

IN THE COURT OF COMMON PLEAS
CLARK COUNTY, OHIO

STATE OF OHIO, <i>ex rel.</i>)	
MICHAEL DEWINE)	
ATTORNEY GENERAL)	Case No.
30 East Broad Street)	
State Office Tower-14 th Floor)	Judge
Columbus, OH 43215-3428)	
)	
Plaintiff,)	<u>COMPLAINT AND REQUEST</u>
)	<u>FOR INJUNCTIVE AND</u>
v.)	<u>DECLARATORY RELIEF,</u>
Novus North, LLC.)	<u>PURCHASER RESTITUTION,</u>
Doing business as:)	<u>CIVIL PENALTIES, AND</u>
Your eCommerce Support International, LLC.)	<u>COSTS</u>
And Doing Business As:)	
YES International)	
770 East Main Street, Suite 155)	
Lehi, Utah 84043)	
)	
And)	
)	
Apply Knowledge, LLC.)	
Doing business as:)	
Coaching Department)	
1352 West 1980 North)	
Provo, Utah 84604)	
)	
And)	
VI Education, LLC.)	
770 East Main Street, Suite 155)	
Lehi, Utah 84043)	
)	
Defendants.)	

JURISDICTION AND VENUE

1. Michael DeWine, Attorney General of Ohio, brings this action pursuant to the authority vested in him in the Telephone Solicitation Sales Act (“TSSA”), R.C. 4719.01 et seq., the Business Opportunity Purchasers Protection Act (“BOPPA”), R.C. 1334.01 et seq., and R.C.

109.87, to restrain and enjoin Defendants from violating the provisions of said Acts and for other appropriate relief.

2. The actions of Defendant Novus North, LLC, doing business as Your eCommerce Support International, LLC., YES International and MyMentoring, and Defendant Apply Knowledge, LLC., doing business as Coaching Department, and Defendant VI Education, LLC., (collectively as “Defendants”) occurred in Clark County and other counties in the State of Ohio, and as set forth below are in violation of the TSSA, R.C. 4719.01 et seq., the BOPPA, R.C. 1334.01 et seq. and R.C. 109.87.

3. This Court has subject matter jurisdiction pursuant to TSSA, R.C. 4719.12, BOPPA, R.C. 1334.10(A) and R.C. 109.87(D)(1).

4. This Court has venue to hear this case pursuant to Ohio Civ. R. 3(B)(3), in that the Defendants conducted activity that gave rise to the claim for relief in Clark County, Ohio and other counties in Ohio.

5. The actions of the Defendants as set forth below are in violation of the Telephone Consumer Protection Act (“TCPA,”) 47 United States Code Service (“U.S.C.S.”) 227 and 47 Code of Federal Regulations (“C.F.R.”) 64.1200. Attorney General Michael DeWine brings this action for violations of the federal TCPA in state court pursuant to R.C. 109.87 which authorizes the Attorney General to bring an action in a court of common pleas against a seller or telemarketer who violates any provision of federal acts or rules as defined by R.C. 109.87(A)(1).

DEFENDANTS

6. Defendant Novus North, LLC., also doing business as Your eCommerce Support International, and YES International, incorporated in the State of Utah on September 9, 2009,

2011. Defendant's principal place of business is 770 East Main Street, Suite 155, Lehi, Utah 84043.

7. Defendant Apply Knowledge, LLC., also doing business as Coaching Department, is a domestic limited liability company, organized in the State of Utah on July 20, 2009. The Defendant's principal place of business is 1352 West 1980 North, Provo, Utah 84604.

8. Defendant VI Education, LLC. is a domestic limited liability company, organized in the State of Nevada on April 28, 2011. Defendant VI Education, LLC. is also registered as a foreign limited liability company, in the State of Utah on December 15, 2011. The Defendant's principal place of business is 770 East Main Street, Suite 155, Lehi, Utah 84043.

STATEMENT OF FACTS

9. Defendants are "telephone solicitors" as that term is defined in the TSSA, R.C. 4719.01(A)(8), as Defendants were at all times relevant herein, engaged in telephone solicitations directly or through one or more salespersons from a location outside this state, to persons in this state.

10. Defendants initiated "telephone solicitations" to "purchasers," as they were at all times relevant herein, and engaged in "communications" initiated on behalf of "telephone solicitors" or "salespersons" to induce persons to purchase "goods or services," as those terms are defined in the TSSA, R.C. 4719.01(A).

11. Defendants are "sellers," as they were persons who sold or leased "business opportunity plans" to "purchasers" in the State of Ohio, as those terms are defined in the BOPPA, R.C. 1334.01(A)(B) and (D).

12. Defendants are "sellers" and/or "telemarketers" as those terms are defined in C.F.R. 64.1200(f)(7) and (9) as Defendants are the persons and/or entities on whose behalf telephone

calls or messages are initiated for the purpose of encouraging the purchase or rental of goods or services, which are transmitted to any person.

13. Defendants engaged in “telephone solicitations” as that term is defined in 47 U.S.C. 227(a)(4) of the TCPA.

14. Defendants, either directly or as a result of a third party acting on their behalf, engaged in patterns or practices of initiating telephone solicitations to residential telephone subscribers in the State of Ohio, whose telephone numbers were listed on the National Do Not Call Registry.

15. Defendants marketed a program to Ohio residents that would purportedly help consumers create, develop, market and run their own successful Internet business from home. The Defendants are affiliates that marketed additional products and services with representations that such products and services are essential to any successful business.

16. Defendants' sales representatives made oral representations about the earnings potential of the program, either by assuring prospective purchasers that they could recover their initial investment in a short period of time (typically one to three months) or by stating that purchasers typically earn from \$3,000 to \$10,000 per month.

17. In numerous instances, sales representatives assured consumers that if they were willing to spend seven to ten hours per week and if they were committed to following the program, they would be successful. Sales representatives made these representations without telling consumers what type of Internet business they would be starting and what they would be expected to do in connection with that business.

18. Defendants represented that they would provide all the services necessary for consumers to establish successful Internet businesses, including individual coaching sessions, online resources, and website design and development. Moreover, Primary Defendants promised both

verbally and in writing that they would continue to provide all necessary services until purchasers were a “success story for the program.”

19. Defendants failed to honor valid requests from Ohio residents to cancel their agreements and to provide full refunds.

PLAINTIFF’S CAUSES OF ACTION
COUNT I
VIOLATIONS OF THE TSSA
FAILURE TO COMPLY WITH OHIO TELEPHONE SOLICITOR LAW

19. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint.

20. Defendants violated the TSSA, R.C. 4719.02 (A) by acting as telephone solicitors in the State of Ohio without first having obtained certificates of registration.

21. Defendants violated the TSSA, R.C. 4719.04 (A) by acting as telephone solicitors without first having obtained, nor filed with the Ohio Attorney General, a surety bond issued by a surety company authorized to do business in the State of Ohio.

22. Defendants violated the TSSA, R.C. 4719.07(C) by submitting charges to Ohio purchasers’ bank or credit card accounts without having obtained from purchasers original copies of written confirmations signed by the purchasers which complied with TSSA, R.C. 4719.07(F) and (G) or without being exempt from the requirements to obtain written confirmations pursuant to R.C. 4719.07(H).

COUNT II
VIOLATIONS OF THE BOPPA
FAILURE TO PROVIDE TEN (10) DAYS TO CONSIDER BUSINESS
OPPORTUNITY PRIOR TO THE EXECUTION OF THE AGREEMENT

23. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

24. Defendants failed to provide prospective purchasers with ten (10) days to consider the business opportunity agreement prior to execution of the document in violation of BOPPA, R.C. 1334.02.

COUNT III
VIOLATIONS OF THE BOPPA
FAILURE TO PROVIDE REQUIRED WRITTEN DISCLOSURES AND
DISCLAIMER IN THE BUSINESS OPPORTUNITY AGREEMENT

25. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

26. Defendants failed to provide a written disclosure document in violation of BOPPA, R.C. 1334.02(A) and (B).

COUNT IV
VIOLATIONS OF THE BOPPA
MAKING REPRESENTATIONS REGARDING SALES POTENTIAL WITHOUT
REQUIRED DISCLAIMER, DISCLOSURES, AND SUBSTANTIATION

27. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

28. Defendants made oral and written representations to prospective purchasers concerning potential sales, income, or gross or net profit without the required disclaimer, disclosures, and substantiation for the representations in violation of BOPPA, R.C. 1334.03(A).

COUNT V
VIOLATIONS OF THE BOPPA
MAKING FALSE AND MISLEADING STATEMENTS

29. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

30. Defendants made false or misleading statements regarding sales success, success of past participants, and ease of business operation in violation of BOPPA, R.C. 1334.03(B)

COUNT VI
VIOLATIONS OF THE BOPPA
ENGAGING IN DECEPTIVE AND UNCONSCIONABLE ACTS OR PRACTICES

31. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

32. Defendants engaged in the deceptive and unconscionable acts or practices of failing to provide time to review business opportunity agreements and applying undue pressure to sign business opportunity agreements in violation of BOPPA, R.C. 1334.03(B).

COUNT VII
VIOLATIONS OF THE BOPPA
MAKING REPRESENTATIONS THAT ARE INCONSISTENT WITH THE
DISCLOSURES REQUIRED BY BOPPA, R.C. 1334.02

33. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

34. Defendants made representations that are inconsistent with the disclosures required of BOPPA, R.C. 1334.02 regarding fees, probable sales, past success rates, assistance from the parent company, or other material terms regarding investment in the business opportunity in violation of BOPPA, R.C. 1334.03(C).

COUNT VIII
VIOLATIONS OF THE BOPPA
FAILING TO INCLUDE REQUIRED COMPONENTS IN BUSINESS
OPPORTUNITY AGREEMENT

35. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

36. Defendants failed to provide purchasers with agreements in writing and copies of the executed agreements which contained all of the requirements as set forth in the BOPPA, R.C. 1334.06(A)(B) and (C.)

COUNT IX
VIOLATIONS OF THE BOPPA
FAILURE TO INCLUDE NOTICE OF CANCELLATION

37. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

38. Defendants failed to include an easily detachable completed notice of cancellation, in duplicate, pre-signed by the purchaser in violation of BOPPA, R.C. 1334.06(B) and (C).

COUNT X
VIOLATIONS OF THE BOPPA
FAILURE TO INTEGRATE ALL MATERIAL TERMS

39. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

40. Defendants failed to integrate all material statements, representations, or promises that were made orally prior to the execution of the Business Opportunity Agreement into the Business Opportunity Agreement in violation of BOPPA, R.C. 1334.06(E)(1).

COUNT XI
VIOLATIONS OF THE BOPPA
FAILURE TO INFORM AND MISREPRESENTATION OF
PURCHASER'S RIGHT TO CANCEL

41. Plaintiff incorporates the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint as if fully rewritten herein.

42. Defendants failed to orally inform each purchaser of their right to cancel at the time agreements were signed and misrepresented the purchaser's right to cancel throughout the process in violation of BOPPA, R.C. 1334.06(E)(3) and (4).

COUNT XII
VIOLATIONS OF THE TCPA AND R.C. 109.87
FAILURE TO COMPLY WITH DO NOT CALL LAWS

43. Plaintiff incorporates by reference, as if completely rewritten herein, the allegations set forth in paragraphs One through Nineteen (1-19) of the Complaint.

44. Defendants violated R.C. 109.87(B)(1) by engaging in patterns or practices of initiating telephone solicitations to residential telephone subscribers, including subscribers in Clark County and in the State of Ohio, whose telephone numbers were listed on the National Do Not Call Registry. Defendants' conduct is prohibited by the TCPA, 47 U.S.C. 227 and 47 C.F.R. 64.1200(c)(2).

WHEREFORE, Plaintiff respectfully prays that this Court:

45. ISSUE an order declaring the Defendants have engaged in acts and practices in violation of the TSSA, R.C. 4719.01 et seq., the BOPPA, R.C. 1334.01 et seq. and R.C. 109.87.

46. ISSUE a Permanent Injunction enjoining the Defendants, their agents, servants, employees, successors or assigns, and all persons acting in concert and participation with them, directly or indirectly, through any corporate device, partnership, or other association, under these or any other names, from engaging in the acts and practices of which Plaintiff complains, and from engaging in business opportunity transactions until the terms of judgment in this matter are fully complied with.

47. ORDER Defendants jointly and severally to reimburse all purchasers in Ohio found to have been damaged by Defendants' business opportunity agreement pursuant to BOPPA, R.C. 1334.08(B).

48. ASSESS, FINE, and IMPOSE upon Defendants a civil penalty of Five Dollars (\$5,000.00) for each separate and appropriate violation described hereto pursuant to the BOPPA, R.C. 1334.08(D).

49. ASSESS, FINE, and IMPOSE upon Defendants a civil penalty of not less than One Thousand (\$1,000.00) and not more than Twenty Five Thousand Dollars (\$25,000) for each separate and appropriate violation described hereto pursuant to the TSSA, R.C. 4719.12(B).

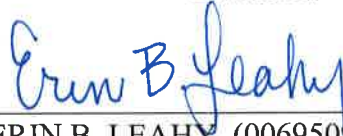
50. AWARD Five Hundred Dollars (\$500) to each person in Ohio who received a telephone solicitation from the Defendants in violation of R.C. 109.87(B)(1) as described herein, pursuant to 47 U.S.C. 227(g)(1), or three times that amount if the court finds that Defendants' actions were committed willfully and knowingly. Plaintiff may recover these damages on behalf of Ohio consumers pursuant to R.C. 109.87(D)(1).

51. GRANT Plaintiff its attorney fees, costs of investigation, and costs incurred in bringing this action pursuant to the TSSA, 4719.12.(A), the BOPPA, R.C. 1334.08(B) and R.C. 109.87(D)(1).

52. GRANT such other relief as the Court deems to be just, equitable, and appropriate.

Respectfully submitted,

MICHAEL DEWINE
ATTORNEY GENERAL



ERIN B. LEAHY (0069509)
Assistant Attorney General
Consumer Protection Section
30 E. Broad Street – 14th Fl.
Columbus, OH 43215
(614) 752-4730
(866) 768-2648 (fax)
Erin.leahy@ohioattorneygeneral.gov

Counsel for Plaintiff