohibited, but was not, in the earlier final consent judgment, unless the earlier final consent judgment expressly limited the State's enforcement options in that manner. Therefore, nothing herein shall be interpreted to prevent the State from taking enforcement action to address conduct occurring after the entry of this Final Consent Judgment that the State believes to be in violation of the law and the fact that such conduct was not expressly prohibited by the terms of this Final Consent Judgment shall not be a defense to any such enforcement action.

1.9 Use of Settlement in Business Activity. Under no circumstances shall this Final Consent Judgment or the name of the Attorney General or any of the State's employees or representatives be used by Defendants or by its officers, employees, representatives, or agents in conjunction with any marketing or advertising by Defendants as an endorsement of any of its conduct other than conduct expressly

required to comply with this Final Consent Judgment. A violation of this paragraph constitutes a violation of this Final Consent Judgment. However, nothing in this Final Consent Judgment shall prevent Defendants from truthfully responding to inquiries about this Final Consent Judgment.

1.10 Retention of Jurisdiction. All parties agree that the Denver District Court, City and County of Denver, Colorado, has jurisdiction over the parties and subject matter of this action for the sole purpose of entering this Final Consent Judgment. Furthermore, the parties agree that this Court shall retain jurisdiction over this matter for the purpose of enabling any party to this Final Consent Judgment to apply to this Court at any time for any further orders which may be necessary or appropriate for the construction, modification or execution of this Final Consent Judgment, and for the enforcement of compliance herewith and the punishment of violations hereof. Defendants consent to the jurisdiction, venue, and the process of this Court solely if there is any claim, cause of action, or proceeding arising out of or based upon this Final Consent Judgment.

1.11 Public Record. Pursuant to C.R.S. §6-1-110(2) (2015), this Final Consent Judgment shall be a matter of public record.

1.12 Contempt. The parties understand and agree that any Material Violation, of any term or provision of this Final Consent Judgment may in the State's discretion give rise to the contempt remedies and penalties provided under C.R.S. § 6-1-112(1)(b) (2015). Any civil penalty imposed under the CCPA shall be in addition to any other penalty or remedy available for the enforcement of the provisions of the CCPA and this Final Consent Judgment.

1.13 Execution in Counterparts. This Final Consent Judgment may be executed in counterparts, all of which together shall constitute one and the same document.

1.14 Severability. If any provision(s) of this Final Consent Judgment 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 thereby.

1.15 Successors in Interest. The terms and provisions of this Final Consent Judgment may be enforced by the current Colorado Attorney General, and by any of her agents or representatives, as well as by any of her successors in interest, and by any of her successors in interest's agents or representatives.

1.16 Amendment. This Final Consent Judgment may be amended solely by written agreement signed by the State and Defendants, or their authorized representatives, and with the approval of the Court.

1.17 Complete Agreement. This Final Consent Judgment represents the entire agreement between the parties hereto and a complete compilation of any related negotiations or agreements.

1.18 Notice to Counsel.

All notices to the State shall be sent to the following:

Olivia D. Webster
Senior Assistant Attorney General
Colorado Department of Law
Consumer Protection Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203
libby.webster@coag.gov

Jay B. Simonson
First Assistant Attorney General
Colorado Department of Law
Consumer Protection Section
Ralph L. Carr Colorado Judicial Center
1300 Broadway, 7th Floor
Denver, CO 80203
Jay.simonson@coag.gov

All notices to Defendants shall be sent to the following:

Todd R. Seelman
Managing Partner
Lewis Brisbois Bisgaard & Smith LLP
1700 Lincoln Street
Suite 4000
Denver, CO 80203
todd.seelman@lewisbrisbois.com

II. DEFINITIONS

2.1 “Accreditation” or “Accredited” is the recognition that an institution maintains standards requisite for its graduates to gain admission to other reputable institutions of higher learning or to achieve credentials for professional practice. The goal of accreditation is to ensure that education meets acceptable levels of quality.

2.2 “Accrediting Agency” means an organization or body that establishes operating standards for education or professional institutions and programs, determines the extent to which the standards are met, and publicly announces their findings. In the United States, colleges and universities are accredited by one of 19 recognized institutional accrediting organizations. Programs are accredited by one of approximately 60 recognized programmatic accrediting organizations. Accrediting organizations that are “recognized” have been reviewed for quality by the Council for Higher Education Accreditation (CHEA) or the United States Department of Education (USDE)

2.3 Unless otherwise stated herein, the terms “Advertise” or “Advertisement” mean the attempt by publication, dissemination, solicitation, or circulation, visual, oral, or written, to induce directly or indirectly any person to enter into any obligation or to acquire any title or interest in any property. C.R.S. § 6-1-102(1) (2015).

2.4 “Direct Relationship” means a relationship between any of the Defendants and another person or entity in which both parties have knowingly entered into the relationship by means of an oral or written agreement.

2.5 “Effective Date” means the date this Final Consent Judgment is entered by the Court and becomes a final judgment of the Court.

2.6 “Knowingly or Knowing” means actually knew or should have reasonably known.

2.7 “Material Violation” means a failure to comply with any substantive term of this Final Consent Judgment, as distinguished from a failure to comply with form or a failure to comply based on mistake.

2.8 “Recruiter” means any individual who holds himself or herself out as someone who locates candidates for open employment positions with any entity in exchange for remuneration.

2.9 “Training Programs” mean any type of course, program, or other organized event that represents itself as teaching, training, or otherwise instructing participants in a particular area of expertise or industry in exchange for a fee or other form of payment. Training Programs include, but are not limited to: Certification National Pharmaceutical Sales Representative (“CNPSRx”) and Registered Medical Sales Representative (“RMSR”).

III. INJUNCTIVE TERMS

This Court ORDERS:

3.1 Defendants, and any other person under their control or at their direction, are immediately and permanently enjoined from the following Knowing conduct in Colorado or conduct outside of Colorado that directly affects Colorado consumers:

- (a) falsely holding oneself out as a Recruiter in order to induce consumers to purchase any Training Programs;
- (b) using pseudonyms in any communications to consumers, or otherwise falsely representing their identities to consumers;
- (c) utilizing statements, images and logos that expressly or impliedly represent a Direct Relationship between Defendants and the owners of such images and logos, unless legally authorized to do so;
- (d) making representations to consumers that expressly state or imply that Defendants' Training Programs are Accredited, if in fact they are not by an actual Accrediting Agency, as defined herein;
- (e) making representations to consumers that expressly state or imply that Defendants' Training Programs have been recognized by or received awards from third parties, if in fact that is not the case;
- (f) making representations to consumers that expressly state or imply that Defendants' Training Programs lead to increased chances of hiring by employers and receiving higher salaries, unless Defendants can substantiate such representations with actual outcomes of their Training Programs;
- (g) representing to a consumer that such person has won or is eligible to win any award, prize, or thing of value as the result of a contest, promotion, sweepstakes, or drawing, unless Defendants, at the time of the representation, have the present ability to supply such award, prize or thing of value.
- (h) making representations to consumers that expressly state or imply that Defendants maintain an "advisory board" in any capacity, including but not limited to providing consulting services to Defendants, and developing or reviewing Defendants' Training Programs, unless Defendants actually maintain such an "advisory board." If Defendants do actually maintain an "advisory board," Defendants must list the names and credentials of each board

member in a prominent manner in any promotional materials, including web sites over which Defendants have control, in which Defendants reference the “advisory board.”

3.2 Within 30 days of the Effective Date, Defendants shall ensure and attest that all web sites and social media accounts, over which Defendants have control, comply with Section 3.1 herein.

3.3 Defendants shall not Knowingly permit any person with whom the Defendants have a Direct Relationship to violate the terms of Sections 3.1 and 3.2 herein.

3.4 Defendants shall use their best efforts to comply with Section 3.3 by providing a copy of this Final Consent Judgment to any person with whom the Defendants have a Direct Relationship, consistent with Sections 3.1-3.3 herein. Within 30 days of the Effective Date, Defendants shall provide the State with a list of all persons with whom this Final Consent Judgment has been shared, along with the contact information of each such person, other than their attorney.

IV. MONETARY PROVISIONS

4.1 **Restitution:** Within 30 days following the Effective Date, Defendants shall perform a self-audit of all Colorado consumers who purchased one of Defendants Training Programs to identify all amounts paid by such consumers to Defendants from March 1, 2010 to the Effective Date. Defendants shall produce to the Attorney General a list of all such Colorado consumers. Within 180 days following the Effective Date, Defendants shall fully reimburse all such Colorado consumers the respective amounts paid. Defendants shall produce to the Attorney General an attestation regarding their efforts to reimburse each and every listed Colorado consumer. This Section 4.1 will be governed by the procedures laid out below:

- a) Defendants’ self-audit shall result in a list of Colorado consumers to include each consumer’s: name, address, phone number, and amount of money received by the Defendants from the consumer. Defendants shall attest in writing that the audited information provided to the State is complete to the best of Defendants’ ability.
- b) Within 15 days following the Effective Date, Defendants shall establish an escrow account, maintained by an independent party, in which the total amount of funds calculated in the self-audit will be held for the sole purpose of reimbursing Colorado consumers identified in Defendants’ self-audit.

- c) Defendants shall make their best efforts to contact each and every Colorado consumer identified in Defendants' self-audit in order to verify each consumer's information required in 4.1(a) and to give notice of the settlement funds ordered to be paid to the consumer.
- d) Once Defendants have verified a Colorado consumer identified in the self-audit, Defendants shall pay such consumer within 60 days.
- e) Defendants shall request the funds of each Colorado consumer identified in Defendants' audit and verified pursuant to 4.1(c) to be transferred from the escrow account and paid to each Colorado consumer until Defendants have paid each such consumer the total amount owed, or when Defendants have exhausted their efforts to locate and verify each Colorado consumer's contact information.
- f) The subject line of any mail piece sent by Defendants to Colorado consumers, including electronic mail, ordered herein, shall read: Important Settlement Notice Regarding Your NAMSR/NAPSR Transaction.
- g) The content of any mail piece, including electronic mail, sent by Defendants to Colorado consumers, including electronic mail, ordered herein shall include the following text:
 - a. You are receiving this notice because you may be entitled to a refund in connection with a settlement that the Colorado Attorney General has obtained with the National Association of Medical Sales Representatives and the National Association of Pharmaceutical Sales Representatives (NAMSR/NAPSR) and owner, Brian Kennedy (hereinafter "the Defendants"). According to the Defendants' records, you purchased _____ on _____ for \$_____. An investigation by the Colorado Attorney General has revealed that Colorado consumers who purchased training programs from the Defendants may have been induced to do so under false pretenses. On [Effective Date], the Colorado Attorney General entered into a settlement with the Defendants to resolve the Attorney General's investigation. Pursuant to this settlement, Colorado consumers receiving this notice are eligible for a full refund of all moneys paid by them to the Defendants that have not previously been refunded. In order to receive a full refund, you must respond to [Email address and 1-800 number

established by Defendants] within 45 days, and verify your contact information and the amount you paid to Defendants. Upon receipt, Defendants will send a check within 60 days. If you have any questions, you may call the Colorado Attorney General's Office at 720-508-6890 or NAMS/NAPSR at [1-800 number established by Defendants].

- h) Defendants shall establish a 1-800 number and email account available on the Effective Date of this Final Consent Judgment for the sole purpose of providing a place for consumers to request a return of any money paid by them to Defendants. The 1-800 phone number and email account will remain open and active for 180 days after the Effective Date. Defendants shall routinely monitor the 1-800 phone number and email account for messages from consumers and respond in a prompt manner.
- i) With respect to checks that Defendants have sent to Colorado consumers but which are not cashed or deposited within one hundred (100) days after Defendants sent payments to Colorado consumer, Defendants shall at that time transmit such moneys to the Colorado State Treasurer pursuant to the Colorado Unclaimed Property Act, Colo. Rev. Stats. §§ 38-13-101, *et seq.* Upon request by the Colorado Attorney General's Office, Defendants shall, after the date that non-cashed checks mailed pursuant to this Final Consent Judgment are voided, provide a report, of Colorado consumers who failed to cash or deposit checks. If the amount of money deposited by the Defendants is insufficient, for any reason, Defendants are responsible for depositing the amount of money required to cure the existing deficiency.
- j) Any remaining funds in the escrow account, which are not subject to 4.1(e) herein, shall be paid to the Colorado Department of Law in satisfaction of this Final Consent Judgment no later than 365 days from the Effective Date, to be held along with any interest thereon in trust for the benefit of the Consumer Protection Section, to be used in the Attorney General's sole discretion for consumer restitution, to reimburse the State for its reasonable costs and attorney's fees, and for future consumer education, consumer fraud and antitrust enforcement efforts. C.R.S. § 6-1-110 (2015); C.R.S. § 24-31-108 (2015).
- k) At the end of the 180-day period (following the Effective Date of this Final Consent Judgment), Defendants shall furnish a list of all Colorado consumers that have been successfully reimbursed by

the Defendants in accordance with this Section 4.1. This list shall be in the same format as the list required in Section 4.1(a), with the addition of a column identifying the amount of money reimbursed to each Colorado consumer. Defendants shall attest in writing to the veracity of the list required by this Paragraph 4.1(k).

4.2 Suspended Penalties, Restitution, Costs and Fees: Defendants shall, subject to the suspension provision herein described under Section 4.2(a) and (b), pay the amount of One Million Dollars (\$1,000,000) within 90 days after entry of this Final Consent Judgment to the Colorado Department of Law to be held, along with any interest thereon, in trust for the benefit of the Colorado Consumer Protection Section, to be used in the State's sole discretion for consumer restitution, to reimburse the State for its reasonable costs and attorney's fees and for future consumer education, consumer fraud and antitrust enforcement efforts. C.R.S. §§ 6-1-110, -112 (2015).

(a) The State agrees to suspend the monetary payment ordered in this Section 4.2 for a period of five years from the Effective Date of this Final Consent Judgment so long as Defendants after the entry of this Final Consent Judgment have not Knowingly: (i) falsified Colorado consumer restitution information ordered in Section 4.1 herein; or, (ii) violated the permanent injunction described herein and ordered by the Court. Upon learning of any Knowing falsification of Colorado consumer information or payment to any Colorado consumers or of any Knowing, Material Violation of the injunctive terms within the first five years from the Effective Date of this Final Consent Judgment, the State may enforce such suspended penalty payment against the Defendants in addition to any and all remedies available to the State under the CCPA.

(b) Notwithstanding the five-year suspended penalty term, the injunction ordered herein is permanent and survives such term.

4.3 Subject to the suspension of penalty payment set forth in Section 4.2, failure to pay in full and on time as per the monetary terms of this Final Consent Judgment, excepting the monetary penalty referenced in Section 4.2 as suspended, will constitute contempt of this Court and a Knowing, Material Violation of this Final Consent Judgment. In the event of such non-payment, Defendants agree to pay the costs of any legal action instituted to carry out successful recovery of the agreed amounts. C.R.S. § 6-1-113(4) (2015).

V. REPRESENTATIONS AND WARRANTIES

5.1 Except as expressly provided in this Final Consent Judgment, nothing in this Final Consent Judgment shall be construed as relieving Defendants of their

respective obligations to comply with all laws, regulations, or rules, or granting permission to engage in any acts or practices prohibited by any such laws, regulations, or rules.

5.2 Defendants acknowledge that they have thoroughly reviewed this Final Consent Judgment with their counsel, that they understand and agree to its terms, and that they agree that it shall be entered as the Order of this Court.

5.3 Each of the non-Court signatories to this Final Consent Judgment warrants and represents that he or she has authority to agree to this Final Consent Judgment on behalf of one of the parties.

VI. VIOLATIONS OF FINAL CONSENT JUDGMENT

6.1 Upon any Knowing, Material Violation of any of the terms of this Final Consent Judgment, and in addition to seeking contempt, the State shall be entitled to seek an injunction or other appropriate order from this Court to enforce the provisions of this Final Consent Judgment. *See* C.R.S. § 6-1-112(1)(b) (2015).

6.2 With the exception of the provisions specified herein, the terms of this Final Consent Judgment take effect on the Effective Date.

SO ORDERED and SIGNED this _____ day of _____, 2016.

BY THE COURT:

District Court Judge

This Final Consent Judgment concerning the BRIAN S. KENNEDY a/k/a ERIC REINHARD, MELVIN SIMMONS, BRAD SULLIVAN and STEVE NEECE, individually; ATG SOLUTIONS, INC.; NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES REPRESENTATIVES, and NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES is signed and agreed to this ____ day of December, 2015.

For the Plaintiffs:
CYNTHIA H. COFFMAN
Attorney General

/s/

OLIVIA D. WEBSTER, 35867*
Senior Assistant Attorney General
Consumer Protection Section
Consumer Fraud Unit
Attorney for Plaintiff
*Counsel of Record

For the Defendants:
NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES, Inc.,
NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES
REPRESENTATIVES, Inc., AND
BRIAN KENNEDY

/s/

BRIAN KENNEDY
For Himself and on Behalf of:
National Association of Medical Sales Representatives
National Association of Pharmaceutical Sales Representatives


and

s/s

TODD R. SEELMAN, 20469
Lewis Brisbois Bisgaard & Smith LLP
Attorney for Defendants

This Final Consent Judgment concerning the BRIAN S. KENNEDY a/k/a ERIC REINHARD, MELVIN SIMMONS, BRAD SULLIVAN and STEVE NEECE, individually; ATG SOLUTIONS, INC.; NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES REPRESENTATIVES, and NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES is signed and agreed to this 22 day of December, 2015.

For the Plaintiffs:
CYNTHIA H. COFFMAN
Attorney General



OLIVIA D. WEBSTER, 35867*
Senior Assistant Attorney General
Consumer Protection Section
Consumer Fraud Unit
Attorney for Plaintiff
*Counsel of Record

For the Defendants:
NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES,,Inc.,
NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES
REPRESENTATIVES, Inc., AND
BRIAN KENNEDY

BRIAN KENNEDY
For Himself and on Behalf of:
National Association of Medical Sales Representatives
National Association of Pharmaceutical Sales Representatives
and


TODD R. SEELMAN, 20469
Lewis Brisbois Bisgaard & Smith LLP
Attorney for Defendants

This Final Consent Judgment concerning the BRIAN S. KENNEDY a/k/a ERIC REINHARD, MELVIN SIMMONS, BRAD SULLIVAN and STEVE NEECE, individually; ATG SOLUTIONS, INC.; NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES REPRESENTATIVES, and NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES is signed and agreed to this ____ day of December, 2015.

For the Plaintiffs:
CYNTHIA H. COFFMAN
Attorney General

OLIVIA D. WEBSTER, 35867*
Senior Assistant Attorney General
Consumer Protection Section
Consumer Fraud Unit
Attorney for Plaintiff
*Counsel of Record

For the Defendants:
NATIONAL ASSOCIATION OF MEDICAL SALES REPRESENTATIVES, Inc.,
NATIONAL ASSOCIATION OF PHARMACEUTICAL SALES
REPRESENTATIVES, Inc., AND
BRIAN KENNEDY


BRIAN KENNEDY
For Himself and on Behalf of:
National Association of Medical Sales Representatives
National Association of Pharmaceutical Sales Representatives

and


TODD R. SEELMAN, 20469
Lewis Brisbois Bisgaard & Smith LLP
Attorney for Defendants

Exhibit A – Implementation Schedule¹

Consent Judgment Paragraph(s)	Deadline for Compliance	Obligation
4.1(h)	On the Effective Date	Defendants shall establish a 1-800 number and email address for consumers to contact regarding restitution.
4.1(b)	15 days from the Effective Date	Defendants shall establish an escrow account.
4.1	30 days from the Effective Date	Defendants shall perform a self-audit of Colorado consumers who purchased one of Defendants' Training Programs to identify all amounts paid by such consumers to Defendants from March 1, 2010 to the Effective Date. Defendants shall produce to the Attorney General a list of all such Colorado consumers.
3.2	30 days from the Effective Date	Defendants shall ensure and attest that all web sites and social media accounts, over which Defendants have control, comply with Section 3.1.
3.4	30 days from the Effective Date	Defendants shall provide the State with a list of all persons with whom this Final Consent Judgment has been shared, along with contact information of each such person, other than their attorney.
4.1(c), (d) and (g)	Within 60 days of verifying a Colorado Consumer identified in the self-audit, meaning through Defendants' best efforts to contact each and every Colorado consumer pursuant to the notice and verification process articulated in 4.1(g)	Defendant shall pay each verified Colorado consumer after the self-audits and verification process, but no later than 180 days from the Effective Date.
4.1(i)	100 days after payment is sent to a Colorado consumer	If not cashed or deposited by Colorado consumer within this time period, Defendants shall transfer the money for that specific Colorado consumer to the

¹ All capitalized terms used in this Exhibit A have the meaning assigned to them within the Final Consent Judgment.

		Colorado State Treasurer pursuant to the Colorado Unclaimed Property Act.
4.1	Within 180 days from the Effective Date	Defendants shall fully reimburse all Colorado consumers the respective amounts owed.
4.1(k)	Within 180 days from the Effective Date	Defendants shall produce to the Attorney General an attestation regarding their efforts to reimburse each and every listed Colorado consumer.
4.1(j)	Within 365 days from the Effective Date	Defendants shall pay to the Colorado Department of Law any remaining funds in the escrow account which are not subject to 4.1(e).
4.2(a)	5 years from Effective Date	The term on the suspended monetary payment referred to in Section 4.2 sunsets, provided that there have not been any Knowing Material violations of the Final Consent Judgment as described in Section 4.2(a).

Attachment to Order - 2018-00018