

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO

1437 Bannock Street
Denver, Colorado 80202

STATE OF COLORADO, ex rel. CYNTHIA H. COFFMAN, ATTORNEY GENERAL

Plaintiff,

v.

HIGHLANDS RESORTS AT CHRISTIE LODGE, LLC; SEDONA PINES, LLC; MARKETING DECISIONS, INC.; INTERACTIVE MARKETING SOLUTIONS US, INC.; TRUE INCENTIVE, LLC; CUSTOMER SERVICE NETWORK GROUP, LLC; and GREG PENROD; EDWARD "TODD" HERRICK; DAVID WAGNER; HEATHER WAGNER; JOSEPH MCGRAIL; SEAN KELLY; GARY BARON; and TAYLOR BILLINGTON, individually,

Defendants.

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Case No.

COMPLAINT

Plaintiff, the State of Colorado, upon relation of Cynthia H. Coffman, Attorney General for the State of Colorado, by and through undersigned counsel, state and allege as follows:

INTRODUCTION

This is an action brought by the State of Colorado pursuant to the Colorado Consumer Protection Act, §§ 6-1-101 *et. seq.*, C.R.S. (2016) (“CCPA”), to enjoin and restrain Defendants from engaging in certain unlawful deceptive trade practices, for statutorily mandated civil penalties, for disgorgement, restitution, and other relief as provided in the CCPA. Defendants solicited consumers to purchase a timeshare at the Christie Lodge in Colorado by falsely promising airline tickets or a cruise if they attended a sales presentation. During the sales presentation, Defendants Highlands Resorts, Sedona Pines, Greg Penrod, and Todd Herrick misrepresented the discounted price of the Christie Lodge timeshare. Defendants’ business practices violated §§ 6-1-105(1)(e), (l), (u), and (j) of the CCPA, as well as §§ 6-1-304(1)(a) and (h), and § 6-1-904(1)(a) of Colorado’s telemarketing fraud and no-call laws.

PARTIES

1. Cynthia H. Coffman is the duly elected Attorney General of the State of Colorado (“the State” or “Plaintiff”) and is authorized under § 6-1-103, C.R.S., to enforce the provisions of the CCPA.

2. Defendant Highlands Resorts at Christie Lodge, LLC (“Highlands Resorts”) is a limited liability company formed in Delaware that operated in Colorado. Highlands Resorts listed its principal office address as 117 North Aspen Street in Telluride, Colorado 81435, but it operated from the Denver Merchandise Mart at 451 East 58th Avenue, Suite # 1156, Denver, Colorado 80216. Highlands Resorts ceased operations in Colorado in December 2015, approximately ten months after Plaintiff began its investigation.

3. Defendant Sedona Pines, LLC (“Sedona Pines”) is a limited liability company registered at 6701 West Highway 89A, Sedona, Arizona 86336. Sedona Pines processed all consumer payments for a Christie Lodge timeshare. Sedona Pines also contracted with the other corporate defendants named in this Complaint on behalf of Highlands Resorts to solicit consumers.

4. Defendant Greg Penrod is a partner with Highlands Resorts and Sedona Pines and served as the manager of Highlands Resorts sales center at the Denver Merchandise Mart. He also manages several other resorts in Arizona owned by Todd Herrick. At the relevant times, he worked part time at Sedona

Pines in Arizona, and part time at Highlands Resorts in Colorado. Upon information and belief, Greg Penrod resides in or around Flagstaff, Arizona.

5. Defendant Edward D. Herrick a/k/a Todd Herrick is the owner of Highlands Resorts and Sedona Pines. Upon information and belief, he resides in or around Telluride, Colorado.

6. Upon information and belief, Greg Penrod and Todd Herrick together reviewed, approved, oversaw, and condoned all of the practices alleged below. Unless otherwise indicated, all allegations and claims made against Highlands Resorts and/or Sedona Pines in this Complaint shall also apply to Greg Penrod and Todd Herrick individually.

7. Defendant Marketing Decisions, Inc. ("MDI") was incorporated in Nevada, with a registered address at 774 Mays Boulevard, Suite 9, Incline Village, Nevada 89451. MDI was dissolved on September 15, 2015, less than three months after Plaintiff began investigating its affiliation with Highlands Resorts. Highlands Resorts contracted with MDI to solicit consumers directly, or through sub-contractors, by telephone.

8. Defendant David M. Wagner was the President/Founder of MDI, and was in charge of MDI's new client development and consulting. He was listed with the Nevada Secretary of State as MDI's Registered Agent, Treasurer, President, and one of its two Directors. Upon information and belief, he resides in or around Rough and Ready, California.

9. Defendant Heather A. Wagner was the Executive Vice President of MDI, and in charge of MDI's new customers and customer service. She was listed with the Nevada Secretary of State as MDI's Secretary and one of its two Directors. Upon information and belief, she resides with David Wagner in or around Rough and Ready, California.

10. Together, Defendants David and Heather Wagner owned, managed, and operated MDI. Upon information and belief, their responsibilities included executing contracts and agreements related to the solicitations at issue, as well as reviewing and approving the solicitations. Unless otherwise indicated, all allegations and claims made against MDI in this Complaint shall also apply to Defendants David and Heather Wagner individually.

11. Defendant Interactive Marketing Solutions US, Inc. ("IMS") is incorporated in Pennsylvania, with a registered address at 1328 Capouse Avenue, Scranton, Pennsylvania 18509. Highlands Resorts contracted with IMS to solicit consumers directly, or through sub-contractors, by direct mail.

12. Defendant Joseph McGrail is the President, Treasurer, and one of two directors for IMS. He owns 500 (of 1000) shares of common stock in IMS. Upon information and belief, he resides in or around Scranton, Pennsylvania.

13. Defendant Sean C. Kelly is the Vice President, Secretary, and the other of two directors for IMS. He owns the remaining 500 shares of common stock in IMS. Upon information and belief, he resides in or around Scranton, Pennsylvania.

14. Together, Defendants Joseph McGrail and Sean Kelly owned, managed, and operated IMS during the relevant times. Upon information and belief, their responsibilities included executing contracts and agreements related to the solicitations at issue, as well as reviewing and approving the solicitations. Unless otherwise indicated, all allegations and claims made against IMS in this Complaint shall also apply to Defendants Joseph McGrail and Sean Kelly individually.

15. Defendant True Incentive, LLC (“True Incentive”) is registered in Florida with a principal office address listed at 2455 East Sunrise Boulevard, Suite PH-W, Fort Lauderdale, Florida 33304. True Incentive sold Sedona Pines the certificates for airline ticket and cruise “gifts” and “awards” that were distributed to consumers on behalf of Highlands Resorts.

16. Defendant Customer Service Network Group, LLC (“CSNG”) is registered in Florida at the same address as True Incentive, 2455 East Sunrise Boulevard, Suite PH-W, Fort Lauderdale, Florida 33304. CSNG fulfilled the certificates for the airline ticket and cruise “gifts” and “awards” that were distributed to consumers on behalf of Highlands Resorts. CSNG collected money from consumers wanting to redeem the “gift” or “awards” that were marketed to them as “free” or “with no strings attached.”

17. True Incentive and CSNG are both owned by Komet Investments, LLC, a Florida limited liability company, which is beneficially owned by Defendants Taylor Billington and Gary Baron. They are all affiliated entities with consolidated bookkeeping and accounting.

18. Defendant Gary Baron is one of two co-owners of True Incentive and CSNG. Upon information and belief, he resides in or around Fort Lauderdale, Florida.

19. Defendant Taylor Billington is the other co-owner of True Incentive and CSNG. Upon information and belief, he resides in or around Fort Lauderdale, Florida.

20. Together, Defendants Gary Baron and Taylor Billington owned, managed, and operated True Incentive and CSNG. Upon information and belief, their responsibilities included executing contracts and agreements related to the certificates at issue, as well as reviewing and approving the certificates. Unless otherwise indicated, all allegations and claims made against True Incentive and/or CSNG in this Complaint shall also apply to Defendants Gary Baron and Taylor Billington individually.

JURISDICTION AND VENUE

21. Pursuant to §§ 6-1-103 and 6-1-110(1), C.R.S., this Court has jurisdiction to enter appropriate orders prior to and following an ultimate determination of liability.

22. The violations alleged herein occurred, in part, in Denver County. Therefore, venue is proper in Denver County, Colorado, pursuant to § 6-1-103, C.R.S., and Colo. R. Civ. P. 98 (2016).

RELEVANT TIMES

23. The conduct giving rise to the claims for relief contained in this Complaint against all Defendants began as early as June 19, 2013 and continued until at least December 9, 2015. This action is timely brought pursuant to § 6-1-115, C.R.S., in that it is brought within three years of the date on which false, misleading, and deceptive acts or practices occurred and/or were discovered.

PUBLIC INTEREST

24. Through the unlawful practices of their business or occupation, Defendants intentionally deceived, misled, and financially injured consumers in Colorado and in other States. Furthermore, Defendants' business practices unfairly impacted business competitors who acted in accordance with the law. Therefore, these legal proceedings are in the public interest and are necessary to safeguard consumers and competition from Defendants' unlawful business activities.

BACKGROUND

25. Highlands Resorts solicited consumers to purchase a timeshare property at the Christie Lodge in Avon, Colorado. The Christie Lodge contracted

with Highlands Resorts to solicit consumers and to broker timeshare purchases at their resort.

26. Highlands Resorts is part of a larger group of timeshare companies controlled by Sedona Pines in Arizona. Those resorts include Sedona Pines and Highlands Resorts at Verde Ridge, LLC. Sedona Pines in Arizona processed the consumer payments at issue in this action.

27. Highlands Resorts also enrolled consumers in a timeshare points exchange program operated by a timeshare brokerage company called RCI. Highlands Resorts' salespeople told consumers they could exchange the point value of their Christie Lodge timeshare to stay at other RCI timeshare properties around the world.

28. Consumers typically paid between \$3,000 and \$20,000 to Highlands Resorts for a timeshare at the Christie Lodge and membership with RCI. Highlands Resorts kept approximately 85% of that payment per consumer.

29. Highlands Resorts contracted with MDI and IMS to solicit consumers by mail and telemarketing to attend sales presentations at which they would be solicited to purchase a timeshare at the Christie Lodge.

30. IMS solicited consumers with mailed postcards. MDI solicited consumers by outbound telemarketing. IMS and MDI told consumers they had been "awarded" airline tickets, cruises, and other "gifts." A toll free number was listed on IMS' postcards for redemption of the awards. IMS' mailers and MDI's telemarketers told consumers that all they needed to do to redeem their "gift" or "award" was attend a ninety minute sales presentation at one of Sedona Pines' resorts, or at Highlands Resorts' sales center in the Denver Merchandise Mart.

31. The presentation was a ninety minute high-pressure sales pitch to purchase a timeshare package at the Christie Lodge. When the presentation was complete, consumers did not receive the promised gifts. Instead, they received a certificate with information as to how they could redeem their airline tickets or cruise.

32. These certificates were sold by True Incentive to Sedona Pines for Highlands Resorts' distribution to consumers.

33. CSNG was responsible for fulfilling the airline tickets or cruises represented by the certificates.

GENERAL ALLEGATIONS

I. Defendants Highlands Resorts and MDI violated Colorado telemarketing registration and no-call laws

34. Highlands Resorts and MDI failed to register as telemarketers in Colorado in violation of § 6-1-301 – 305, C.R.S. Only after being contacted by the Attorney General did Highlands Resorts submit an application to register as a telemarketer in Colorado. Also after being contacted by the Attorney General, Highlands Resorts contacted all of their telemarketers, including MDI, and instructed them to register. As of the date of this Complaint, none of Highlands Resorts' telemarketing agents, including MDI, have registered with the Attorney General.

35. Highlands Resorts and MDI violated Colorado's no-call law by calling consumers registered on the no-call registry.

36. Upon information and belief, MDI solicited over 3,000 Colorado consumers on behalf of Highlands Resorts from March 2014 to February 2015. Many of the consumers MDI solicited were on Colorado's no-call list.

37. Highlands Resorts failed to ensure MDI's compliance with Colorado telemarketing registration and no-call laws. Only after being contacted by the Attorney General did they instruct their telemarketers, including MDI, to comply with Colorado's telemarketing laws.

38. Highlands Resorts and MDI either made, or caused others to make, telephone solicitations to Colorado consumers without registering with the Attorney General and to consumers who were on the Colorado no-call list.

II. Defendants solicited new consumers with deceptive "gifts" and "awards"

39. MDI solicited new consumers by telephone. IMS solicited new consumers by mail and answered consumers' calls when they responded to the mailers. Highlands Resorts also did its own marketing and sales presentations at their other resorts, and at fairs, trade shows, and other community events.¹

¹ Defendants solicited "new" consumers to purchase a timeshare package at the Christie Lodge. Highlands Resorts also solicited existing Christie Lodge timeshare owners to convert their traditional timeshare interests into one overlaid with an RCI point value. Over 90% of Highlands

40. In order to convince consumers to attend a sales presentation, MDI's telemarketers, IMS' mailers and telemarketers, and Highlands Resorts' marketing agents told consumers they had been "gifted" or "awarded" a travel package, such as a cruise or roundtrip airline tickets. Consumers were told that in order to collect their "gift" or "award," all they needed to do was complete the ninety minute sales presentation.

41. Greg Penrod, with the assistance of staff at Highlands Resorts and Sedona Pines, reviewed and approved all telemarketing scripts and mailers used to solicit consumers, including those promising "gifts" and "awards." Greg Penrod and Todd Herrick held weekly meetings wherein they discussed consumer response rates to the solicitations. Those meetings included a review of all marketing materials being used to solicit consumers, including IMS and MDI's mailers and telemarketing scripts.

42. One of IMS' frequently used mailers was designed to look like a \$1,900 check. See **Exhibit A** at HRCL000004. That "check" was supposed to represent the value of the cruise consumers would receive if they attended the sales presentation. This mailer purported to inform consumers that they had been "awarded" the \$1,900 cruise and that the award had already been "Issued." *Id.*

43. The same solicitation suggested that Norwegian and Royal Caribbean cruise lines either offered or sponsored the "award." Upon information and belief, neither Norwegian nor Royal Caribbean cruise lines offered or sponsored the "award."

44. MDI's telemarketing agents promised consumers "free gifts" or "awards" like airline tickets and cruises, with "no strings attached" so long as they completed the sales presentation. In some instances, MDI's agents falsely represented an affiliation with major airline companies, like United Airlines. Highlands Resorts, Sedona Pines, and Greg Penrod knew MDI was misrepresenting the "awards" and "gifts." They failed to stop MDI until contacted by the Attorney General.

45. IMS and MDI, Highlands Resorts' primary marketing partners for the Christie Lodge solicitations, were paid a commission based on the number of consumers their solicitations attracted. Todd Herrick authorized payment to IMS and MDI based on the number of consumers who attended the sales presentations.

Resorts' sales were to "new" timeshare consumers. The allegations contained herein apply only to the solicitation of "new" timeshare consumers, i.e. those consumers who were solicited to purchase a timeshare package at the Christie Lodge for the first time.

46. During the relevant time period, Defendants solicited over 9,000 consumers to attend Highlands Resorts' sales presentations. Over 2,500 consumers responded to the solicitation and attended the sales presentation.

III. Highlands Resorts misrepresented the price of a Christie Lodge timeshare package in order to convince consumers to make a same-day purchase

47. The Highlands Resorts sales presentation featured an introductory video and interactive computer presentation detailing the benefits of a Christie Lodge timeshare and RCI membership. Highlands Resorts' sales managers, and at times Greg Penrod himself, conducted the presentations.

48. After the video and presentation, Highlands Resorts' sales agents met with consumers individually. These sales agents were supervised by a sales manager and Greg Penrod.

49. An information packet detailing the benefits of the program, and the various point values of a RCI membership, was discussed during these individual meetings. *See e.g., Exhibit B.*

50. During the individual meetings, the sales agent described the primary benefits of the program by making handwritten notes on the pages of the information packet. For example, a sales agent might compare the cost of a traditional vacation to Mexico with the cost of owning a timeshare at the Christie Lodge and using the corresponding RCI points to travel to Mexico. *Id.*

51. The information packet contained two columns detailing the point-specific cost of a Christie Lodge timeshare property, e.g. the cost of purchasing 32,800 RCI points and one summer week at the Christie Lodge. *See Exhibit B* at HRCL003914. The first column indicated what the price of that package would be if the consumer purchased it "anytime." The second column indicated in bold letters what the cost of the package would be if the consumer made the purchase "today." *Id.*

52. The "anytime" price column listed the cost of the package, a RCI point upgrade fee, a RCI initiation fee, RCI dues, and estimated closing costs. *Id.* For example, the "anytime" cost for a Christie Lodge timeshare property worth 32,800 RCI points cost \$17,450, plus \$6,995 to upgrade to RCI points, a \$300 RCI initiation fee, \$179 in RCI annual dues, and \$300 in estimated closing costs – totaling \$25,224. *Id.*

53. The “today” price column for that same package listed a discount price if the consumer made the purchase the same day as their sales presentation. *Id.* The “today” column listed the same RCI upgrade and initiation fees, dues, and closing costs, but claimed that Highlands Resorts would pay the RCI point upgrade and initiation fees for the consumer in full. The “today” price column also represented that Highlands Resort would pay the first year of RCI dues, and discount the closing costs if the consumer made the purchase that day. In the “today” column, Highlands Resorts represented they would pay \$7,674 to RCI on behalf of the consumer if the consumer purchased the package the same day as their sales presentation. *Id.*

54. Highlands Resorts made the same basic representations on all packages regardless of the Christie Lodge week or the RCI point value the consumer was purchasing.

55. Contrary to their representations, Highlands Resorts did not pay the \$6,995 RCI point upgrade for new purchases. Highlands Resort also did not pay the \$300 RCI initiation fee as they represented.

56. Highlands Resort never paid RCI \$6,995 per timeshare purchased. Highlands Resorts’ records show that the only payments made to RCI was the \$179 first year annual dues.

57. Highlands Resorts’ representations of a discount, and the justifications for the discount, were intended to convince consumers to purchase the same day as their sales presentation. Highlands Resorts feared that if a consumer left the sales presentation without making a purchase, they would never return. According to Highlands Resorts’ sales manager Steve Abrahamson, in the eighteen months he worked for Highlands Resorts, not a single consumer returned after their sales presentation to make a purchase. In his fifteen years in the timeshare industry, Abrahamson never saw a consumer purchase a timeshare after leaving a sales presentation.

58. Mr. Abrahamson confirmed that if a consumer were to return, Highlands Resort would accept payment of the “today” amount even if the purchase was not made the day of the sales presentation.

59. Upon information and belief, the 32,800 point package is the most commonly purchased Christie Lodge timeshare package offered by Highlands Resorts. New consumers paid, on average, \$6,695 to Highlands Resorts for that timeshare package.

60. Upon information and belief, Highlands Resorts never sold the 32,800 point package to any consumer for \$25,224. Indeed, according to Highlands Resorts own documents, only one new consumer ever paid more than \$20,000 for any Christie Lodge timeshare package, and upon information and belief, that package was worth significantly more than 32,800 RCI points.

61. Greg Penrod trained and supervised Highlands Resorts' sales agents. If a sales agent was unable to convince a consumer to make a purchase, Greg Penrod met with the consumer personally.

62. Greg Penrod and Todd Herrick knew that sales agents misrepresented the existence of discounts for same-day purchases. Greg Penrod managed the sales offices in Highlands Resorts' Denver office and at the other resorts, and oversaw the sales staff and the representations they made to consumers. Todd Herrick oversaw the company's controller and knew what fees were, and were not, being paid to RCI; and what price consumers were, and were not, paying for a timeshare package at the Christie Lodge.

63. Both Greg Penrod and Todd Herrick knew that Highlands Resorts never paid the \$6,995 RCI upgrade or the \$300 RCI initiation fees on behalf of new consumers. Both knew that no consumer ever paid the "anytime" price. And both knew that the discounted "today" price was really the price consumers could pay for a timeshare package at the Christie Lodge regardless of when they made the purchase.

64. Sedona Pines processed every consumer payment for a timeshare package, and so Sedona Pines knew the RCI upgrade and initiation fees were never paid on behalf of consumers. Sedona Pines also knew that no consumer paid the "anytime" price for a Christie Lodge timeshare package.

IV. The "Gifts" and "Awards" Defendants promised consumers were so laden with undisclosed fees and conditions, only a tiny fraction of consumers actually received the promised "gift" or "award"

65. Consumers who attended a Highlands Resorts' sales presentation did not receive the promised "gift" or "award." Instead, Highlands Resorts gave consumers a "certificate" to redeem their airline tickets or cruise. *See e.g., Exhibit A* at HRCL000005.

66. The certificates contained multiple fees and conditions that were not disclosed in IMS or MDI's mail or telemarketing solicitations, or prior to the completion of the Highlands Resorts sales pitch.

67. Sedona Pines purchased the certificates from True Incentive and provided them to Highlands Resorts for distribution to consumers. Consumers could then attempt to redeem the certificates from CSNG.

68. The certificates were not the promised airline ticket or cruise “gift” or “awards.” The certificates were not “free” and they did come “with no strings attached.” Instead, the certificates detailed fees that had to be paid up-front before the “gifts” could be redeemed. The certificates also contained numerous conditions that had to be met before a consumer could receive the promised airline tickets or cruise.

69. The steps consumers had to take in order to redeem their “gift” or “award” were not simple. To begin, consumers had to pay a deposit which could be as much as \$198.

70. If consumers decided to pay the deposit, they then had to visit CSNG’s website (www.gocrv.com) to reserve the cruise or the airline tickets they wanted. In many instances, the airline tickets could only be used to travel to pre-determined destinations, and only on pre-determined days of the week. Cruises could only be reserved during pre-determined dates and out of pre-determined ports. Consumers were not made aware of the various conditions until after they completed the sales presentation and some of the conditions were not disclosed until after they paid the deposit to CSNG.

71. According records produced by Highlands Resorts, True Incentive, and CSNG, only 6.5% of consumers who received a True Incentive certificate ever received the promised airline ticket or cruise “gift” or “award” from CSNG. Upon information and belief, several hundred other certificates remain unaccounted for, which could drive the percentage even lower.

V. Defendants knew the fees and costs were not disclosed to consumers and knew they did not have the ability to provide the promised gifts or awards

72. IMS and MDI designed and developed their mail solicitations and telemarketing scripts. Highlands Resorts and Sedona Pines reviewed and approved the mailers and scripts. Greg Penrod and Todd Herrick met frequently to discuss marketing strategies and the content of the mailers and scripts.

73. MDI was aware of the fees and conditions contained in the certificates. MDI had access to the True Incentive certificates, which contain at least some of the fees and conditions. That information, however, was not communicated to

consumers until after the Highlands Resorts sales presentation. Additional conditions were not disclosed until after the consumers paid the deposit and visited CSNG's website.

74. If consumers complained that the certificate was not what was promised, Highlands Resorts required them to fill out a Disqualification ("DT") Form. Highlands Resorts or Sedona Pines then forwarded the DT Forms to either IMS or MDI. Highlands Resorts and Sedona Pines were aware of numerous DT Forms complaining about the misrepresentations described in this Complaint. IMS and MDI, who received the DT Forms from Highlands Resorts and Sedona Pines, were also aware.

75. In some instances, DT Forms were forwarded to True Incentive and CSNG.

76. All Defendants were aware of consumers' complaints that IMS' and MDI's promises were not being fulfilled by True Incentive and CSNG.

77. Highlands Resorts, Sedona Pines, True Incentive, and CSNG knew that they did not have the ability to supply the "gifts" and "awards" as promised to consumers. Their own records reflect that just 6.5% of consumers who received a certificate after completing a sales presentation ever received the promised airline tickets or cruise.

78. Defendants also knew that the advertised value of the "gifts" or "awards" greatly exceeded their actual value. For example, Highlands Resorts paid True Incentive no more than \$40 for each certificate that was advertised as being worth \$1,900. See Exhibit A at HRCL000004.

FIRST CLAIM FOR RELIEF

(Knowingly makes a false representation as to the characteristics, ingredients, uses, benefits, alterations, or quantities of goods, food, services, or property)

79. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

80. Through the above-described conduct in the course of their business, occupation or vocation, all Defendants knowingly made false representations as to the characteristics and benefits of the "gifts" and "awards" offered to consumers, in violation of § 6-1-105(1)(e), C.R.S.

81. Highlands Resorts, Sedona Pines, IMS, and MDI, told consumers a “gift” or “award” of airline tickets or a cruise had been “issued” to them and consumers need only attend a sales presentation to collect. Telemarketers misled consumers by claiming “no strings [were] attached” to collect the “gift” or “award.” The airline tickets or cruise were not a “gifts” or “awards,” and they were never “issued.” After consumers completed the sales presentation, they received a True Incentive certificate that required them to pay for the airline tickets or cruise. If they paid the deposit, they were only able to choose airline tickets or a cruise to pre-determined destinations, and could only travel during pre-determined dates. Highlands Resorts and Sedona Pines knew IMS’ mailers and MDI’s telemarketers made these representations because they reviewed and approved every solicitation. Greg Penrod and Todd Herrick met regularly to discuss their marketing strategies and review the solicitations. Consumers complained directly to Highlands Resorts and submitted DT Forms detailing their complaints about the solicitations. Those DT Forms were forwarded by Highlands Resorts and Sedona Pines to MDI or IMS, and in some instances to True Incentive and CSNG.

82. By means of the above-described unlawful deceptive trade practices, all Defendants deceived and misled consumers in soliciting their attendance at a sales presentation to purchase a timeshare at the Christie Lodge.

SECOND CLAIM FOR RELIEF

(Makes false or misleading statements of fact concerning the price of goods, services, or property or the reasons for, existence of, or amounts of price reductions)

83. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

84. Through the above-described conduct in the course of their business, occupation or vocation, Defendants Highlands Resorts and Sedona Pines knowingly made false representations as to the reasons for, existence of, or amounts of the price reductions of their timeshare packages to consumers, in violation of § 6-1-105(1)(l), C.R.S.

85. Highlands Resorts tried to convince consumers to purchase a timeshare package by claiming to discount same-day purchases. Highlands Resorts’ sales agents, under the supervision of Greg Penrod, told consumers they would save thousands of dollars if they purchased the timeshare package the same day as the sales presentation. Highlands Resorts’ cheapest package cost \$23,224 for an “anytime” purchase, yet not a single consumer ever purchased any Christie Lodge timeshare package from Highlands Resorts for more than \$20,000. Sedona Pines processed all consumer payments, and they knew that no consumer ever paid the

“anytime” price for a Christie Lodge timeshare package. The discount does not exist; it was just another marketing tool to convince consumers to pay for a timeshare.

86. Highlands Resorts accounted for the discount by claiming they would pay more than \$7,000 to RCI on behalf of consumers if the consumer purchased the timeshare the same day as the sales presentation. Sedona Pines would be responsible for making those payments to RCI, and they knew that neither Highlands Resorts nor Sedona Pines ever made those payments.

87. Greg Penrod knew about the price misrepresentations because he oversaw Highlands Resorts’ sales staff, and in many instances made the misrepresentations himself. Todd Herrick knew neither Highlands Resorts nor Sedona Pines paid RCI the upgrade and initiation fees because he oversaw Highlands Resort’s controller and all payments made by or to Highlands Resorts.

88. By means of the above-described unlawful deceptive trade practices, Highlands Resorts and Sedona pines deceived and misled consumers into purchasing a timeshare at the Christie Lodge.

THIRD CLAIM FOR RELIEF

(Fails to disclose material information concerning goods, services, or property 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)

89. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

90. Through the above-described conduct in the course of their business, occupation or vocation, all Defendants failed to disclose material information about the “gifts” or “awards” being offered to consumers, and did so with the intent to induce consumers to attend a sales presentation and purchase a timeshare at the Christie Lodge, in violation of § 6-1-105(1)(u), C.R.S.

91. Highlands Resorts, IMS, and MDI failed to disclose material information regarding the “gifts” or “awards” that were purportedly “issued” to consumers. Consumers were told they had been “gifted” or “awarded” airline tickets or a cruise, and could collect their award after completing a sales presentation. The purpose of the sales presentation was to convince consumers to purchase a timeshare at the Christie Lodge. In reality, the “gifts” and “awards” were so burdened by fees and conditions that fewer than 6.5% of qualified consumers

actually received their tickets or cruise. The fees and conditions were not disclosed on IMS' mailers, by MDI's telemarketers, or by Highlands Resorts' marketing agents. Defendants all knew this material information was not disclosed because they reviewed and approve all solicitations. IMS and MDI knew that their solicitations misrepresented material information because they had access to the fees and conditions on the certificates prior to making the representations to consumers. When consumers complained to Highlands Resorts about the misrepresentations, Highlands Resorts or Sedona Pines forwarded those complaints to IMS, MDI, True Incentive, and CSNG.

92. By means of the above-described unlawful deceptive trade practices, all Defendants deceived and misled consumers in soliciting their attendance at a sales presentation to purchase a timeshare at the Christie Lodge.

FOURTH CLAIM FOR RELIEF

(Represents to any person 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, or that such person will receive or is eligible to receive free goods, services, or property, unless, at the time of the representation, the person has the present ability to supply such award, prize, or thing of value)

93. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

94. Through the above-described conduct in the course of their business, occupation or vocation, Defendants Highlands Resorts, Sedona Pines, True Incentive, and CSNG knowingly represented that consumers would receive a "gift," or had won an "award," that had been "issued," when in reality fewer than 6.5% of consumers who received their True Incentive certificate ever received the airline tickets or cruise they were promised, in violation of § 6-1-105(1)(jj), C.R.S.

95. Highlands Resorts, Sedona Pines, True Incentive, and CSNG offered "gifts" and "awards" they knew would not be delivered as promised. Highlands Resort reviewed and approved IMS and MDI's solicitations. True Incentive sold Sedona Pines the certificates that were distributed to consumers who completed the sales presentation. Those certificates detailed the fees and conditions necessary to redeem the airline tickets or cruise. Records produced by Highlands Resorts and True Incentive/CSNG showed that fewer than 6.5% of consumers who received a True Incentive certificate from Highlands Resorts ever received the airline tickets or cruise they were promised. Highlands Resorts, Sedona Pines, True Incentive, and CSNG offered the award to consumers knowing that a slim minority of those consumers would ever be able to collect their "gift" or "award."

96. By means of the above-described unlawful deceptive trade practices, Highlands Resorts, Sedona Pines, True Incentive, and CSNG deceived and misled consumers in soliciting their attendance at a sales presentation to purchase a timeshare at the Christie Lodge.

FIFTH CLAIM FOR RELIEF

(A commercial telephone seller engages in an unlawful telemarketing practice when, in the course of any commercial telephone solicitation, the seller conducts business as a commercial telephone seller without having registered with the attorney general, as required by section 6-1-303)

97. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

98. Through the above-described conduct in the course of their business, occupation, or vocation, Defendants Highlands Resorts, Sedona Pines, and MDI knowingly failed to register as a commercial telephone seller with the attorney general in violation of § 6-1-304(1)(a), C.R.S.

99. Highlands Resorts, Sedona Pines, and MDI solicited over 3,000 consumers by telephone to attend a Highlands Resorts' sales presentation. None of them were registered to solicit consumers in such a manner. Highlands Resorts did not register until contacted by the Attorney General. As of the date of this Complaint, MDI never registered to make such telephone solicitations.

100. By means of the above-described unlawful telemarketing practices, Defendants Highlands Resorts, Sedona Pines, and MDI violated Colorado's prevention of telemarketing fraud laws.

SIXTH CLAIM FOR RELIEF

(A commercial telephone seller engages in an unlawful telemarketing practice when, in the course of any commercial telephone solicitation, the seller engages in any deceptive trade practice defined in section 6-1-105 of this article)

101. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

102. Through the above-described conduct in the course of their business, occupation, or vocation, Defendants Highlands Resorts, Sedona Pines, and MDI

engaged in deceptive trade practices defined in section 6-1-105 in the course of their commercial telephone solicitations, in violation of § 6-1-304(1)(h), C.R.S.

103. Highlands Resorts, Sedona Pines, and MDI's telephone solicitations deceived consumers into believing they would receive airline ticket or cruise "gifts" or "awards" if they attended a Highlands Resorts sales presentation. In reality, consumers received a certificate at the end of the presentation that detailed previously undisclosed fees and conditions encumbering their "gift" or "award." As a result, fewer than 6.5% of consumers who completed the sales presentation and received their certificate, ever received the airline tickets or cruise they were promised.

104. By means of the above-described unlawful telemarketing practices, Defendants Highlands Resorts, Sedona Pines, and MDI violated Colorado's prevention of telemarketing fraud laws.

SEVENTH CLAIM FOR RELIEF

(No person or entity shall make or cause to be made any telephone solicitation to the telephone of any residential subscriber or wireless telephone service subscriber in this state who has added his or her telephone number and zip code to the Colorado no-call list)

105. Plaintiff incorporates herein by reference all of the allegations contained in this Complaint.

106. Through the above-described conduct in the course of their business, occupation, or vocation, Defendants Highlands Resorts, Sedona Pines, and MDI knowingly made telephone solicitations to Colorado consumers who added their telephone number and zip code to the Colorado no-call list, in violation of § 6-1-904(1)(a), C.R.S.

107. Highlands Resorts, Sedona Pines, and MDI knowingly solicited over 3,000 consumers via telephone to attend a Highlands Resorts sales presentation, many of whom had subscribed to the Colorado no-call list. Consumers complained to Highlands Resorts about these telephone solicitations, but nothing was done until Highlands Resorts was contacted by the Attorney General.

108. By means of the above-described unlawful telemarketing practice, Defendants Highlands Resorts, Sedona Pines, and MDI violated Colorado's no-call list laws.

RELIEF REQUESTED

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

A. An order declaring Defendants' above-described conduct to be in violation of the Colorado Consumer Protection Act, §§ 6-1-105(1)(e), (l), (u), and (jj), as well as §§ 6-1-304 and 6-1-904, C.R.S (2016).

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

C. 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 § 6-1-110(1), C.R.S. (2016).

E. An order requiring Defendants to forfeit and pay to the General Fund of the State of Colorado, civil penalties pursuant to §§ 6-1-112(1) and 6-1-112(3), C.R.S. (2016).

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 § 6-1-113(4), C.R.S. (2016).

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

Dated this 30th day of November, 2016.

CYNTHIA H. COFFMAN
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