

SUPREME COURT  
STATE OF NEW YORK COUNTY OF JEFFERSON

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THE PEOPLE OF THE STATE OF NEW YORK, by  
ANDREW M. CUOMO, Attorney General of the  
State of New York,

Plaintiffs,

vs.

FRISCO MARKETING OF NY LLC d/b/a SMARTBUY  
and SMARTBUY COMPUTERS AND ELECTRONICS;  
INTEGRITY FINANCIAL OF NORTH CAROLINA, INC.;  
GJS MANAGEMENT, INC.; ROME FINANCE CO., INC.;  
ROME FINANCE CO. (GA), LLC; STUART L. JORDAN,  
Individually and as Chairman and/or CEO of FRISCO  
MARKETING OF NY LLC and as an Officer and/or Director  
of INTEGRITY FINANCIAL OF NORTH CAROLINA, INC.,  
and of BRITLEE, INC.; REBECCA WIRT, Individually and as  
an Officer and/or Director of INTEGRITY FINANCIAL OF  
NORTH CAROLINA, INC. and BRITLEE, INC.;  
JOHN PAUL JORDAN, Individually and as an Officer  
and/or Director of INTEGRITY FINANCIAL OF NORTH  
CAROLINA, INC; RONALD WILSON, Individually and as  
an Officer and/or Director of ROME FINANCE CO., INC.  
and ROME FINANCE CO. (GA), LLC; and WILLIAM COLLINS,  
Individually and as an Officer and/or Director of ROME FINANCE  
CO., INC., ROME FINANCE CO. (GA), LLC and BRITLEE, INC.,  
d/b/a MILITARY ZONE and SMARTBUY,

Defendants.

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To the above-named Defendants:

**You are hereby summoned** to answer the Verified Complaint in this action and to serve a copy of your Answer, or, if the Complaint is not served with this Summons, to serve a Notice of Appearance, on the Plaintiff's attorney within twenty (20) days after service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this Summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

The basis of the venue designated is the location of consumer credit and other transactions at issue in this litigation



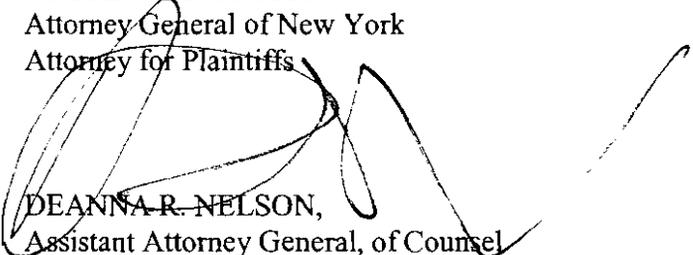
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Jefferson County, NY  
Cheryl D Lane Clerk

File **2010-00001385**

**SUMMONS**

Dated: May 18, 2010

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SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF JEFFERSON

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THE PEOPLE OF THE STATE OF NEW YORK, by  
ANDREW M. CUOMO, Attorney General of the  
State of New York,

Plaintiffs,

- against -

**VERIFIED COMPLAINT**

FRISCO MARKETING OF NY LLC d/b/a SMARTBUY  
and SMARTBUY COMPUTERS AND ELECTRONICS;  
INTEGRITY FINANCIAL OF NORTH CAROLINA, INC.;  
GJS MANAGEMENT, INC.; ROME FINANCE CO., INC.;  
ROME FINANCE CO. (GA), LLC; STUART L. JORDAN,  
Individually and as Chairman and/or CEO of FRISCO  
MARKETING OF NY LLC and as an Officer and/or Director  
of INTEGRITY FINANCIAL OF NORTH CAROLINA, INC.,  
and of BRITLEE, INC.; REBECCA WIRT, Individually and as  
an Officer and/or Director of INTEGRITY FINANCIAL OF  
NORTH CAROLINA, INC. and BRITLEE, INC.;  
JOHN PAUL JORDAN, Individually and as an Officer  
and/or Director of INTEGRITY FINANCIAL OF NORTH  
CAROLINA, INC.; RONALD WILSON, Individually and as  
an Officer and/or Director of ROME FINANCE CO., INC.  
and ROME FINANCE CO. (GA), LLC; and WILLIAM COLLINS,  
Individually and as an Officer and/or Director of ROME FINANCE  
CO., INC., ROME FINANCE CO. (GA), LLC and BRITLEE, INC.,  
d/b/a MILITARY ZONE and SMARTBUY,

Defendants.

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Plaintiffs, the People of the State of New York, by their attorney, Andrew M.

Cuomo, Attorney General of the State of New York, allege upon information and belief:

**Preliminary Statement**

1. This action is brought pursuant to Executive Law § 63(12) and General  
Business Law §§ 349 and 350 to enjoin the defendants' fraudulent and deceptive conduct  
in connection with the illegal consumer lending and deceptive retail sales of computers

and other electronic consumer equipment at the Salmon Run Mall, Watertown, New York between January 2005 and the present, to provide restitution to consumers victimized by the defendants' fraudulent and illegal practices, void the illegal financing agreements, disgorge profits from the defendants for the described consumer sales and financing that occurred at the SmartBuy Watertown store, and recover penalties and costs as authorized by statute.

### **Parties and Jurisdiction**

2. Plaintiff Andrew M. Cuomo, Attorney General of the State of New York, appears on behalf of the People of the State of New York. This Court has jurisdiction pursuant to New York Executive Law § 63(12) under which the Attorney General is empowered to seek injunctive relief, restitution, damages and costs when any person or entity has engaged in repeated fraudulent or illegal acts or has otherwise engaged in persistent fraud or illegality in the conduct of its business. This Court also has jurisdiction pursuant to section 349 of the New York General Business Law ("GBL") which empowers the Attorney General to bring an action to restrain a corporation from engaging in misleading and deceptive business practices.

3. Defendant Britlee, Inc., d/b/a "Military Zone" and "SmartBuy", is a foreign business corporation, with a principal address of 5411 Ramsey Street, North Carolina, and doing business subject to the laws of the State of New York between January 2005 and March 2007, with a former business address of Salmon Run Mall, 21182 Salmon Run Mall Loop West, Watertown, New York.

4. Defendant Frisco Marketing of NY, Inc., d/b/a "SmartBuy" and "SmartBuy Computers and Electronics" (hereafter, "SmartBuy"), is a domestic

corporation organized and doing business subject to the laws of the State of New York since March 2007, with its only place of business located at Salmon Run Mall Space #1, 21182 Salmon Run Mall Loop West, Watertown, New York, and a principal executive office located at 5411 Ramsey Street, Fayetteville, North Carolina

5. On or about March 1, 2007, Frisco Marketing of NY assumed and continued the business operations of Britlee, Inc., at the Salmon Run Mall. The ownership between the corporations is the same, and the management of the businesses remained essentially unchanged.

6. Defendant GJS Management, Inc. is a foreign corporation incorporated in the State of Wyoming that is not authorized to do business within the State of New York, and has a registered principal place of business at 5411 Ramsey Street, Fayetteville, North Carolina (hereafter "GJS").

7. Defendant GJS is involved with the management and/or business operations of Britlee and Frisco Marketing in New York State. In fact, GJS issues payroll checks to the employees. Hereinafter, Britlee, Inc., Frisco Marketing of NY, Inc., and GJS Management, Inc., are referred to collectively as "SmartBuy."

8. Defendant Integrity Financial of North Carolina, Inc., is a foreign corporation incorporated in the State of North Carolina that is not authorized to do business within the State of New York. It has a registered principal place of business at 5411 Ramsey Street, Fayetteville, North Carolina (hereafter, "Integrity Financial"). Integrity Financial is not licensed as a lender in the State of New York.

9. Defendant Rome Finance Co., Inc., is a foreign corporation incorporated in the State of California that is not authorized to do business in the state of New York. It

has a registered principal place of business at 2056 Colfax Street, Concord, California (hereafter “Rome Finance”). Rome Finance is not licensed as a lender in either New York or California.

10. Defendant Rome Finance is a debtor in the bankruptcy courts of the Northern District of California in an action entitled In re: Rome Finance Co., Inc., CV: 08-45902 (EDJ)(N.D. CA.), yet remains subject to the police powers of the State of New York, and this action is therefore properly commenced.

11. Defendant Rome Finance Co. (GA), LLC is a foreign limited liability corporation incorporated in the state of Georgia, that is not authorized to do business in the state of New York. It has a registered principal place of business at Lawrenceville, Georgia (hereafter, “Rome Finance Georgia”). Rome Finance Georgia is not licensed as a lender in either New York or Georgia. Defendant Rome Finance Georgia lists the same principal office mailing address of 2056 Colfax Street, Concord, California as Defendant Rome Finance.

12. Defendant Stuart L. Jordan (hereafter, “Jordan”) is identified with the New York Secretary of State as the Chairman or CEO of Britlee, Inc., Frisco Marketing of NY, Inc., both with a registered principal place of business at 5411 Ramsey Street, Fayetteville, NC.

13. Defendant Rebecca Wirt (hereafter, “Wirt”) is the sister of Defendant Jordan, and is identified with the Wyoming Secretary of State as the President of GJS, also with a registered principal place of business at 5411 Ramsey Street, Fayetteville, North Carolina. Wirt is also identified as the current Treasurer of Britlee, Inc., and a

Director of Integrity Financial. Defendant Wirt has also been identified as the President of Frisco Marketing on leasing documents.

14. Defendant John Paul Jordan (hereafter, "JP Jordan") is the brother of Defendant Jordan and Defendant Wirt. Defendant JP Jordan and Defendant Wirt are identified with the North Carolina Secretary of State as the directors of Integrity Financial and also utilize a registered principal place of business at 5411 Ramsey Street, Fayetteville, North Carolina.

15. Defendant Ronald Wilson (hereafter, "Wilson") is identified by the California Secretary of State as being an Officer and Director of Defendant Rome Finance and is also identified by the Georgia Secretary of State as being an Officer and/or Director of Rome Finance Georgia.

16. Defendant William Collins (hereafter, "Collins") is identified by the California Secretary of State as being an Officer and Director of Defendant Rome Finance and is also identified by the Georgia Secretary of State as being an Officer and/or Director of Rome Finance Georgia.

#### **Factual Allegations**

17. SmartBuy in Watertown, New York, is located near Fort Drum and is one of approximately nine stores that are operated nationally, all of which are located adjacent to United States military bases. The other locations of SmartBuy stores include Cross Creek Mall, Fayetteville, NC (Fort Bragg) ; Horton Plaza, San Diego, CA (Camp Pendleton); Killeen Mall, Killeen, TX (Fort Hood); The Citadel, Colorado Springs, CO (Fort Carson); Central Mall, Lawton, OK (Fort Sill); Cielo Vista Mall, El Paso, TX (Fort Bliss); and Oglethorpe Mall, Savannah, GA (Fort Stewart/Hunter Army Airfield).

18. SmartBuy stores, including SmartBuy in Watertown are strategically located to target sales of computers, electronic consumer goods and financing to active duty military service members at greatly inflated prices and with excessive and usurious financing arrangements.

19. Although the ownership and business operation of the SmartBuy stores are the same in all nine locations, they are separately incorporated in the state in which they are situated. All SmartBuy stores are run in tandem as a coordinated national enterprise with integrated ownership managed through GJS. Upon information and belief, the nine SmartBuy locations in 2008 generated approximately \$32 million to \$36 million in sales revenue.

20. The business model utilized by the defendants for the operation of SmartBuy stores is to rent a small storefront and/or sales kiosk in a mall located close to a military base. The SmartBuy sales personnel are trained to identify active members of the service and solicit financing, ostensibly for the purchase of computers or other electronic consumer goods from a small and variable inventory. All financing is established as revolving consumer credit accounts through either a Rome Finance entity or Integrity Financial. The sales personnel are instructed to sell to active duty service members only, even though they are set up in mall locations open to the general public.

21. SmartBuy does not purchase the consumer electronic goods its sells directly from manufacturers or through wholesalers or distributors of these consumer goods. Instead, SmartBuy personnel are provided their inventory from headquarters in Fayetteville, North Carolina where it had been purchased from local retail vendors including, *inter alia*, Costco, Inc., Sam's Club, and Wal-Mart. The consumer

merchandise purchased at retail from these locations is then resold by SmartBuy to service members with markups of 225% to 325% above the original retail price.

22. SmartBuy does not identify itself as a reseller of retail merchandise or otherwise disclose to consumers that they are purchasing computers or other consumer goods for a price that is much greater than its full retail value in comparable stores.

23. The price of consumer electronic goods sold in the store is prominently posted as a monthly payment, without a stated term, without disclosure of the manufacturers suggested retail price (“MSRP”) and the interest rate that will be charged to service members that purchase their consumer electronic goods, and without disclosure that the payment is estimated and not actual.

24. Although SmartBuy alleges that it accepts credit card or cash sales, sales only occur in this manner by special exception. In fact, the SmartBuy stores do not have cash registers or credit card scanners to handle sales transactions. All but a few *de minimus* sales are paid by service members through direct military payroll deductions commonly known as “allotments,” which is a requirement of the Lender Defendants.

25. All of the sales through the SmartBuy Watertown location have been financed through one or more of three unlicensed foreign corporations, including Defendants Integrity Financial, Rome Finance, and Rome Finance Georgia (hereinafter collectively referred to as “the Lender Defendants”), all of which extend credit under substantially similar terms and utilize substantially the same loan agreements.

26. The owners and directors of Integrity Financial are substantially the same as the owners and directors of SmartBuy.

27. In addition, the owners and directors of SmartBuy have shared a long business relationship with the owners, directors and agents of Rome Finance that extends back to the 1990s with the SmartBuy team brokering finance agreements for Rome Finance, first door-to-door, and more recently from mall storefront and/or kiosk locations.

28. The owners and directors of SmartBuy and Rome Finance have previously been sued over deceptive business practices and unlicensed lending in other states, including Tennessee and California.

29. For each financed sale, the Lender Defendants pay SmartBuy a 65% commission while retaining an undisclosed 35% plus interest on the full amount of the total sale.

30. Prior to the commencement of the investigation of the defendants by the Attorney General, the loan agreements by the Lender Defendants with military consumers were at an interest rate of 19.2% per annum and without a stated term of months.

31. On or about September 2009, the Lender Defendants modified their loan agreements to reduce the interest rate to 10% to 12%. The consumer credit is typically calculated for a period of 18 to 24 months, dependent upon the remaining time that the member of the military had active enlistment,<sup>1</sup> although these are open-ended consumer credit accounts.

32. The effective interest rate that the Lender Defendants received from the sale of merchandise at the SmartBuy Watertown store exceeded 244% when the portion

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<sup>1</sup> Under certain circumstances, shorter repayment schedules will be calculated, generally tied to when a soldier may leave active duty status, and thereafter lose the ability to pay through payroll deduction.

of the inflated sale price the Lender Defendants receive is added to the stated interest payments.

33. During the period from 2007 through 2009, SmartBuy financed sales to military consumers exceeding four million (\$4,000,000.00) dollars at the Watertown location alone.

34. Since the opening of the SmartBuy Watertown store in 2005, all sales have been financed through Integrity, Rome Finance, Rome Finance Georgia, or one of their agents.

35. Since the opening of the SmartBuy store in 2005, all sales have been to consumers who are service members.

36. SmartBuy sales personnel are instructed to re-direct potential cash or credit sales customers to WalMart, BestBuy, or other similar retailers.

37. SmartBuy sales personnel frequently compare their financing arrangements to discount retailers, implying that they offer a “better deal,” while never disclosing the astronomical retail price mark-ups and usurious financing arrangements.

38. SmartBuy acts as the agent or broker for the Lender Defendants to establish consumer credit agreements by which the defendants receive money from the military customers on a monthly basis via direct payroll deduction.

39. As a first step in this process, SmartBuy employees have service members access their most recent pay statement from a computer set up at the point of sale. By looking at how much unattached pay is available, together with the period of time that the soldier will be enlisted, the salesperson determines “eligibility” for consumer credit.

40. Since payroll deductions may only be made for a military customer's benefit, the defendants establish a "dummy" allotment savings account in the name of the military customer at an out-of-state bank selected by the Lender Defendants to receive the monthly allotments.

41. In order to carry out their illegal and fraudulent practice, the Lender Defendants open a "savings" account in the soldier's name at the First Citizens Bank of Kentucky to receive the military payroll allotments, and require that the military customers execute transfer authorizations so that the monthly allotment payments will automatically be made to the Lender Defendants.

42. As additional security, the defendants require the soldiers to provide access to a deposit, savings, or other financial account as security for the obligation, although payment by allotment is a condition for the extension of credit to repay the obligation.

43. SmartBuy and the Lender Defendants do not allow the military customers any choice in selecting the bank at which the allotment savings account is established for payroll deductions, and in most cases, the soldiers are unaware that they have a new savings account.

44. SmartBuy and the Lender Defendants do not provide the military customers with any information regarding account holder status and responsibilities at First Citizens Bank, nor do they advise them that the bank will charge the soldiers a monthly fee for issuance of the payment to the Lender Defendants.

45. SmartBuy and the Lender Defendants also fail to advise the military consumers of the accurate price of the product in the financing agreement. Financing

documents are filled in by SmartBuy employees, and state that the “purchase price” contains no additional fees or interest, despite the fact that the “purchase price” far exceeds the MSRP for the merchandise, and contains a brokerage fee to the Defendant Lenders.

46. As the Lender Defendants’ financing and credit agreements bear no relationship to the actual value of the products sold, there is no effective security interest in the chattel.

47. SmartBuy and the Lender Defendants also fail to advise the military consumers that the Lender Defendants will receive as an additional payment a significant portion of the inflated purchase price of the merchandise in addition to the monthly loan interest disclosed in the loan agreement.

48. The Lender Defendants further require the service member borrowers to submit to onerous adhesion provisions in the event of a dispute, including a requirement to litigate any dispute within the state of Georgia and utilizing the laws of the state of Georgia, no matter where the contract is entered into.

49. Service members are not given an itemized receipt for the products received, and many sales prices are “bundled”, further obscuring the price charged.

50. Service members who attempt to return merchandise are faced with a prohibitively high cash “restocking” fee and a very short time period to return items, even with unopened packages.

51. If a soldier disputes the agreement or the amount of the debt, the Lender Defendants will call the service member’s commander in violation of the Fair Debt Collection Practices Act.

52. Rome Finance has sought bankruptcy protection in the Northern District of California to avoid a judgment in excess of \$10,000,000.00 awarded in the courts of Tennessee for litigation misconduct related to a civil action alleging, inter alia, consumer fraud and illegal lending.

53. Rome Finance Georgia is continuing and perpetuating the business model followed by Rome Finance and transacts business with SmartBuy in the same manner.

54. Integrity Finance has also adopted and perpetuates the business model of Rome Finance and transacts business with SmartBuy in the same manner.

55. Defendant Jordan, as an officer of Britlee, SmartBuy and Integrity Financial, actively participated in and/or had knowledge of the business activities and sales procedures of these defendants..

56. Defendant Wirt, as an officer of Britlee, SmartBuy, GJS and Integrity Financial, actively participated in and/or had knowledge of the business activities and sales procedures of these defendants. .

57. Defendant JP Jordan, as an officer of the SmartBuy defendants and Integrity Financial, actively participated in and/or had knowledge of the business activities of these defendants.

58. Defendant Wilson, as an officer and director of Rome Finance and Rome Finance Georgia, participated in and/or had knowledge of the business activities of these defendants.

59. Defendant Collins, as an officer and director of Rome Finance and Rome Finance Georgia, participated in and/or had knowledge of the business activities of these defendants.

**FIRST CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12) FOR VIOLATION  
OF GENERAL OBLIGATIONS LAW § 5-501 - CIVIL USURY LAW**

60. Plaintiffs repeat and reallege the allegations contained in paragraphs “1” through “59” as though fully set forth herein.

61. New York General Obligations Law (“GOL”) § 5-501 provides that it is unlawful to charge interest upon a loan or forbearance of any money, goods, or things in action, except as otherwise provided by law, at a rate exceeding that prescribed in section 14-a of the New York Banking Law.

62. New York Banking Law § 14-a, subd. 2, states that the maximum rate of interest to be charged, taken or received upon a loan or forbearance of any money, goods, or things in action is 16% per annum.

63. By virtue of the foregoing acts, Britlee, SmartBuy, Integrity, Rome Finance and Rome Finance Georgia facilitated transactions whereby the military consumers paid an inflated sale price so as to provide the Lender Defendants with an up front payment of interest constituting 33% to 40% of the purchase price of the merchandise, together with interest payments of between 10% and 19.2% per annum.

64. That as a result of the illegal and fraudulent scheme engaged in by the defendants, the service member consumers were paying an effective interest rate of approximately 244% per annum.

65. By engaging in repeated or persistent illegal conduct in carrying on , conducting or transacting business, SmartBuy, Integrity, Rome Finance, and Rome

Finance Georgia have charged interest to New York consumers in excess of 16% in violation of GOL § 5-501 and Banking Law § 14-a, subd. 2.

66. By virtue of the foregoing facts, Defendants Jordan, Wirt, JP Jordan, Wilson and Collins have repeatedly and persistently violated GOL § 5-501 and Banking Law § 14-a, subd. 2.

67. By engaging in repeated or persistent illegal conduct in the carrying on, conducting or transacting business, each of the defendants has violated Executive Law § 63(12).

68. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution and damages.

**SECOND CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12) FOR  
VIOLATION OF PENAL LAW SEC. 190.40 CRIMINAL USURY**

69. Plaintiff repeats and realleges the allegations contained in paragraphs “1” through “68” as though fully set forth herein.

70. Pursuant to New York Penal Law § 190.40, it is unlawful to knowingly charge, take, or receive any money or other property as interest on the loan or forbearance of any money or other property at a rate exceeding 25% per annum or the equivalent rate for a longer or shorter period.

71. By virtue of the foregoing acts, in the course of selling and financing the consumer electronic goods, the defendants repeatedly and knowingly charged and received interest in excess of 25% in violation of Penal Law § 190.40 .

72. By engaging in repeated or persistent illegal conduct in the carrying on, conducting or transaction of business in violation of Penal Law § 190.40, each of the defendants has violated Executive Law § 63(12).

73. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution and damages.

**THIRD CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12) - ILLEGALITY  
VIOLATION OF BANKING LAW § 340 - UNLICENSED LENDING**

74. Plaintiff repeats and realleges the allegations contained in paragraphs “1” through “73” as though fully set forth herein.

75. Pursuant to New York Banking Law §340, it is unlawful for a person or entity to “engage in the business of making loans in the principal amount of \$25,000 or less for any loan to an individual for personal, family, household, or investment purposes. . . and charge, contract for, or receive a greater rate of interest than the lender would be permitted by law to charge if he were not a licensee hereunder except as authorized by this article and without first obtaining a license from the superintendent.”

76. At all times relevant to this Complaint, Defendants Britlee and SmartBuy were not licensed by the New York State Superintendent of Banking.

77. At all times relevant to this Complaint, Integrity Financial, Rome Finance and Rome Finance Georgia were not licensed by the New York State Superintendent of Banking.

78. By virtue of the foregoing acts, in the course of selling and financing the consumer electronic goods in New York, the defendants repeatedly made loans in

amounts less than \$25,000 at interest rates that exceed the rate of interest they would be permitted by law to charge if they were licensed by the New York State Superintendent of Banking.

79. By engaging in repeated or persistent illegal conduct in the carrying on, conducting or transaction of business in violation of New York Banking Law §340, each of the defendants has violated Executive Law § 63(12).

80. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution and damages.

**FOURTH CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12):  
REPEATED FRAUDULENT BUSINESS CONDUCT**

81. Plaintiff repeats and realleges the allegations contained in paragraphs “1” through “80” as though fully set forth herein.

82. Executive Law § 63(12) defines “fraud” or “fraudulent” to include any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense or unconscionable contractual provisions.

83. As set forth above and detailed below, in the course of soliciting, originating, and promoting fraudulent and illegal loans and financing agreements, the defendants have engaged in repeated or persistent illegal conduct in violation of Executive Law § 63(12).

84. Defendants’ repeated fraudulent business conduct includes but is not limited to the following:

- (a) repeatedly or persistently conspiring to charge illegal, usurious, and unconscionable fees for loans;
- (b) repeatedly or persistently charging and receiving unlawful, usurious, and unconscionable fees as consideration for making illegal loans and forbearances;
- (c) repeatedly or persistently attempting to circumvent New York lending and consumer protection laws by deceptively structuring the sale and financing of consumer electronic goods;
- (d) repeatedly or persistently deceiving and misleading consumers to believe that they are eligible for special “federal employee” financing for consumer electronic goods as a bona fide retailer when, in fact, it is re-selling merchandise from other retailers, with mark ups of 225% to 325% plus additional interest;
- (e) repeatedly or persistently failing to post the full and accurate price of the consumer electronic goods, instead utilizing deceptive and misleading “per month” payments, or non-financed pricing; and
- (f) repeatedly or persistently deceiving and misleading consumers to believe that they are entering into a finance sale when, in fact, they are entering into an deceptive open ended consumer credit arrangements, where the consumer is given no control or ability to utilize the “available” credit.

85. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution and damages.

**FIFTH CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12) FOR ILLEGAL ACTIVITY  
IN VIOLATION OF 10 U.S.C. § 987 – GENERAL MILITARY LAW**

86. Plaintiffs repeat and reallege the allegations contained in paragraphs “1” through “85” as though fully set forth herein.

87. General Military Law § 987, “Terms of consumer credit extended to members and dependents: limitations,” provides, *inter alia*, that it is unlawful to:

- a. impose an annual percentage rate of interest greater than 36-percent;
- b. impose onerous legal notice provisions in the case of a dispute;
- c. use a check or other method of access to a deposit, savings, or other financial account maintained by the borrower as security for the obligation; and
- d. require as a condition for the extension of credit that the borrower establish an allotment to repay an obligation.

88. Each knowing violation of General Military Law § 987 constitutes a misdemeanor.

89. Any credit agreement or other contract prohibited under General Military Law § 987 is void from the inception of such contract.

90. By virtue of their described acts, the defendants knowingly violated General Military Law § 987.

91. By virtue of the foregoing facts, all of the defendants have repeatedly and persistently violated the General Military Law.

92. By engaging in repeated or persistent illegal conduct in the carrying on, conducting or transaction of business, each of the defendants has violated Executive Law § 63(12).

93. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution, and damages.

**SIXTH CAUSE OF ACTION  
PURSUANT TO EXECUTIVE LAW § 63(12) FOR ILLEGAL ACTIVITY  
BY VIOLATION OF GENERAL BUSINESS LAW § 601—  
FAIR DEBT COLLECTION PRACTICES ACT**

94. Plaintiffs repeat and reallege the allegations contained in paragraphs “1” through “93” as though fully set forth herein.

95. General Business Law § 601, “Fair Debt Collection Practices Act,” provides, *inter alia*, that it is unlawful to communicate the nature of a consumer claim to the alleged debtor’s employer prior to obtaining final judgment.

96. The Lender Defendants have communicated with service members’ employers about the nature of a consumer claim prior to obtaining a final judgment.

97. Each violation of the Fair Debt Collection Practices Act constitutes a misdemeanor.

98. By engaging in repeated or persistent illegal conduct in the carrying on, conducting or transaction of business, each of the defendants has violated Executive Law § 63(12).

99. Pursuant to Executive Law § 63(12), the State seeks injunctive relief, restitution, and damages.

**SEVENTH CAUSE OF ACTION  
PURSUANT TO GENERAL BUSINESS LAW SEC. 349  
DECEPTIVE BUSINESS PRACTICES**

100. Plaintiff repeats and realleges the allegations contained in paragraphs “1” through “99” as though fully set forth herein.

101. Pursuant to General Business Law § 349, it is unlawful to engage in any deceptive acts or practices in the conduct of any business, trade, or commerce in this State.

102. As set forth more fully in the preceding paragraphs, defendants engaged in deceptive business practices in violation of GBL § 349.

103. Defendants’ deceptive and fraudulent acts and practices include, but are not limited to, the following:

- (a) repeatedly or persistently conspiring to charge illegal, usurious, and unconscionable fees for loans;
- (b) repeatedly or persistently charging and receiving unlawful, usurious, and unconscionable fees as consideration for making illegal loans and forbearances;
- (c) repeatedly or persistently attempting to circumvent New York lending and consumer protection laws by deceptively structuring the sale and financing of consumer electronic goods;
- (d) repeatedly or persistently deceiving and misleading consumers to believe that they are eligible for special “federal employee” financing for consumer electronic goods as a bona fide retailer

when, in fact, it is re-selling merchandise from other retailers, with mark ups of 225%-325% plus additional interest;

- (e) repeatedly or persistently failing to post the full and accurate price of the consumer electronic goods, instead utilizing deceptive and misleading “per month” payments, or non-financed pricing;
- (f) repeatedly or persistently deceiving and misleading consumers to believe that they are entering into a finance sale when, in fact, they are entering into an deceptive open ended credit arrangements, where the consumer is given no control or ability to utilize the “available” credit;
- (g) repeatedly or persistently requiring onerous legal notice provisions in the case of a dispute;
- (h) repeatedly or persistently using a check or other method of access to a deposit, savings, or other financial account maintained by the borrower as security for an obligations; and
- (i) repeatedly or persistently requiring as a condition for the extension of credit that the borrower establish an allotment to repay an obligation.

104. Pursuant to GBL §§ 349 (b) and 350-d, the State seeks injunctive relief, restitution, and penalties.

**WHEREFORE**, the People of the State of New York, pursuant to the powers vested by Executive Law § 63 and GBL §§ 349 (b) and 350-d, respectfully request judgment as follows:

- A. enjoining the defendants from conducting business within the State of New York until such time as the businesses and/or individuals involved are properly licensed;
- B. permanently enjoining the defendants from engaging in the fraudulent, deceptive and illegal sales and financing practices alleged in the petition or otherwise violating Executive Law § 63 (12);
- C. directing defendants to provide restitution to all consumers who purchased computers and other electronic consumer goods with these fraudulent and illegal financing arrangements at the Britlee and SmartBuy Watertown store since it opened in 2005 to the present;
- D. declaring all financing agreements entered into by New York consumers with the unlicensed lender defendants to be null and void from the inception;
- E. directing the defendants to disgorge all profits derived from each consumer transaction and financing arrangement in the Britlee and SmartBuy Watertown store since it opened in 2005 to the present;
- F. directing defendants to pay civil penalties of \$5,000 to the State of New York for each deceptive or illegal action, including as to each

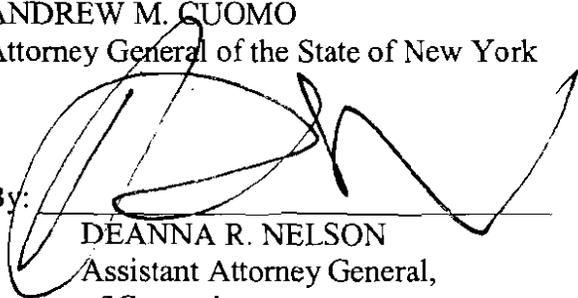
of defendants' illegal financing agreements with New York consumers and for each violation of the Executive Law;

- G. awarding the State the costs of this proceeding, including \$2,000 in additional costs pursuant to CPLR § 8303(a) (6); and
- H. together with all such other, further and different relief as this Court deems appropriate.

Dated: May 18, 2010  
Watertown, New York

ANDREW M. CUOMO  
Attorney General of the State of New York

By:



DEANNA R. NELSON  
Assistant Attorney General,  
of Counsel  
317 Washington Street  
Watertown, New York 13601  
Telephone: (315) 785-2444

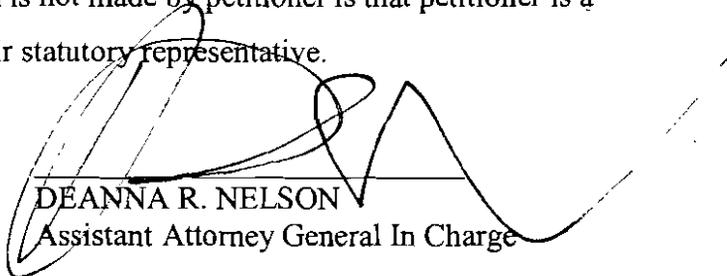
**VERIFICATION**

STATE OF NEW YORK    )  
COUNTY OF JEFFERSON    ) ss.:

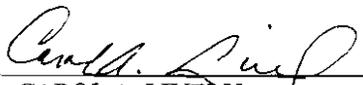
DEANNA R. NELSON, being duly sworn, deposes and says: She is an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, and is duly authorized to make this verification.

She has read the foregoing Verified Complaint and knows the contents thereof, and the same is true to her own knowledge, except as to matters therein stated to be alleged on information and belief, and as to those matters she believes them to be true.

The reason this verification is not made by petitioner is that petitioner is a body politic. The Attorney General is their statutory representative.

  
DEANNA R. NELSON  
Assistant Attorney General In Charge

Sworn to before me this  
18<sup>th</sup> day of May, 2010.

  
CAROL A. LIVELY  
Notary Public, State of New York  
No. 5006682  
Qualified in Jefferson County  
Commission Expires: January 04, 2011