

<p>DISTRICT COURT, BOULDER COUNTY, COLORADO Boulder County Justice Center 1777 Sixth Street. Boulder CO 80302</p> <hr/> <p>STATE OF COLORADO, ex rel. PHILIP J. WEISER, ATTORNEY GENERAL</p> <p>Plaintiff,</p> <p>v.</p> <p>ATLANTIC PUBLISHERS GROUP, LLC; PUBLISHERS PARTNERSHIP SERVICES, LLC; CUSTOMER PUBLICATION SERVICES, LLC; ENDEAVOR DAILY, LLC; DENNIS SIMPSON CONSULTING; REALITY KATS, LLC; LORI BOWMAN, an individual; JOHN ACKERMANN, an individual; and DENNIS SIMPSON, an individual</p> <p>Defendants.</p>	<p>DATE FILED: November 25, 2019 10:35 AM FILING ID: 9C12619F16C59 CASE NUMBER: 2019CV31156</p> <p>▲ COURT USE ONLY ▲</p>
<p>PHILIP J. WEISER, Attorney General JAY B. SIMONSON, 24077* First Assistant Attorney General JEFFREY M. LEAKE, 38338* Assistant Attorney General Ralph L. Carr Judicial Center 1300 Broadway, 10th Floor Denver, CO 80203 Telephone: (720) 508-6000 FAX: (720) 508-6040 *Counsel of Record</p>	<p>Case No. Div.:</p>
<p>COMPLAINT</p>	

Plaintiff, the State of Colorado, upon relation of Philip J. Weiser, Attorney General for the State of Colorado, by and through undersigned counsel, states and alleges as follows:

INTRODUCTION

1. This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, C.R.S §§ 6-1-101 *et seq.* (“CCPA”), and the Colorado Organized Crime Control Act, C.R.S. §§ 18-17-101 *et seq.* (“COCCA”) to

enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for restitution to injured consumers, for statutorily mandated civil penalties, for disgorgement, and other relief as provided in both the CCPA and COCCA.

PARTIES

2. Philip J. Weiser is the duly elected Attorney General of the State of Colorado and is authorized under Colo. Rev. Stat. § 6-1-103 to enforce the provisions of the CCPA.

3. Defendant Atlantic Publishers Group, LLC is a Colorado limited liability company, formed on January 27, 2016, with its principal place of business located at 6675 Secretariat Drive, Longmont, Colorado 80503.

4. Defendant Publishers Partnership Services, LLC is a Wyoming limited liability company formed on November 30, 2017 that lists 30 North Gould Street, Suite 10924 Sheridan, Wyoming 82801 as its principal place of business, but based on reliable information, actually operates from 6675 Secretariat Drive, Longmont, Colorado 80503.

5. Defendant Customer Publication Services, LLC is a Colorado limited liability company formed on March 20, 2018, with its principal place of listed as 6675 Secretariat Drive, Longmont, Colorado 80503.

6. Defendant Endeavor Daily, LLC is a California limited liability company, formed on August 29, 2013, with its principal place of business located at 118 Wikil Place, Palm Desert, California.

7. Defendant Dennis Simpson Consulting is an unregistered business entity, with its principal place of business located at 8367 Sendero de Alba, San Diego, California.

8. Defendant Reality Kats, LLC is a California limited liability company, registered on May 20, 2016, with its principal place of business located at 7691 Iluminado, San Diego, California.

9. Defendant Lori Bowman resides at 6675 Secretariat Drive, Longmont, Colorado, and operates Defendants Atlantic Publishers Group, LLC and Publishers Partnership Services, LLC in concert with Defendants John Ackermann and Dennis Simpson.

10. Defendant John Ackermann resides at 118 Wikil Place, Palm Desert, California and operates Defendant Endeavor Daily, LLC. John Ackermann also

operates Defendants Atlantic Publishers Group, LLC and Publishers Partnership Services, LLC in concert with Defendants Dennis Simpson and Lori Bowman.

11. Defendant Dennis Simpson resides at 7691 Iluminado, San Diego, California, and operates Defendants Dennis Simpson Consulting and Reality Kats, LLC. Dennis Simpson also operates Defendants Atlantic Publishers Group, LLC and Publishers Partnership Services, LLC in concert with Defendants John Ackermann and Lori Bowman.

JURISDICTION AND VENUE

12. Pursuant to Colo. Rev. Stat. §§ 6-1-103 and 6-1-110(1), this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

13. The violations alleged herein occurred, in part, in Longmont and Niwot, Colorado. Therefore, venue is proper in Boulder County, Colorado, pursuant to C.R.S. § 6-1-103 and Colo. R. Civ. P. 98.

RELEVANT TIMES

14. The conduct that gives rise to the claims for relief contained in this Complaint began in 2015, and has been ongoing through the present.

15. This action is timely brought pursuant to Colo. Rev. Stat. § 6-1-115 in that it is brought within three years of the date on which the last in a series of false, misleading, deceptive acts or practices occurred, and the described acts or practices are ongoing.

PERSONAL LIABILITY

16. Defendants Dennis Simpson, John Ackermann and Lori Bowman are personally liable for the conduct described herein. Under the CCPA, personal liability may be imposed on officers or agents who directly participated in the deceptive trade practices. Direct participation may be shown in a number of ways, including conception or authorization of the deceptive conduct, cooperation in the conduct, specific direction of the conduct, or sanction of the conduct. *Hoang v. Arbess*, 80 P.3d. 863, 868-870 (Colo. App. 2003).

PUBLIC INTEREST

17. Through the unlawful practices of their business or occupation, Defendants have deceived, misled, and financially injured thousands of

consumers and affected the operations of legitimate magazine publishers across the United States. Therefore, these legal proceedings are in the public interest and are necessary to safeguard citizens from Defendants' unlawful business activities.

18. Defendants have sent more than 30 million deceptive mailers to consumers across the country, via U.S. mail, including at least 25,570 to Colorado consumers. The Defendants, operating in concert, employ sophisticated and deceptive tactics that take advantage of unsuspecting consumers, including older consumers.

GENERAL ALLEGATIONS

I. Defendants specifically target older consumers, existing subscribers of magazines, with deceptive renewal notices

19. Beginning in 2016, the Colorado Attorney General's office received numerous complaints about deceptive magazine subscription solicitations sent by a company named Atlantic Publishers Group, LLC, with a mailing address in Niwot, Colorado.¹

20. The majority of complaints received by the Colorado Attorney General about Atlantic Publishers Group, and its related entities, are from older consumers. The Colorado Consumer Protection Act refers to older consumers as "elderly," and defined as a "person sixty years or over." **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

21. Consumers report that they responded to Atlantic Publishers Group's solicitation mailer because they believed it was an authorized renewal notice relating to their current magazine subscription. See **Exhibits 2-15**, *Affidavits of Consumer Victims*; See **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

22. From the beginning of 2016 through the end of 2017, Atlantic Publishers Group sent out more than 18 million mailers, including one sent to Godeane Eagle, a 94-year-old, long-time subscriber to *Time* magazine. Believing that she had received an authorized renewal notice from *Time*, Ms. Eagle sent payment by check to Atlantic Publishers Group. The following month, Ms. Eagle

¹ In 2018, Lori Bowman, the owner of Atlantic Publishers Group, continued to operate from her home address of 6675 Secretariat Drive, Longmont, Colorado, but changed the name of the company to Publishers Partnership Services with a mailing address in Cheyenne, Wyoming. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

received an actual renewal notice. She called *Time* magazine and was told that *Time* had not received her payment, and that Atlantic Publishers Group was not authorized to represent *Time*. **Exhibit 17**, *John Ackermann, Tr. 206:18-207:14*; **Exhibit 2**, *Affidavit of Godeane Eagle*.


23. Ms. Eagle continued to receive solicitations from Atlantic Publishers Group, and she filed a complaint with the Colorado Attorney General's Office on March 8, 2017. Ms. Eagle provided an example of an Atlantic Publishers Group mailer, shown below. *Id.*

Thank You! Your Prompt Attention is Appreciated

Offer Number		Please Respond By	
103-125-6048		May 16, 2017	
Year(s)	Item(s)	Price	
1	TIME MAGAZINE	\$69.95	
		Total Amount	\$69.95
		Installment	\$34.98

Make Check Payable to:
 "APG" ATLANTIC PUBLISHERS GROUP, LLC
 PO BOX 787
 NIWOT CO 80544
 303-834-8880

14885 1C036 B-6
 GODEANE EAGLE
 1530 GLENCOE AVE
 VENICE CA 90291-2985



**NOTICE OF CONTINUATION/
NEW ORDER OFFER**

Return with your payment

Choose Payment Option

Total Amount	Installment
\$69.95	\$34.98

103-125-6048

TIME MAGAZINE - 1 YEARS

Check here if continuing

Bill me later No Thank You

GODEANE EAGLE
 1530 GLENCOE AVE
 VENICE CA 90291-2985

0414

Make name or address changes above

THIS IS AN OFFER FROM AN INDEPENDENT AGENT. NOT A BILL. PLEASE RETAIN THIS PORTION WHEN RESPONDING TO THIS OFFER.

Detach here and keep this portion for your records

See also Exhibits 2-15, Consumer Affidavits, Exhibit 16, Example of Complete Mailer; Front, Back with Envelopes.

24. Defendants deceive existing magazine subscribers through targeted mailings. Defendants' mailers are not generic sales offers. Defendants direct their mailers to the consumer by name, to the consumer's address, and reference the consumer's existing magazine subscription. Defendants admit that they possess and employ this consumer data. Consumers have little reason to suspect that these mailers are sent by individuals not authorized to sell these magazines or to solicit renewal subscriptions.

25. Names such as Atlantic Publishers Group and Publishers Partnership Services, falsely suggest that Defendants are a publishing company, or a group of publishers, or are affiliated with the consumer's magazine publisher. To the contrary, numerous magazine publishers have sent letters to the Defendants demanding that they cease and desist the deceptive and unauthorized sale of their magazines.

26. Defendants' targeted mailers employ deceptive language. When sent to an existing subscriber, the phrase "Notice of Continuation," creates the impression that the mailer is a subscription renewal notice.

27. The mailers contain directives such as "Make Check Payable to" and "Thank You! Your Prompt Attention is Appreciated." These directive phrases, printed in red, create the impression that the mailer is an invoice, and falsely suggest that existing subscribers have an obligation to make a payment to Atlantic Publishers Group in order to continue their subscriptions.

28. While the mailers contain disclaimer language such as "Not a bill," consumers are deceived by the overall impression and effect of the mailers. The Defendants have operated in the magazine subscription business for over 20 years and are they very aware that their mailers are perceived by consumers to be both a subscription renewal notice and an invoice for payment. **See Exhibits 2-15, Consumer Affidavits; Exhibit 16, Example of Complete Mailer; Front, Back with Envelopes.**

29. Ms. Eagle's complaint is consistent with the more than 100 other complaints the Colorado Attorney General has received about Defendants' mailers. Consumers who are deceived by Defendants' targeted mailers pay much more for their new magazine subscription than they would had they renewed their subscription through the actual magazine publisher. **See Exhibits 2-15, Affidavits of Consumer Victims; See Exhibit 1, Affidavit of Investigator Jamie Sells.**

30. Following their initial deceit of the consumer, Defendants pile on with additional solicitations for subscriptions to additional magazines. **See Exhibits 2-15, Affidavits of Consumer Victims; See Exhibit 1, Affidavit of Investigator Jamie Sells.**

II. Defendant Dennis Simpson has a long history of using deceptive trade tactics to sell magazine subscriptions

31. Atlantic Publishers Group and Publishers Partnership Services are part of a network of companies and individuals that have operated under hundreds of company names and dba's for over twenty years, resulting in thousands of complaints to various states attorneys general, the United States Postal Service, and the Federal Trade Commission. This network continues to persist despite numerous state and federal consumer protection actions, cease and desist letters from magazine publishers, private trademark actions brought by the magazine publishers, millions of dollars in fines, and court-ordered permanent injunctions prohibiting Defendants from sending these deceptive mailers to consumers.

32. Defendants Dennis Simpson and John Ackermann are currently at the head of this network and operate Atlantic Publishers Group and Publishers Partnership Services, LLC² in concert with Defendant Lori Bowman. In addition to these companies, Defendants Simpson and Ackermann operate Pacific Magazine Billing, Global Publications Processing, National Publishers Group, National Processing, Southwest Publishing and over thirty dba's associated with these companies. See **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

33. Defendant Dennis Simpson first entered the direct mail magazine solicitation business in 1995, and has regularly been a defendant in government and publishing industry actions from that time through the present. **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 51:19-59:23; 133:20-165:19; 513:10-522:7*.

34. Simpson has, nevertheless, remained in charge of this network by building and maintaining a database of more than 200 million magazine subscribers. Simpson uses his database to send renewal notices to existing subscribers that appear to be a bill from the actual magazine publisher. **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 484:20-484:22*.

35. The U.S. Postal Service, in a 1995 *Complaint and Cease and Desist Order*, alleged that Dennis Simpson and his company, Publishers Marketplace of America ("PMA"), "engaged in a scheme or device to obtain money or property through the mail by means of false representations in violation of 39 U.S.C. § 3005." Specifically, the complaint alleged that:

"Respondents attract attention by means of unsolicited direct mailings in the form of invoices inferring the amount stated on the invoice is currently owed and due to the Respondents. . . .

By means of such invoices Respondent represents, directly or indirectly, in substance and effect, whether by affirmative statements, implications or omissions that the amount due, which is stated on the invoice, is an obligation which is owed and due to the Respondent for a magazine subscription." **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 513:10-522:7*.

² During the course of the Attorney General's investigation, and beginning in 2018, the Defendants began using the name Publishers Partnership Services while carrying out the same activities as Atlantic Publishers Group. See ¶¶96-103.

36. Pursuant to the Consent Order to Cease and Desist obtained by the U.S. Postal Service, Simpson stipulated that:

“the use of the promotional activities and representations challenged in the complaint have been and will be permanently discontinued and will not be resumed, directly or indirectly, under any name or names, or through any corporate or other device.”

Exhibit 18, *Dennis Simpson FTC deposition*, Tr. 513:10-522:7;

Exhibit 50, *1996 U.S. Postal Service Consent Order*.

37. In violation of the Postal Service injunction, Simpson has continued, for more than 20 years, to send magazine solicitations to consumers that appear to be an invoice related to their existing magazine subscription.

38. Simpson has operated his magazine subscription business under several different names, and hundreds of dba's, including Publishers Marketplace of America, Raybor Management, Inc., I.C. Marketing, Reality Kats, LLC, and Dennis Simpson Consulting. **Exhibit 18**, *Dennis Simpson FTC deposition*, Tr. 49:22-50:24; 123:5-132:3.

39. In 1998, The McGraw-Hill Companies, the publisher of Business Week magazine, filed an action in the U.S. District Court for the Western District of Washington against Simpson and his companies for sending out fraudulent unauthorized subscription renewals to existing Business Week subscribers. The Complaint alleged violations of the State of Washington's Consumer Protection Act, the Racketeer Influenced and Corrupt Organizations Act, and federal trademark infringement. **Exhibit 19**, *McGraw Hill Complaint*.

40. In the Complaint, McGraw-Hill alleged that:

“The primary vehicle for Defendants' scheme was-and is-a 'subscription renewal notice' printed in several forms, each of which was carefully designed to mislead the recipient into believing that the notice was an actual subscription notice from a reputable magazine such as Business Week. Defendants intended that the use of the Business Week name would give the recipient confidence that the 'renewal notice' was genuine and would further encourage the recipient to send money to Defendants in the expectation of receiving a new or renewal subscription to Business Week at a competitive rate.” **Exhibit 19**, *McGraw Hill Complaint*.

41. Under the terms of a Stipulated Preliminary Injunction, Simpson and his companies agreed to an injunction that prohibited them from directly or indirectly soliciting subscription sales, including renewals, of any publications

published or distributed by McGraw-Hill. Simpson also agreed to an injunction banning him from directly or indirectly engaging in any “consulting work” related to McGraw-Hill publications. **Exhibit 18**, *Dennis Simpson FTC deposition*, Tr. 133:20-143:15.

42. From the early 2000’s through 2015, Dennis Simpson and other associates continued operating their network of magazine solicitation businesses out of Oregon. **Exhibit 18**, *Dennis Simpson FTC deposition*, Tr. 508:3-511:3.

43. The Oregon Attorney General’s Office filed a consumer protection lawsuit against Simpson and his associates in 2003. The case was resolved with a 2004 Consent Judgment in which Simpson agreed to stop soliciting magazine subscriptions without authorization from the publisher. **Exhibit 20**, *2004 Oregon Consent Judgment*.

44. After the Oregon Attorney General’s Office filed its lawsuit, Taunton Press, publisher of the magazines Fine Woodworking, Fine Gardening, and Fine Cooking, issued a “Subscriber Alert” on its website, warning its readers about solicitation from Simpson’s “disreputable” company, IC Marketing, and noting that the Oregon Attorney General had filed a lawsuit. In response, Simpson sued Taunton Press for defamation and interference with economic relations in U.S. District Court. Taunton Press counterclaimed against Simpson’s company for tortious interference with existing and prospective economic relations. **Exhibit 21**, *IC Marketing v. Taunton Press*, No. Civ. 03-3069-CO, 2005 WL 503180, Order, Findings and Recommendation (D. Or. March 3, 2005).

45. At almost the same time, Outdoor Empire Publishing, publisher of Fishing and Hunting News, issued a similar alert to its subscribers. As with Taunton Press, Simpson filed suit against Outdoor Empire Publishing. **Exhibit 22**, *IC Marketing v. Outdoor Empire Publishing*, No. Civ. 03-3070-CO, 2005 WL 525635, Order, Findings and Recommendation (D. Or. March 3, 2005).

46. The evidence in both cases showed that Taunton Press and Outdoor Empire Publishing had sent cease and desist letters to Simpson’s company after receiving complaints from their existing subscribers. See **Exhibits 21, 22**.

47. In the Taunton Press litigation, Simpson asserted that the “free enterprise system” gave him the authority to solicit subscriptions to magazine subscriptions over the objections of the magazine publisher. **Exhibit 21**, *IC Marketing v. Taunton Press*, p. 2.

48. On March 3, 2005, the U.S. District Court for the District of Oregon ruled against Simpson in both actions. In both cases, the Court found that the publishers’ cease and desist letters put Simpson’s company on notice that it was

not authorized to solicit subscriptions for these magazines. The Court issued an injunction against Simpson's company in both cases, prohibiting IC Marketing and "any and all fictitious names used presently or in the future from contacting any person by mail or otherwise, with offers to sell subscriptions or subscription renewals" to any of the publishers' magazines. **Exhibit 21**, *IC Marketing v. Taunton Press*, p. 11; **Exhibit 22**, *IC Marketing v. Outdoor Empire Publishing*, p. 7.

49. Simpson and his companies filed and lost a similar case against Amos Press, the publisher of Coin World magazine. In 2005, the Ninth Circuit Court of Appeals affirmed the United States District Court, District of Oregon's ruling, which protected Amos Press's right to warn its subscribers about Simpson's companies, and upheld the district court's permanent injunction prohibiting Simpson's company from soliciting subscriptions to Coin World. **Exhibit 23**, *IC Marketing v. Amos Press*, No. 03-36044, 2005 WL 525635, Order, Findings and Recommendation (D. Or. March 3, 2005).

50. In 2015, the Oregon Attorney General's Office filed its second consumer protection lawsuit against Simpson and his companies for deceptive magazine and newspaper subscription solicitations. **Exhibit 24**, *2015 Oregon Assurance of Voluntary Compliance*.

51. As part of a 2015 Assurance of Voluntary Compliance with the State of Oregon, Simpson and his affiliates agreed to pay a \$3 million dollar fine, plus restitution, and agreed to leave the newspaper and magazine subscription business. As terms of the AVC, Simpson agreed to the following terms:

"Each Respondent is permanently prohibited from engaging in any or all of the following conduct:

- a) From using the United States Mails, the internet, telephone systems, or private couriers to engage in any activity prohibited by this AVC;
- b) From conspiring with any other person or entity to violate this AVC;
- c) From engaging in the magazine or newspaper subscription business. This includes the sale of newspaper or magazine subscriptions, conducting business as a subscription clearing house, and using, purchasing, renting or leasing any customer list from any third party." *Id.*

52. Despite signing the Assurance of Voluntary Compliance with the State of Oregon, Simpson continued to operate his magazine and newspaper solicitation business from California, while posturing himself as a "consultant" to the magazine and newspaper subscription business. **Exhibit 18**, *Dennis*

Simpson FTC deposition, Tr. 32:7-34:12. Exhibit 26, Complaint, Reality Kats, LLC and Dennis Simpson v. Bridget Wells, Superior Court Division, Mecklenburg County, North Carolina, filed February 10, 2017.

53. In 2016, the U.S. Federal Trade Commission file a case in U.S. District Court (District of Oregon) against Dennis Simpson and his affiliates, alleging that they used deceptive mailers to solicit newspaper subscriptions, without authorization, to major newspapers across the U.S. The FTC's complaint alleged that Simpson and his affiliates have received and ignored cease and desist letters from more than 375 newspapers. The case went to trial in October of 2018. The FTC prevailed in its case and on June 10, 2019, the court issued a final judgment of \$8.9 million and permanently banned Dennis Simpson from all direct mail marketing. **Exhibit 25**, *FTC Complaint for Injunctive and Equitable Relief, April 27, 2016*. **Exhibit 47**, *Final Orders*.

54. Simpson continues to sue entities and individuals that warn about his companies' tactics. In 2017, Simpson and his company Reality Kats, LLC, sued Bridget Wells and her company, Periodical Watchguard, for allegedly warning publishers about Reality Kat, LLC's "client." Defendant Atlantic Publishers Group. **Exhibit 26**, *Complaint, Reality Kats, LLC and Dennis Simpson v. Bridget Wells, Superior Court Division, Mecklenburg County, North Carolina, filed February 10, 2017*.

55. Simpson's Complaint alleged that Wells' statements were harming his business relationships with Defendant Atlantic Publishers Group and his other "clients":

"Plaintiffs also anticipate losing the business of Atlantic Publishers Group, LLC, a client in the state of Colorado, as a result of Defendants' actions in initiating a similar investigation based on similar inaccurate comments against that entity.

Plaintiffs' loss or anticipated loss of business with Maximillan, Inc. and Atlantic Publishers Group, LLC are two examples of the numerous clients Plaintiffs have lost as a direct result of Defendants' conduct." *Id.*

56. Through the course of these numerous legal actions, courts and law enforcement agencies have consistently determined that Simpson and his companies have no legitimate right to send their mailers, that they are deceptive, and that companies and individuals are entitled to warn consumers about his deceptive tactics.

III. Defendant John Ackermann has a long history of working with Dennis Simpson and defrauding consumers

57. Defendant John Ackermann has operated various companies in concert with Dennis Simpson. In 1993, Ackermann and Simpson formed Sterling Investments, a futures and commodities brokerage company. Ackermann was the president of Sterling Investments and Dennis Simpson was the CEO. **Exhibit 27**, *Sterling Investments of America, Inc. registration filing, Florida Secretary of State, September 27, 1993*; **Exhibit 17**, *John Ackermann, Tr. 204:10-206:9*.

58. On March 31, 1998, the U.S. Commodity Futures Trading Commission filed a Complaint against Sterling Investments and Ackermann. The Complaint alleged that between January 1, 1994 and April 30, 1995, Ackermann and Sterling defrauded 346 of their customers of almost \$2 million dollars. **Exhibit 28**, *U.S. Commodity Futures Trading Commission, Initial Decision on Default, Findings of Fact, June 19, 1998*; **Exhibit 17**, *John Ackermann, Tr. 204:10-206:9*.

59. Ackermann and Sterling did not respond to the Complaint. The administrative court concluded, as a matter of law, that Ackermann and Sterling had defrauded and misled their customers. The Court permanently banned Ackermann and Sterling from trading on any contract market.³ **Exhibit 28**, *U.S. Commod. Fut. Tr. Comm., Findings of Fact*; **Exhibit 17**, *John Ackermann, Tr. 204:10-206:9*.

60. Ackermann then formed Golden Services of America and began working with Simpson's magazine subscription business, Raybor Management Inc., as a magazine subscription "consultant." **Exhibit 29**, *SEC Edgar Online, Raybor Management Inc.*; **Exhibit 17**, *John Ackermann, Tr. 17:7-18:9*.

61. In 2004, Simpson, Ackermann, and an individual named Jeffrey Hoyal formed Mail Industries, Inc. and continued in the magazine subscription industry. In 2006, Simpson and Hoyal formed Global Data Service and separated from Ackermann. **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 62:21-72:5*.

IV. Defendants Simpson and Ackermann's current business model is designed to circumvent injunctions and evade liability

62. Ackermann and Simpson resumed working together in the magazine industry in 2015, shortly after Simpson agreed to stop working in the magazine industry under his settlement with the Oregon Attorney General's Office. **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 62:21-72:5*.

³ The case resulted in a default judgment for \$2 million dollars. In 2010, Ackermann agreed to pay \$1.1 million dollars after the federal government seized his assets. https://www.oregonlive.com/business/2010/04/john_ackerman_agrees_to_pay_11.html

63. Dennis Simpson's primary contribution to the business is his database of 200 million customers. Ackermann's primary contribution is a computer software program he developed to process the thousands of orders they receive through Atlantic Publishers Group and their other companies. In his FTC deposition, Simpson testified that their combined contributions have historically allowed them to run these magazine subscription businesses by themselves. **Exhibit 17**, *John Ackermann, Tr. 22:2-32:6*; **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 381:12-387:1*.

64. Simpson and Ackermann both claim that they are not in the magazine business; rather they are "consultants" to "clients" who "own" their own magazine businesses. Dennis Simpson asserts that under this arrangement he is not actually involved in the magazine industry and is not in violation of his various injunctions. **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 265:8-276:3; 294:17-296:3*.

65. Simpson and Ackermann both characterize Defendant Atlantic Publishers Group as one of their "clients." Atlantic Publishers Group is "owned" by Defendant Lori Bowman, who currently resides in Longmont, Colorado.

66. Using these "clients" as a front, Simpson and Ackermann orchestrate mass mailings, sending out hundreds of thousands of solicitation mailers at the same time, under their various company names; Atlantic Publishers Group (Colorado address), Pacific Magazine Billing (California address), Global Publications Processing (Washington address), National Publishers Group (California address), National Processing (Nevada address), Publishers Partnership Services (Wyoming address). Simpson and Ackermann use the exact same mailer for all of these companies. **Exhibit 17**, *John Ackermann, Tr. 30:10-32:15; 35:14-36:13; 54:18-57:19*; **Exhibit 31**, *Email re Marketing Piece*; **Exhibit 32**, *Email re Envelopes*; **Exhibit 18**, *Dennis Simpson FTC deposition, Tr. 247:13-253:10; 258:11-274:23; 294:18-295:14; 374:10-406:8*; **Exhibit 36**, *Voice mail script*.

67. Prior to these mass mailings, Dennis Simpson analyzes the data in his database to determine which existing magazine subscribers to solicit, at what price, and under which company name. Simpson then transmits the consumer names and addresses to Ackermann. *Id.*

68. After receiving the consumer names and addresses from Simpson, Ackermann coordinates with the direct mail printing company. Ackermann reviews proofs of the mailers and then transmits the consumer names and addresses to the direct mail printing company. The direct mail printing company sends the mailers to the targeted consumers by U.S. mail. *Id.*

69. Consumers deceived by these mailers send payment by check to Simpson and Ackermann's "client" companies, including Atlantic Publishers Group. Atlantic Publishers Group's post office box is in Niwot, Colorado. Defendant Lori Bowman goes to the post office to retrieve the mail, deposits the consumers' checks at the bank, and enters the consumer's order information into John Ackermann's data entry program. Ackermann then works with the clearinghouse to process the consumers' magazine orders. As a final step in the process, Dennis Simpson accesses Ackermann's computer system in order to analyze the sales data and determine which consumers will receive additional mailings. **Exhibit 17**, *John Ackermann*, *Tr. 30:10-32:15; 54:18-57:19; 167:14-168:9*; **Exhibit 18**, *Dennis Simpson FTC deposition*, *Tr. 381:12-387:1*.

V. Defendant Lori Bowman joined with Ackermann and Simpson in 2016

70. Defendant Lori Bowman is John Ackermann's sister-in-law. In late 2015, Ackermann agreed to help Lori Bowman get involved in the magazine subscription business. Bowman had no prior experience in the magazine industry. **Exhibit 30**, *Lori Bowman*, *Tr. 22:15-24:16*.

71. Ackermann and Bowman executed an agreement, titled the Know-How Licensing and Agreement (Know-How Agreement), on February 15, 2016. **Exhibit 35**, *Know-How Agreement*; **Exhibit 17**, *John Ackermann*, *Tr. 23:1-31:9*.

72. Under the terms of the Know-How Agreement, Atlantic Publishers Group pays \$.09 to Endeavor Daily for each mailer that is sent out under Atlantic Publishers Group's name. **Exhibit 35**, *Know How Agreement*; **Exhibit 17**, *John Ackermann*, *Tr. 23:1-31:9*.

73. The Know-How Agreement describes the services provided by Ackermann's company, Endeavor Daily, as the "licensor" to Atlantic Publishers Group as the "licensee":

"Whereas, Licensee acknowledges that licensor is the owner of know-how in direct mail marketing strategies that can be used to market a variety of products and services and is the owner of proprietary processes and trade secrets which include, without limitation, mailing lists, software, database management and point of sales data analysis, mail design services, pricing strategies, product providers, vendors and arrangements (hereinafter referred to as 'Products and Strategies')" **Exhibit 34**, *Know How Agreement*; **Exhibit 17**, *John Ackermann*, *Tr. 23:1-31:9*.

74. In addition to Lori Bowman and Atlantic Publishers Group, Ackermann executed Know-How Agreement(s) with his and Simpson's other supposed "clients." **Exhibit 17**, *John Ackermann, Tr. 28:18-31:9*.

75. When asked to describe what Lori Bowman and his other clients actually do as business "owners," John Ackermann offered a list of very basic duties including opening and sorting mail, and entering orders:

"They have to go to the post office and get their mail. They have to open the mail. They have to sort the mail from people that say "No, thank you" on the offer or people that send a check or say, "Invoice me later" or "Bill me later." And so they have to enter all that into the computer system that I wrote and designed." **Exhibit 17**, *John Ackermann, Tr. 31:16-32:6*.

76. Despite referring to Bowman as a "client" and a "business owner," Ackermann and Simpson have closely managed every detail of the Atlantic Publishers Group operation. After the first Atlantic Publisher Group mass mailing, Ackermann and Simpson quickly became concerned that Lori Bowman was not processing the trays of mail fast enough. In an April 7, 2016 email Ackermann wrote:

Lori,

There are concerns up the chain that you are falling behind. In relationship to the other companies that we work with you are roughly 100K behind. The business that you own is the type where some days you have to work 16 hour days and other [sic] you work 1 hour. It is not the type where you try and even out the days and work 8 hours each day.

As I have explained the BIGGEST priority in your business is speed of entry. Right now you have 1 ½ tray from Tuesday that has not been entered and now another 2 ½ tray.

Exhibit 34, *Email re concerns up the chain*; **Exhibit 17**, *John Ackermann, Tr. 52:6-52:15; 175:23-177:10*; **Exhibit 30**, *Lori Bowman, Tr. 61:21-62:12*.

77. In his investigative deposition, John Ackermann testified that "up the chain" was a reference to Dennis Simpson who was monitoring Lori Bowman's speed of entry through the computer system. **Exhibit 17**, *John Ackermann, Tr. 175:23-177:10*.

78. Between March 2016 and April 2017, Dennis Simpson and John Ackermann invoiced Lori Bowman approximately \$1 million dollars each for their services. Ackermann and Simpson sent these invoices, along with other instructions, to Bowman via email and Bowman made payment via bank wire transfer. After paying Simpson and Ackermann's invoices, plus all the printing and mailing expenses, Bowman retained approximately \$70,000 for her own salary in 2016. These invoices, and other evidence, indicate that the enterprise carried out at least 20 mass mailings through the U.S. Postal Service in their first year of operation, and continue operating in the same manner today.

Exhibit 17, *John Ackermann, Tr. 190:10-191:7*; **Exhibit 30**, *Lori Bowman, Tr. 135:11-135:14*; **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

79. Ackermann testified that Atlantic Publishers Group sent out 18 million mailers between March 2016 and January 2018, including 25,750 to Colorado consumers. **Exhibit 17**, *John Ackermann, Tr. 206:18-207:14*; **Exhibit 30**, *Lori Bowman, Tr. 44:25-46:5*.

80. Ackermann's emails with Lori Bowman reflect an effort to create the appearance that Bowman is running the company and has a more active role in the process:

"Lori, here is the marketing piece can you please review and approve"
(Text of email from Ackermann to Bowman after he already emailed the direct mail printing company and approved the printing);

"Hey Lori, Per your request we will print 1,100,000 envelopes of each version" (Text of email from Ackermann to Bowman after Dennis Simpson already determined the number of mailings).

Exhibit 31, *Email re Marketing Piece*; **Exhibit 32**, *Email re Envelopes*.
Exhibit 17, *John Ackermann, Tr. 54:21-56:21*.

81. Ackermann refers to the mailer used by Atlantic Publishers Group as the "marketing piece." Ackermann testified that the mailer design has "been around" for 19 or 20 years in various forms. When asked about a letter which suggested that Atlantic Publishers Group authorized and approved the design of the mailers, Ackermann admitted that the printing company wrote the letter at his request, after he received an investigative subpoena from the Colorado Attorney General's Office:

A. So when I received your subpoena, I wanted to make sure all roles were—were clarified. So it's basically a third-party confirmation that I don't approve the marketing piece, that I provided the data basically.

Q. Okay. And you reached out to Midwest Direct and asked them to submit this letter?

A. Right. Basically just trying to clarify the relationship with everybody...

Exhibit 33, *Letter from Midwest Direct*. **Exhibit 17**, *John Ackermann, Tr. 68:19-69:22*.

82. Ackermann admitted to using a fake name, "Mike Doyle," when communicating with the clearinghouses to process Atlantic Publishers Group's orders:

Q. Why use the name Mike Doyle with Magazine Mart?

A. Well, I was trying to create some separation between myself and this aspect of what I do for the clients

Exhibit 17, *John Ackermann, Tr. 70:18-82:9*; **Exhibit 39**, *John Ackermann as Mike Doyle emails*.

83. Ackermann also admitted to creating a fake clearinghouse named "Publications Processing Professionals." During her investigative deposition, Lori Bowman testified that Ackermann directed her to "sign up as an agent" with Publications Processing Professionals to fulfill customer orders. During his investigative deposition, Ackermann admitted that he received Bowman's orders, under the guise of Publications Processing Professionals, and then submitted the orders to actual clearinghouses. Ackermann admitted that he interacted with Lori Bowman using a Publications Processing Professionals email address along with the fictitious name "Dan Erickson":

Q. [W]ould you agree that through the series of these emails that it's possible that Ms. Bowman does not know she's interacting with you?

A. Well, I haven't looked at everything, but I suppose anything's possible.

Q. And that Ms. Bowman believed that Publications Processing Professionals was a clearinghouse?

A. Well she definitely believed it was a clearinghouse, yes.

Q. And was it actually a clearinghouse?

A. I'm not sure how you would define it. There's different definitions that have been defined, so I'm not sure what the definition would be.

Exhibit 17, *John Ackermann, Tr. 70:18-82:9*; **Exhibit 40**, *John Ackermann as Publications Processing Professionals*; **Exhibit 30**, *Lori Bowman Tr. 116:19-117:13*; **Exhibit 42**, *Email from Dan Erickson*.

84. Ackermann also required that Bowman sign a Marketing Piece Indemnification Agreement. The indemnification agreement requires Lori Bowman to indemnify Ackermann's company Endeavor Daily, LLC against any claim that the marketing piece violates any state or federal laws. Ackermann explained:

So, I—this—the marketing piece—and not in this particular format has been called into question over the last 19 years. It's never been called into question with any of my clients. But the AG's office, for instance, could call this marketing piece into question.

So the point of the indemnification agreement is to let the clients know. This is your responsibility. This is not my responsibility. I'm not in the direct mail business. You're mailing this marketing piece out. We're not.

So that was really the whole point of this. The piece-the pieces in the past, as you know, have been called into question. And typically, things get resolved and the business moves forward.

Exhibit 37, *Marketing Piece Indemnification Agreement*; **Exhibit 17**, *John Ackermann, Tr. 33:17-37:17*.

VI. Defendant Lori Bowman is aware of the deceptive nature of her business

85. Defendant Lori Bowman is liable for her actions because she is aware that these mailers are misleading, but chooses to continue operating Atlantic Publisher Group in concert with Simpson and Ackermann.

86. In 2016, at the time Atlantic Publishers Group was formed, Ackermann sent Lori Bowman an email with the subject line "Some complaints received from AG." The email attachments contained letters from various states attorneys general regarding specific consumer complaints. **Exhibit 38**, *Email re attorney general letters*; **Exhibit 17**, *John Ackermann, Tr. 37:21-38:12*.

87. The complaints were from older consumers who were deceived by mailers that appeared to be a bill. *Id.*

88. In his email to Bowman, Ackermann stated “Lori, I wanted to send to you some of the complaints that some of my clients have received, so that you can add that into the equation.” *Id.*

89. During his investigative deposition, Ackerman described his intent in sending the attorney general complaint letters to Bowman:

So when Lori Bowman made the decision that, yes, she was interested in this business of selling magazines, she—I wanted to make sure that Lori made all her—all the decisions in an informed way.

So I had sent her past attorney general letters that my clients have received over the many, many years that I have been in this business. And so this was my way of saying: Lori, these are some of the risks that are inherent in this type of business, and I just want you to know up-front the type of thing that you could get involved in. *Id.*

90. In response to Ackermann’s email warning her about potential issues with states attorneys general offices, Bowman replied, “Thanks John. It doesn’t look like a problem.” *Id.*

91. After the email exchange, Bowman registered Atlantic Publishers Group with the Colorado Secretary of State listing herself as the registered agent, and her home address as the principal place of business. A few months later, after complaints began coming to her home, Bowman changed the principal place of business to a post office box, and changed the name of the registered agent to “Paula Lawrence.” When asked about this new registered agent, Bowman could offer very little evidence to show that this person actually exists:

Q. Did you communicate with her by email?

A. No.

Q. Did you actually tell Ms. Lawrence that you were making her the registered agent for your company?

A. I must have asked her if she would do it.

Q. Are you certain of that?

A. No.

Q. Where does she live?

A. I don't know.

Q. Do you have Ms. Lawrence's phone number?

A. No.....

Q. Do you have Ms. Lawrence's email address?

A. No.

Exhibit 30, *Lori Bowman, Tr. 29:3-32:25*.

92. In April of 2016, the Better Business Bureau (“the BBB”) began forwarding consumer complaints to Bowman, requesting that she work with them to resolve the complaints. **Exhibit 46**, *BBB Communications*; **Exhibit 30**, *Lori Bowman, Tr. 145:22-152:3*.

93. The complaints from the BBB provided early notice to Bowman that consumers felt that her tactics were deceptive. In a BBB complaint dated March 30, 2016, a consumer wrote:

Atlantic Publishers Group, LLC sent a fake bill for a magazine subscription renewal through the US Mail to us. The amount of the bill we received was roughly 5 times the normal subscription rate. Unfortunately, my wife fell for the scam and sent the payment. . . .

Id.

94. On March 3, 2017, the BBB issued a Better Business Bureau Alert about Atlantic Publishers Group, along with an “F” rating. The alert indicated that the BBB had received 227 inquiries, 31 complaints and seven negative reviews with no response from the company. Bowman testified that she initially responded to the BBB, but stopped because the BBB is a “private company” and she does not “support” the BBB’s work. **Exhibit 47**, *BBB Alert*; **Exhibit 30**, *Lori Bowman, Tr. 145:22-152:3.43*

95. Bowman testified that the use of words like “fraud” and “scam” in the BBB complaints did not make her consider changing her business model. She did, however, become “upset” after seeing online posts that referred to Atlantic Publishers Group as a “scam” and the mailers as a “fake bill.” Her response was to hire an online reputation company that assisted her with setting up a

website to offset the negative comments on the internet. **Exhibit 30**, *Lori Bowman, Tr. 145:22-152:3; 163:19-167:17*.

96. Bowman continued to operate under the Atlantic Publishers Group name through the end of 2017. In 2018, Bowman, in concert with Simpson and Ackermann, continued to operate from her Colorado home address, but began using the company name “Publishers Partnership Services” and a Cheyenne, Wyoming post office box. **Exhibit 17**, *John Ackermann, Tr. 66:8-67:3*. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

97. Bowman paid a Wyoming registered agent company to register Defendant Publisher Partnership Services, LLC with the Wyoming Secretary of State. Bowman’s communications to the registered agent company show that the registered agent company sent the invoices to her known Colorado address:

Publishers Partnership Services, LLC
Lori Bowman
6675 Secretariat Drive
Longmont, CO 80503

Exhibit 1, *Affidavit of Investigator Jamie Sells*.

98. Bowman also listed her Longmont, Colorado home address in her U.S. Postal Service application to set up Publisher Partnership Services’ Wyoming post office box. *Id.*

99. Publishers Partnership Services’ solicitation mailers are identical to Atlantic Publishers Group’s mailers and the mailers sent by Simpson and Ackermann’s other companies. *Id.*

100. In February 2018, the Better Business Bureau Serving Northern Colorado and Wyoming (“BBB of Northern Colorado and Wyoming”) began receiving consumer complaints about Publishers Partnership Services. The consumer complaints are identical to the consumer complaints about Atlantic Publishers Group; existing magazine subscribers received a renewal notice for their existing subscription, they made payment to Publishers Partnership Services because they believed it was affiliated with the magazine publisher, they subsequently received their actual renewal notice from the magazine publisher and realized they had been deceived. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*; **Exhibit 49**, *BBB Warns About Company Offering Magazine Subscriptions*.

101. Bowman responded to the BBB of Northern Colorado and Wyoming initial inquiries' using both her Atlantic Publishers Group email address and her personal email address. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

102. On March 13, 2018, the BBB of Northern Colorado and Wyoming sent a letter to Bowman, stating its concerns about the mailers:

Specifically, the mailed advertisement in question is designed to look like an invoice. The layout of your advertisement creates the deceptive appearance that the individual receiving the advertisement owes the amount listed, by the date requested.

Though your advertising does disclose the fact that the solicitation is "an offer and not a bill or invoice," this does not sufficiently address BBB's concerns because the layout is inherently deceptive. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

103. Bowman eventually stopped responding to the BBB's concerns. The BBB of Northern Colorado and Wyoming has received more than 100 complaints from consumers about Publishers Partnership Services. It has issued four official BBB alerts to consumers and given an "F" rating to the company. On December 14, 2018, the BBB issued a press release about Publishers Partnership Services titled "BBB Warns About Company Offering Magazine Subscriptions." **Exhibit 50**, *BBB Press Release*; **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

VII. The Colorado Attorney General's Office has received numerous complaints from consumers about Defendants' deceptive trade practices

104. Between March 2016 and April 2018, the Colorado Attorney General received 114 complaints from consumers about Atlantic Publishers Group's tactics. **Exhibit 1**, *Affidavit of Investigator Jamie Sells*.

105. The complaints, as detailed below, and supported by affidavits, show that Defendants deceptively target existing subscribers of magazines, many of whom are older persons.

106. Consumer Sue Archer from Santa Rosa, California filed a complaint with the Colorado Attorney General after her 95-year-old father responded to one of Atlantic Publishers Group's mailers. Her father has been a long-time subscriber to *National Geographic*. In 2016, her father received a renewal notice for *National Geographic* magazine. Her father sent a check for \$59.95 to Atlantic Publishers Group because the mailer was directed to his personal

attention and referenced *National Geographic*. Ms. Archer called Atlantic Publishers Group, but was unable to speak with anyone. She sent a letter to Atlantic Publishers Group and did not receive a response. **Exhibit 3**, *Affidavit of Sue Archer*.

107. Consumer Karen Blue from Woodland Hills, California filed a complaint with the Colorado Attorney General after being deceived by one of Atlantic Publishers Group's mailers. Ms. Blue and her husband [over 60?] had subscribed to the magazine *PC Gamer*, published by Future plc, for a decade. Mr. and Mrs Blue always renewed their subscription through Future plc when they received annual notice in the mail. When they received a "Notice of Continuation" from Atlantic Publishers Group, addressed to their attention, that referenced *PC Gamer*, they assumed Future plc had simply changed its name to Atlantic Publishers Group. Ms. Blue sent Atlantic Publishers Group a check for \$79.95. A few months later, Ms. Blue received an actual renewal notice from Future plc. When she contacted Future plc, she learned that Atlantic Publishers Group was not affiliated with *PC Gamer*, and that the normal renewal subscription price was only \$24.00. Atlantic Publishers Group ignored her requests for a refund. **Exhibit 4**, *Affidavit of Karen Blue*.

108. Consumer Greg Galeaz from Franklin, Massachusetts was an existing subscriber to *People* magazine who filed a complaint with the Colorado Attorney General after responding to a "Notice of Continuation" for *People* magazine. Believing that he was renewing his subscription, he sent a check for \$99.98 to Atlantic Publishers Group. One month later, when *People* magazine automatically deducted his subscription renewal from his bank account, he realized that he had made payment to an unaffiliated company. **Exhibit 5**, *Affidavit of Greg Galeaz*.

109. Consumer Theresa Goodrich from Broadview Heights, Ohio, is over 60 years of age, and filed a complaint with the Colorado Attorney General after she responded to an Atlantic Publishers Group "Notice of Continuation" for *People* magazine. Because she had a subscription to *People* magazine, she sent a check for \$90.00 to Atlantic Publishers Group to renew her subscription. One month later, she received her actual notice of renewal from *People* magazine. When she tried to contact Atlantic Publishers Group by phone to request a refund, its voicemail was full, and she was unable to leave a message – a theme reported by numerous consumers. **Exhibit 6**, *Affidavit of Theresa Goodrich*.

110. Consumer Judith Gorby from Brunswick, Maine is over 60 years of age and was an existing subscriber of *Woman's World* magazine for a number of years. Ms. Gorby filed a complaint with the Colorado Attorney General after she responded to an Atlantic Publishers Group mailer. Two days after mailing a

check to Atlantic Publishers Group, she received her actual renewal notice from *Woman's World* magazine. She contacted *Woman's World* by phone and learned that Atlantic Publishers Group was not authorized to collect funds for *Woman's World*. Atlantic Publishers Group cashed her check before she could stop payment. Ms. Gorby contacted her local police department. The police looked into the matter and advised her to contact the Colorado Attorney General.

Exhibit 7, *Affidavit of Judith Gorby*.

111. Consumer Phyllis Johnson from Rapid City, South Dakota is 89 years old and filed a complaint with the Colorado Attorney General. Ms. Johnson had subscribed to *Time* magazine for approximately 20 years when she received what appeared to be a genuine renewal notice from *Time*. Ms. Johnson responded to the notice with payment by check. When she subsequently began receiving renewal notices for other magazines, which she did not subscribe to, she checked her bank records and realized that she had mistakenly paid Atlantic Publishers Group. Ms. Johnson attempted to contact Atlantic Publishers Group, but its answering machine was full. In addition to renewal notices from Atlantic Publishers Group, she began to receive renewal notices from another one of the Defendants' companies, Global Publications Processing. **Exhibit 8**, *Affidavit of Phyllis Johnson*.

112. Consumer Roger Krzeminski from Macomb, Michigan is 76 years old and was an existing subscriber to *People* magazine when he received a renewal notice from Atlantic Publishers Group. Believing that he was renewing his existing subscription, he sent payment to Atlantic Publishers Group. After sending the payment, he received additional solicitation mailers from Atlantic Publishers Group and became suspicious. Mr. Krzeminski contacted *People* magazine and learned that his subscription was current for the next two years, and he had needlessly purchased another subscription. Mr. Krzeminski filed a complaint with the Colorado Attorney General. **Exhibit 9**, *Affidavit of Roger Krzeminski*.

113. Consumer Anna Marie Larking from Leawood, Kansas is over 60 years old and subscribed to *Vanity Fair* magazine for many years. Ms. Larkin reported that she received what appeared to be a subscription renewal notice from *Vanity Fair*. She believed the mailer was from *Vanity Fair* because it stated "Vanity Fair" and because it referenced an account number. Believing Atlantic Publishers Group was an authorized collecting agent, she mailed a check made payable to "APG." Subsequently, she received an email from *Vanity Fair* informing her that her that *Vanity Fair* had not received her payment and that her subscription would be cancelled. Ms. Larking called *Vanity Fair* magazine and learned that Atlantic Publishers Group did not represent *Vanity Fair*. **Exhibit 10**, *Affidavit of Anna Marie Larking*.

114. Consumer Johanna Williams from Flagler Beach, Florida is 73 years old and filed a complaint with the Colorado Attorney General after responding to an Atlantic Publishers Group renewal notice for *Autoweek*. Ms. Williams and her husband believed that the renewal notice was from Autoweek because their subscription was about to expire. After making payment to Autoweek, not only did they not receive the magazine, they continued to receive notices from Atlantic Publishers Group to renew their subscription. Ms. Williams attempted to contact Atlantic Publishers Group at the number listed on the renewal notice, but its voicemail was full. Ms. Williams contacted the Niwot branch of Bank of the West and confirmed that Atlantic Publishers Group had deposited the check. Ms. Williams then contacted the Florida Department of Agriculture and Consumer Services to seek assistance with getting a refund. Finally, after a full year of not receiving any issues of *Autoweek*, she received a refund. **Exhibit 11**, *Affidavit of Johanna Williams*.

115. Consumer Robert Paul from Reno, Nevada is 80 years old and has subscribed to *Popular Mechanics* and *Popular Science* for over 45 years. When Mr. Paul received renewal notices from Atlantic Publishers Group and Global Publications Processing, he recognized that the addresses were different from the normal billing addresses for these magazines. Mr. Miller took the time to write formal correspondences to the magazines, the Colorado Attorney General, and the Washington Attorney General. He attempted to contact Atlantic Publishers Group, but its voicemail was full. In his complaint to the Colorado Attorney General, Mr. Paul described Atlantic Publishers Group as a “scam” and stated, “Hope you can shut these folks down.” **Exhibit 12**, *Affidavit of Robert Paul*.

116. Consumer Nancy Sayre from Somerset, New Jersey is 62 years old and subscribed to *National Geographic* for many years. Ms. Sayre paid \$59.95 for a one-year subscription to *National Geographic* in response to a renewal notice from Atlantic Publishers Group. Ms. Sayre believed that the renewal notice was authentic, in part, because the return envelope stated “Official Use Only.” Ms. Sayre became suspicious after she received an actual renewal notice from *National Geographic* with a one-year subscription price of \$39.00. Ms. Sayre filed a complaint with the Colorado Attorney General. **Exhibit 13**, *Affidavit of Nancy Sayre*.

117. Consumer Ellen Stern from New York, New York is 76 years old and filed a complaint with the Colorado Attorney General after receiving a solicitation mailer from Atlantic Publishers Group. In her affidavit, Ms. Stern describes how she had previously been deceived in 2014 by a subscription renewal notice from Publishers Distribution Services in Oregon. From that experience, she has learned to identify fraudulent subscription renewal notices.

In her complaint and affidavit, Ms. Stern notes that she has received fraudulent subscription notices from companies in California, Oregon, Wyoming and Colorado and that the notices are all similar in appearance. **Exhibit 14**, *Affidavit of Ellen Stern*.

118. Consumer Cecil Miller from Lenexa, Kansas is 84 years old and was a long time subscriber to the *Kiplinger Tax Letter*. Mr. Miller filed a complaint with the Colorado Attorney General after receiving a renewal notice from Atlantic Publishers Group that he believed was a “billing.” He believed that it was legitimate because his subscription was almost expired. Mr. Miller sent a check for \$129.95 to Atlantic Publishers Group. Later, he received an actual billing from Kiplinger that was 48% less than Atlantic Publishers Group’s billing. Mr. Miller sent a formal typewritten letter to Atlantic Publishers Group, requesting a refund and that Atlantic Publisher Group remove his name from its mailing list. He received a handwritten response stating that his name had been removed from the list, but that there was no record of his payment. Despite Atlantic Publishers Group’s response, Mr. Miller received more solicitations from Atlantic Publishers Group, along with solicitations from Defendants’ other companies, Pacific Magazine Billing and National Publishing Group. **Exhibit 15**, *Affidavit of Cecil Miller*.

VIII. Magazine publishers object to Defendants’ continued targeting of their existing subscribers

119. Magazine publishers receive numerous complaints from their subscribers about Atlantic Publishers Group, Global Publications Processing, Pacific Magazine Billing, National Publishers Group and National Processing. Magazine publishers have made it very clear that that the Defendants are not authorized to sell subscriptions to their magazines, that they consider these types of solicitation mailers to be deceptive and a violation of their trademarks.

120. Prior to formalizing their agreement, John Ackermann sent Lori Bowman a copy of a cease and desist letter from the Meredith Corporation, one of the nation’s largest magazine publishers. In the letter, the Meredith Corporation demands that Pacific Magazine Billing and its affiliates cease and desist soliciting new and renewal subscriptions to:

- American Baby
- All Recipes
- Better Homes and Gardens
- County Gardens
- Diabetic Living
- Do It Yourself
- Eating Well

- Everyday with Rachael Ray
- Family Circle
- Family Fun
- Living the Country Life
- Martha Stewart Living
- Martha Stewart Weddings
- Midwest Livings
- More
- Parents
- Shape
- Siempre Mujer
- Successful Farming
- Traditional Home
- Wood

Exhibit 17, *John Ackermann, Tr. 49:11-50:22*; **Exhibit 38**, *Email re attorney general letters*.

121. Bowman reviewed the cease and desist letter, along with the complaints from state attorneys general, and responded to Ackermann that “[i]t doesn’t look like a problem.” **Exhibit 17**, *John Ackermann, Tr. 37:21-38:12*; **Exhibit 38**, *Email re attorney general letters*.

122. Atlantic Publishers Group’s document production to the Colorado Attorney General’s Office included cease and desist letters from *Motorhome* magazine and *Consumer Reports* magazine. **Exhibit 49**, *APG Cease and Desist letters*.

123. On February 22, 2017, *The Economist* magazine sent cease and desist letters to Atlantic Publishers Group, as well as two other companies operated by Simpson and Ackermann: Global Publications Processing and Pacific Magazine Billing. The letters demanded that the Defendants cease and desist from all solicitations using The Economist name. **Exhibit 30**, *Lori Bowman, Tr. 157:17-163:10*; **Exhibit 43**, *Affidavit-The Economist magazine*.

124. Pacific Magazine Billing responded to *The Economist’s* letter by stating, through counsel, that it stopped mailing solicitations for The Economist in response to an earlier cease and desist letter. Pacific Magazine Billing’s attorney went on to state, “please refrain from threatening criminal sanctions or blackmailing my client over what is at best a trivial issue.” Atlantic Publishers Group did not respond to *The Economist’s* cease and desist letter. **Exhibit 43**, *Affidavit-The Economist magazine*.

125. During his investigative deposition with the Colorado Attorney General's Office, Defendant John Ackermann testified that Ackermann and Simpson's response to cease and desist letters is to simply shift the mailings to another one of their company names. Therefore, if Pacific Magazine Billing receives a cease and desist letter, their response is to continue mailing solicitations through one of the other companies, such as Atlantic Publishers Group. **Exhibit 17**, *John Ackermann, Tr. 66:8-67:3*.

126. Despite sending cease and desist letters, *The Economist* continues to receive complaints from its subscribers. *The Economist* has worked with the Connecticut Attorney General and the Colorado Attorney General to address the targeting of its subscribers. *The Economist* reports that in addition to harming its subscribers, *The Economist* has had to spend both time and expense in investigating complaints related to the Defendants. *Id.*

127. In 2005, Taunton Press, the publisher of *Fine Gardening*, *Fine Woodworking*, and *Fine Cooking*, obtained an injunction against Simpson's companies in U.S. District Court (Oregon). *See supra* ¶¶43-47.

128. In November of 2017, Taunton filed a complaint with the Colorado Attorney General's Office after it received complaints from existing subscribers about Atlantic Publishers Group's solicitations. In its complaint, Taunton Press stated, "[w]e are concerned because 1) they have our customers' names and addresses and we don't know how this breach occurred; 2) our customers are being scammed, and some have lost money by paying them directly believing they were paying our agents..." **Exhibit 21**, *IC Marketing v. Taunton Press, No. Civ. 03-3069-CO, 2005 WL 503180, Order, Findings and Recommendation (D. Or. March 3, 2005)*; **Exhibit 44**, *Colorado AG complaint-Taunton Press*.

129. *Consumer Reports* magazine echoes the concerns of Taunton Press and other magazine publishers:

"Consumer Reports is very protective of its existing subscribers account information. The fact that APG (Atlantic Publishers Group) knows our subscribers' addresses concerns Consumer Reports because we are not aware how APG may have obtained access to our subscribers' account information." **Exhibit 45**, *Affidavit-Consumer Reports magazine*.

130. None of the Defendants' companies, including Atlantic Publishers Group, are authorized to solicit subscriptions to *Consumer Reports'* publications. To become an authorized agent, a party must complete *Consumer Reports'* "Publisher Authorization Agreement." The process of becoming an authorized agent requires detailed disclosures from the agent and an agreement to conduct

business in an approved fashion. The agent must also agree to market in compliance with all applicable laws and industry guidelines. Through the Publisher Authorization Agreement, Consumer Reports expressly prohibits the solicitation of its subscribers through false or deceptive selling methods. *Id.*

131. *Consumer Reports* notes that Atlantic Publishers Group solicits subscriptions at a price almost double what it would charge its existing subscribers and that Atlantic Publishers Group's mailers cause confusion amongst its subscribers, many of whom are older:

“When consumers who already subscribe to *Consumer Reports* magazine or *Consumer Reports Health Letter* receive a “Notice of Continuation” or “Notice of Renewal” in their mailbox, they understandably believe that this notice comes from Consumer Reports. These existing subscribers would not to expect to receive solicitations about their subscription from an unauthorized party. Consumer Reports has received complaints about the excessive prices listed in these and similar solicitation mailers from subscribers who believed that the solicitation came from, or was authorized by, Consumer Reports. Worse yet, some of our subscribers have been deceived by these solicitations and have actually made payment to APG and/or similar groups.” *Id.*

FIRST CLAIM FOR RELIEF

(Knowingly or recklessly makes a false representation as to the source, sponsorship, approval, or certification of goods, services, or property C.R.S. § 6-1-105(1)(b))

132. Plaintiff incorporates herein by reference all allegations set forth above.

133. Defendants have violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(b), by sending millions of deceptive magazine subscription renewal solicitation mailers to existing magazine subscribers which falsely create the impression that they are renewal notice invoices.

134. Defendants send these mailers to consumers under the names Atlantic Publishers Group and Publishers Partnership Services, which falsely suggests that they were sent directly from the existing subscriber's magazine publisher, or from a party affiliated with the existing subscriber's magazine publisher, affiliated with a group or groups of publishers; or approved or sanctioned by the existing subscriber's magazine publishers.

135. Defendants make these false representations through the unauthorized use of magazine titles to which the consumer already subscribes, in combination with the consumer's name and address.

136. Defendants make these false representations through the use of misleading directive language, suggesting the consumer must make payment in order to maintain or renew their existing magazine subscription.

137. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers and consumers in other states.

SECOND CLAIM FOR RELIEF

(Knowingly or recklessly makes a false representation as to affiliation, connection, or association with or certification by another, C.R.S. § 6-1-105(1)(c))

138. Plaintiff incorporates herein by reference all allegations set forth above.

139. Defendants have violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(c), by sending millions of deceptive magazine subscription renewal solicitation mailers to existing magazine subscribers which falsely represent that they are directly from the existing subscriber's magazine publisher or from a party affiliated with the existing subscriber's magazine publisher.

140. Defendants send these mailers to consumers under the names Atlantic Publishers Group and Publishers Partnership Services, which falsely suggests that they were sent directly from the existing subscriber's magazine publisher, or from a party affiliated with the existing subscriber's magazine publisher, affiliated with a group or groups of publishers; or approved or sanctioned by the existing subscriber's magazine publishers.

141. Defendants make these false representations through the unauthorized use of magazine titles to which the consumer already subscribes, in combination with the consumer's name and address.

142. Defendants make these false representations through the use of misleading directive language, suggesting the consumer must make payment in order to maintain or renew their existing magazine subscription.

143. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers and consumers in other states.

THIRD CLAIM FOR RELIEF

(Knowingly or recklessly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property or a false representation as to the sponsorship, approval, status, affiliation, or connection of a person therewith; C.R.S. § 6-1-105(1)(e)).

144. Plaintiff incorporates herein by reference all allegations set forth above.

145. Defendants have violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(e), by sending millions of deceptive magazine subscription renewal solicitation mailers to existing magazine subscribers which falsely represent that they are directly from the existing subscriber's magazine publisher or from a party affiliated with the existing subscriber's magazine publisher.

146. Defendants send these mailers to consumers under the names Atlantic Publishers Group and Publishers Partnership Services, which falsely suggests that they were sent directly from the existing subscriber's magazine publisher, or from a party affiliated with the existing subscriber's magazine publisher, affiliated with a group or groups of publishers; or approved or sanctioned by the existing subscriber's magazine publishers.

147. Defendants make these false representations through the unauthorized use of magazine titles to which the consumer already subscribes, in combination with the consumer's name and address.

148. Defendants make these false representations through the use of misleading directive language, suggesting the consumer must make payment in order to maintain or renew their existing magazine subscription.

149. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers and consumers in other states.

FOURTH CLAIM FOR RELIEF

(Fails 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, C.R.S. § 6-1-105(1)(u))

150. Plaintiff incorporates herein by reference all allegations set forth above.

151. Defendants have violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(u), by sending millions of deceptive magazine subscription renewal solicitation mailers to existing magazine subscribers without disclosing to consumers that they are not authorized by the magazine publisher to solicit new or renewal subscriptions.

152. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers and consumers in other states.

FIFTH CLAIM FOR RELIEF

(Knowingly or recklessly engages in any unfair, unconscionable, deceptive, deliberately misleading, false, or fraudulent act or practice, C.R.S. § 6-1-105(1)(kkk))

153. Plaintiff incorporates herein by reference all allegations set forth above.

154. Defendants have knowingly and recklessly violated the Colorado Consumer Protection Act, C.R.S. § 6-1-105(1)(kkk), by sending millions of deceptive magazine subscription renewal solicitation mailers to existing magazine subscribers, many of whom are older, which falsely represent that they are directly from the existing subscriber's magazine publisher or from a party affiliated with the existing subscriber's magazine publisher.

155. Defendants send these mailers to consumers under the names Atlantic Publishers Group and Publishers Partnership Services, which falsely suggests that they were sent directly from the existing subscriber's magazine publisher, or from a party affiliated with the existing subscriber's magazine publisher, affiliated with a group or groups of publishers; or approved or sanctioned by the existing subscriber's magazine publishers.

156. Defendants make these false representations through the unauthorized use of magazine titles to which the consumer already subscribes, in combination with the consumer's name and address.

157. Defendants make these false representations through the use of misleading directive language, suggesting the consumer must make payment in order to maintain or renew their existing magazine subscription.

158. Defendants employ deceptive trade practices which unconscionably target elderly, or older persons.

159. Defendants actions are and were unfair, unconscionable, deceptive, deliberately misleading, false, and fraudulent.

160. By means of the above-described unlawful deceptive trade practices, Defendants have deceived, misled, and unlawfully acquired money from Colorado consumers and consumers in other states.

SIXTH CLAIM FOR RELIEF

(Violation of the Colorado Organized Crime Control Act, Conducting an Enterprise through a Pattern of Racketeering Activity, C.R.S. § 18-17-104(3))

161. Beginning on or about January 27, 2016, Defendants, while associated with an enterprise; namely a group of individuals and companies associated in fact, although not a singular legal entity, specifically Lori Bowman, John Ackermann, Dennis Simpson, Atlantic Publishers Group, LLC, Publishers Partnership Services, LLC, Customer Publication Services, LLC, Endeavor Daily, LLC, Dennis Simpson Consulting and Reality Kats, LLC, unlawfully and knowingly conducted or participated, directly or indirectly, in an enterprise through a pattern of racketeering activity, in violation of C.R.S. § 18-17-104(3) and subject to the remedies set forth in C.R.S. § 18-17-106.

162. The predicate conduct and acts of racketeering in support of this claim for relief are set forth in C.R.S. § 18-17-101(5)(a), specifically U.S.C. § 1341 (mail fraud) and U.S.C. § 1343 (wire fraud) and as described, in detail, in the paragraphs above and the supporting exhibits to this Complaint.

RELIEF REQUESTED

WHEREFORE, Plaintiff prays for judgment against the Defendants and the following relief:

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, C.R.S. §§ 6-1-105(1)(b),(c),(e),(u) and (kkk), and the Colorado Organized Crime Control Act, C.R.S. § 18-17-104(3).

B. An order permanently enjoining Defendants, their officers, directors, successors, assignees, agents, employees, and anyone in active concert or participation with Defendants with notice of such injunctive orders, from engaging in any deceptive trade practice as defined in and proscribed by the CCPA, COCCA, and as set forth in this Complaint.

C. Additional appropriate orders necessary to prevent Defendants' continued or future deceptive trade practices.

D. A judgment in an amount to be determined at trial for restitution, disgorgement, or other equitable relief pursuant to C.R.S. § 6-1-110(1) and C.R.S. § 18-17-106.

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado civil penalties in an amount not to exceed \$20,000 per violation pursuant to C.R.S. § 6-1-112(1)(a), or \$50,000 per violation pursuant to C.R.S. § 6-1-112(1)(c).

F. An order requiring Defendants to pay the costs and expenses of this action incurred by the Attorney General, including, but not limited to, Plaintiff's attorney fees, pursuant to C.R.S. § 6-1-113(4).

G. Any such further orders as the Court may deem just and proper to effectuate the purposes of the CCPA.

Respectfully submitted this 25th day of November, 2019.

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