

**IN THE CIRCUIT COURT OF THE THIRTEENTH JUDICIAL CIRCUIT
IN HILLSBOROUGH COUNTY, FLORIDA
- CIVIL DIVISION -**

**OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,**

Plaintiff,

CASE NO:

v.

**AIR TIME AIR CONDITIONING
AND HEATING, INC., a Florida
Corporation and ANTHONY GONZALEZ,
an Individual,**

Defendants.

COMPLAINT

Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs (the “Attorney General” or “Plaintiff”), sues Defendants, Air Time Air Conditioning and Heating, Inc. (“Air Time”), a Florida corporation, and Anthony Gonzalez, an individual (collectively, “Defendants”), and respectfully alleges the following:

JURISDICTION AND VENUE

1. This is an action pursuant to the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes (“FDUTPA”). The action seeks statutory relief, including civil penalties, injunctive relief, and attorneys’ fees,

pursuant to FDUTPA and the Assurance of Voluntary Compliance (“AVC”), entered into on June 15, 2017 by Air Time and Anthony Gonzalez.

2. This Court has subject matter jurisdiction pursuant to the provisions of Chapter 501, Part II, Florida Statutes. The Attorney General seeks relief in an amount greater than Fifteen Thousand Dollars (\$15,000), exclusive of fees and costs.

3. The statutory violations alleged in this Complaint occurred in, and/or affect, more than one judicial circuit, including Hillsborough County, Florida.

4. Venue is proper in the Thirteenth Judicial Circuit, as Defendants conduct business in Hillsborough County.

5. The Attorney General has conducted an investigation into the matters alleged herein, and the head of the enforcing authority has determined that this enforcement action serves the public interest, as required by Section 501.207(2), Florida Statutes.

6. All conditions precedent to this action have been performed or have occurred within four (4) years of the filing of this action.

PARTIES

7. The Attorney General is an enforcing authority of Chapter 501, Part II, Florida Statutes, and is authorized to bring this action and to seek injunctive and other statutory relief, including restitution and civil penalties, pursuant to FDUTPA.

8. Air Time is an active Florida corporation with its principal place of business located at 110 N. Mulrennan Road, Valrico, Florida 33594. Air Time conducts business under and through the license of a certified air conditioning contractor, issued in Florida by the Department of Business and Professional Regulation, license number CAC1816958.

9. At all times material hereto, Anthony Gonzalez has been a Manager and/or Officer or Director of Air Time.

10. At all times material hereto, Defendants engaged in “trade or commerce” as defined in Section 501.203(8), Florida Statutes. Defendants engaged in the business of air conditioning sales, repair, and maintenance services throughout Florida.

FACTS RELEVANT TO COMPLAINT

11. In 2015, the Attorney General, after receiving a consumer complaint alleging financial exploitation, opened an investigation into the business practices of Air Time and Anthony Gonzalez. On June 15, 2017, the parties entered into the AVC (a copy of which is attached hereto as **Exhibit A**).

12. Pursuant to the AVC, Air Time and Anthony Gonzalez, Respondents of the AVC (“Respondents”), shall, inter alia, comply with the “Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes” and “Rule 2-

18.002 of the Florida Administrative Code, adopted under Chapter 501, Part II, Florida Statutes.”

13. Further, section 2.3 of the AVC states:

[Respondents] shall not enter into a contract for purchase of services to be rendered in the future unless the contract contains a notice of the consumer’s 3-day right to cancel, which notice shall be placed in immediate proximity to the space reserved for the signature of the consumer.

14. The Attorney General and the Better Business Bureau have received sixteen (16) consumer complaints that occurred after the effective date of the AVC, which can be traced to the Defendants. Thirteen (13) of these complaints were filed by senior citizens.

15. Defendants contracted with consumers and did not include the 3-day right to rescission language that is required by section 2.3 of the AVC.

16. Further, according to several consumer’s written complaints, Defendants misled consumers to believe that their air conditioning (“AC”) system required new parts and work. This includes but is not limited to new duct work and/or an entirely new air conditioning system. For example,

- According to one consumer’s written complaint, her 89-year-old mother paid Air Time \$21,000 in two-and one-half years, which according the consumer, included costs for unnecessary parts and services. The consumer’s complaint also stated that requests for an itemized bill by the consumer’s daughter were ignored by Air Time;
- According to another consumer’s written complaint, Air Time tried to sell a new unit for \$8,000 only one year after an initial

AC was installed by Air Time. The consumer further asserts that a second AC company confirmed that there was nothing wrong with the initial unit;

- At least two consumers allege in written complaints that Air Time attempted to charge consumers for purported growth of micro-organisms in consumers' air duct systems, but other companies confirmed that no such growth was present;
- Other written consumer complaints allege that Air Time attempted to sell products or services that a second company confirmed were not ultimately needed;
- Multiple consumers also submitted written complaints alleging that Air Time overcharged for expensive products or services that competing companies offered at a lower cost.

17. The acts and practices in paragraphs 15 and 16 above violate the terms of the AVC and also violate FDUTPA.

18. Accordingly, the Attorney General brings this action to address the Defendants' (1) violations of the AVC entered into on June 15, 2017; and (2) violations of FDUTPA.

COUNT I
VIOLATIONS OF AVC BY AIR TIME AND ANTHONY GONZALEZ
(Violation of Chapter 501, Part II, Florida Statutes)

19. Plaintiff adopts, incorporates herein, and re-alleges paragraphs 1 through 18, as if fully set forth hereinafter and further alleges:

20. Section 501.207(6), Florida Statutes, provides in relevant part that "failure to comply with the terms of an assurance [of voluntary compliance] is prima facie evidence of a violation of this part [i.e. FDUTPA]."

21. Air Time and Anthony Gonzalez agreed to comply with the terms of the AVC but have failed to do so.

22. Air Time and Anthony Gonzalez have violated the AVC and FDUTPA by:

- (a) entering into contracts for purchase of services with consumers without including a notice of the consumer's 3-day right to cancel, pursuant to section 2.3 of the AVC;
- (b) failing to work diligently to resolve consumer complaints relating to the terms and condition of the AVC, pursuant to section 2.6 of the AVC;
- (c) engaging in unfair or deceptive trade practices by offering products or services that were unnecessary and/or overpriced, pursuant to section 2.1 of the AVC.

23. The terms of the AVC have not been rescinded by agreement of the parties.

24. Air Time and Anthony Gonzalez's failure to comply with the terms of the AVC has resulted in injury to consumers.

25. Section IV of the AVC provides that any subsequent failure to comply with the terms and conditions of the AVC is by statute prima facie evidence of a violation of Chapter 501, Part II, Florida Statutes, and may subject Air Time and Anthony Gonzalez to any and all civil penalties and sanctions authorized by law, including attorneys' fees and costs

26. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

27. Air Time and Anthony Gonzalez willfully engaged in the acts and practices when they either knew or should have known that such acts and practices were unfair or deceptive otherwise prohibited by the AVC and the law.

28. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, Defendants' actions will result in irreparable injury to the public for which there is no adequate remedy at law.

COUNT II
MISREPRESENTATIONS TO CONSUMERS
(Violation of Chapter 501, Part II, Florida Statutes)

29. Plaintiff adopts, incorporates herein, and re-alleges paragraphs 1 through 18 as if fully set forth hereinafter and further alleges:

30. Section 501.204(1), Florida Statutes, declares unconscionable, unfair and deceptive acts or practices in the conduct of any trade or commerce to be unlawful.

31. Defendants have engaged in a pattern of acts and practices designed to deceive and induce Florida consumers to purchase Defendants' products and services.

32. Defendants' misleading business practices lead consumers to believe that their existing air conditioning unit requires a new system, parts, and/or other work that is not needed.

33. Through false and deceptive marketing and related business practices, Defendants have (1) committed acts or practices in trade or commerce, which shock the conscience; (2) engaged in representations, acts, practices or omissions, which are material, and which are likely to mislead consumers acting reasonably under the circumstances; (3) committed acts or practices in trade or commerce which offend established public policy and are unethical, oppressive, unscrupulous or substantially injurious to consumers; and/or (4) engaged in acts or practices that are likely to cause substantial injury to consumers, which is not reasonably avoidable by consumers themselves or outweighed by countervailing benefits to consumers or competition. Thus, Defendants have engaged in unfair or deceptive acts or practices in the conduct of any trade or commerce in violation of Section 501.204(1), Florida Statutes.

34. Defendants are subject to civil penalties for willful violations of FDUTPA in the amount of Ten Thousand Dollars (\$10,000) for each violation pursuant to Section 501.2075, Florida Statutes, and Fifteen Thousand Dollars (\$15,000) for each violation that victimized or attempted to victimize, a senior citizen pursuant to Section 501.2077, Florida Statutes.

35. These above-described acts and practices of Defendants have injured and will likely continue to injure and prejudice the public.

36. Defendants have willfully engaged in the acts and practices when they knew or should have known that such acts and practices were unfair or deceptive or otherwise prohibited by law.

37. Unless Defendants are permanently enjoined from engaging further in the acts and practices complained of herein, Defendants' actions will result in irreparable injury to the public for which there is no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff, Office of the Attorney General, State of Florida, Department of Legal Affairs, prays that the Court provide the following relief:

A. Assess against Defendants civil penalties in the amount of Ten Thousand Dollars (\$10,000) for each violation of the AVC in accordance with Section 501.2075, Florida Statutes, Fifteen Thousand Dollars (\$15,000) for each violation that victimized or attempted to victimize, a senior citizen in accordance with Section 501.277, Florida Statutes;

B. Permanently enjoin Defendants, its officers, agents, servants, employees, attorneys, and those persons in active concert or participation with them, who receive actual notice of the injunction, from engaging in the acts and practices in violation of provisions of FDUTPA as specifically alleged above and any similar acts and practices relating to the relaying of false or misleading statements to consumers;

C. Award the Attorney General reasonable attorneys' fees and costs pursuant to the provisions of Section 501.2105, Florida Statutes, and as otherwise allowable by applicable statutes or law; and

D. Award such other and further relief as the Court deems just and proper, including all equitable relief allowed pursuant to Sections 501.207(3), Florida Statutes.

Dated this 4th day of October 2019.

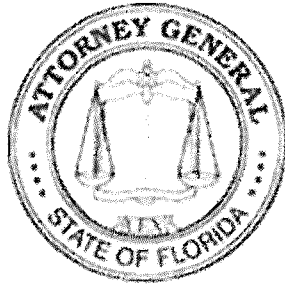
Respectfully submitted,

ASHLEY MOODY
ATTORNEY GENERAL

/s/ Robert J. Follis

ROBERT J. FOLLIS
ASSISTANT ATTORNEY GENERAL
Florida Bar # 560200
Department of Legal Affairs
Office of the Attorney General
3507 E. Frontage Road; Suite 325
Tampa, Florida 33607
Telephone (813) 287-7950
Facsimile (813) 281-5515

EXHIBIT A



**OFFICE OF THE ATTORNEY GENERAL
STATE OF FLORIDA
DEPARTMENT OF LEGAL AFFAIRS**

IN THE MATTER OF:

**AIR TIME AIR CONDITIONING
AND HEATING, INC., a Florida
Corporation and ANTHONY GONZALEZ,
an Individual,**

AG Case No.: L15-3-1175

Respondents.

ASSURANCE OF VOLUNTARY COMPLIANCE

PURSUANT TO the provisions of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, Office of the Attorney General, State of Florida, Department of Legal Affairs (hereinafter referred to as the "Attorney General"), has investigated the business practices of Air Time Air Conditioning and Heating, Inc., a Florida corporation doing business in the State of Florida, which principal place of business is located at 110 N. Mulrennan Road, Valrico, Florida 33594, and Anthony Gonzalez, individually and as the director of Air Time Air Conditioning and Heating, Inc. (collectively hereinafter referred to as "Respondents"), in connection with alleged deceptive and unfair business

INITIALS

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practices. These practices primarily occurred between approximately April 2011 and the present (hereinafter the “Relevant Period”).

Respondents agree to enter into this Assurance of Voluntary Compliance (“AVC”) without any admission that Respondents have violated the law and for the purpose of resolution of this matter with the Attorney General. Pursuant to Section 501.207(6), Florida Statutes, and by virtue of the authority vested in the Attorney General by said statute, the Attorney General, by and through the undersigned Assistant Attorney General and the undersigned Director, Consumer Protection Division, being in agreement, does in this matter accept this AVC in termination of the investigation into Respondents’ business practices and actions occurring on or before the Effective Date (defined herein) of this AVC without litigation and further proceedings.

This AVC is made without trial or adjudication of fact or law and is being entered into for the sole purpose of resolving disputed claims without the necessity of protracted and expensive litigation. This AVC does not constitute evidence or an admission of any issues of fact suggesting fault or wrong doing by Respondents or of any violation by Respondents of any provisions of Florida law. This AVC does not constitute an approval by the Attorney General of any of Respondents’ business practices. Respondents shall not represent directly or indirectly, or in any way

whatsoever, that the Attorney General has sanctioned, condoned, or approved of any part or aspect of Respondents' business practices.

I. STIPULATED FACTS

1.1 Air Time Air Conditioning and Heating, Inc. is an active Florida corporation located at 110 N. Mulrennan Road, Valrico, Florida 33594. It has been in business for six (6) years. It conducts business under and through the license of a certified air conditioning contractor, issued in Florida by the Department of Business and Professional Regulation (license # CAC1816958).

1.2 During the Relevant Period, Respondents engaged in the business of air conditioning repair and maintenance services throughout Florida. Respondents advertised their services through direct mail activities. The negotiations and ultimate consummation of the service contracts occurred within the consumers' residences.

1.3 The Attorney General has reviewed consumer complaints and business contracts relating to Respondents' business practices, and determined that during the Relevant Period, Respondents allegedly engaged in potentially unfair and deceptive business practices, including: utilizing high-pressure sales tactics, failing to honor cancellation requests, disseminating misleading advertisements, and failing to obtain the required home solicitation permits as required by Section 501.022, Florida Statutes. Further, consumer complaints allege that Respondents'

service contracts failed to include right of cancellation language as required by Rule 2-18.002 of the Florida Administrative Code.

1.4 Respondents and the Attorney General desire to resolve all issues arising during the course of the investigation.

1.5 This AVC is based upon the stipulated facts set forth in Paragraphs 1.1 through 1.4 above. The Attorney General shall not be estopped from taking further action in this matter should the facts described herein be shown to be incorrect in any material way, or the AVC not be complied with in full.

II. COMPLIANCE

2.1 Respondents shall be on actual notice of and comply with (1) Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes, (2) Section 501.022, Florida Statutes, (3) Rule 2-18.002 of the Florida Administrative Code, adopted under Chapter 501, Part II, Florida Statutes, (4) Florida Telemarketing Act, Chapter 501, Part IV, Florida Statutes, and (5) Section 817.034, Florida Statutes.

2.2 Respondents shall obtain a home solicitation sale permit before conducting any home solicitation sales.

2.3 Respondents shall not enter into a contract for purchase of services to be rendered in the future unless the contract contains a notice of the consumer's 3-

day right to cancel, which notice shall be placed in immediate proximity to the space reserved for the signature of the consumer.

2.4 Respondents shall respond to all future consumer complaints within five (5) business days of receipt. Respondents further agree that any consumer complaints and related resolutions and/or responses will be kept on file and be subject to review by the Attorney General upon reasonable written request for the next three (3) years after execution of this AVC.

2.5 Respondents shall designate a liaison who will review and respond to all consumer complaints forwarded from the Attorney General.

2.6 Respondents shall work diligently to resolve any future consumer complaints relating to the terms and conditions of this AVC.

2.7 Respondents shall not execute any change in the form of doing business or organizational identity as a method of avoiding the terms and conditions set forth in the AVC.

III. MONETARY RELIEF

3.1 Respondents agree to pay the sum of TWENTY THOUSAND DOLLARS (\$20,000) in restitution to be refunded to consumers. The Attorney General shall dispense these funds to consumers.

3.2 Respondents agree to pay the Attorney General the sum of FIVE THOUSAND DOLLARS (\$5,000) for all attorney's fees and investigative costs incurred in this matter.

3.3 Respondents further agree to pay the Attorney General the sum of TWO THOUSAND DOLLARS (\$2,000) as a civil penalty in this matter, pursuant to Section 501.2075, Florida Statutes.

3.4 Payment in the total amount of TWENTY-SEVEN THOUSAND DOLLARS (\$27,000) pursuant to this section shall be made by a cashier's check or other certified funds, made payable to Department of Legal Affairs Revolving Trust Fund and delivered to Assistant Attorney General Robert J. Follis, Office of the Attorney General, 3507 E. Frontage Road, Suite 325, Tampa, Florida 33607, simultaneously with a partially executed AVC by Respondents. The payment shall be deposited in the Legal Affairs Revolving Trust Fund, in accordance with Section 501.2101(1), Florida Statutes. TWO THOUSAND DOLLARS (\$2,000) shall be transferred to the General Revenue Fund pursuant to the Section 501.2101(2), Florida Statutes. Time is of the essence as to the payment required under this AVC.

IV. ENFORCEMENT

4.1 It is further agreed by the Parties that any subsequent failure to comply with the provisions of this AVC is prima facie evidence of a violation of Chapter

501, Part II, Florida Statutes, and will subject Respondents to any and all civil penalties and sanctions authorized by law, including attorneys' fees and costs.

4.2 The Attorney General reserves the right to seek civil penalties pursuant to Chapter 501, Part II, Florida Statutes, for any future violation(s) of the terms contained within this agreement. The Attorney General also reserves the right to seek additional investigative and attorney's fees and costs upon default or upon any future noncompliance.

V. BUSINESS RECORDS

Respondents shall preserve and retain all relevant business and financial records relating to the acts and practices at issue in this AVC and other information reasonably sufficient to establish compliance with the provisions of this AVC for three (3) years from the Effective Date of this AVC. At any point during the three (3)-year retention period set forth herein, Respondents shall make all such books and records available to the Attorney General within three (3) business days of any reasonable request.

VI. APPLICABILITY

6.1 The obligations under this AVC shall apply to and continuously bind Respondents and their affiliated entities, their successors, and their assigns. Further, Respondents shall be responsible for the actions of their officers, directors,

agents, servants, and employees, whether acting directly or through any corporation, subsidiary, division, or other entity, that are in violation of this AVC.

6.2 Respondents shall be responsible for making the substantive terms and conditions of this AVC known to their officers, directors, employees, and agents.

6.3 Respondents and their successors and assigns shall be on notice of the provisions of the Florida Deceptive and Unfair Trade Practices Act, Chapter 501, Part II, Florida Statutes.

6.4 Nothing in this AVC shall be construed as a waiver of any private rights of any person or release any private rights, causes of action, or remedies of any person against Respondents. This AVC in no way limits the liability of Respondents to consumers for any amounts paid that were not refunded or for any damages caused by Respondents' services or lack thereof. In addition, nothing herein shall be construed to limit or bar any other governmental entity from pursuing other available remedies against Respondents for acts and practices addressed by this AVC. However, Respondents shall not be precluded from introducing this AVC as evidence of settlement of consumer claims.

VII. GENERAL

7.1 The receipt or deposit by the Attorney General of any monies pursuant to this AVC does not constitute acceptance by the Attorney General, and monies received will be returned if this AVC is not accepted.

7.2 This AVC sets forth the entire agreement between the Attorney General and Respondents (hereinafter collectively referred to as the "Parties") and supersedes all prior agreements or understandings, whether written or oral, between the Parties with respect to the subject matter hereof.

7.3 The failure of either party to exercise any rights under this AVC shall not be deemed a waiver of any right.

7.4 The Parties further acknowledge that this AVC constitutes a single and entire agreement that is not severable or divisible, except that if any provision herein is found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.

VIII. ACCEPTANCE

IT IS HEREBY AGREED by the Parties that this AVC shall become effective ("Effective Date") upon its acceptance by the Director of the Consumer Protection Division, who may refuse to accept it at her discretion. This AVC may be signed in multiple counterparts, each of which shall be considered an original, and all of which together will constitute one and the same agreement.

IN WITNESS WHEREOF, Respondents have caused this AVC to be executed by an authorized representative, as a true act and deed, in the county and state listed below, as of the date affixed thereon.

INTENTIONALLY BLANK. EXECUTION BLOCK FOLLOWS.

AIR TIME AIR CONDITIONING AND HEATING, INC.

Agreed to and signed this 7th day of June, 2017, by the below-stated person who states and affirms as follows:

BY MY SIGNATURE, I hereby affirm that I am acting in my capacity and within my authority as Director of AIR TIME AIR CONDITIONING AND HEATING, INC. and that by my signature I am binding AIR TIME AIR CONDITIONING AND HEATING, INC. to the terms and conditions of this Assurance of Voluntary Compliance.

By: [Signature]
Anthony Gonzalez, Director

Date: 06/07/17

MITCHELL LL PEREZ
Notary Public, State of Florida
My Comm. Expires Feb. 9, 2019
No. FF 197587

STATE OF FLORIDA
COUNTY OF Hillsborough

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared ANTHONY GONZALEZ, as Director of Air Time Air Conditioning and Heating, Inc. and acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 7th day of June, 2017.

Sworn to and subscribed before me this 7th day of June, 2017.

MITCHELL LL PEREZ
Notary Public, State of Florida
My Comm. Expires Feb. 9, 2019
No. FF 197587

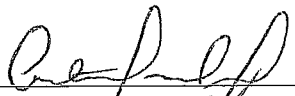
[Signature]
Notary Public, State of Florida

Type of Identification Produced: FL DL

ANTHONY GONZALEZ, Individually

Agreed to and signed this 7th day of June, 2017, by the below-stated person who states and affirms as follows:

BY MY SIGNATURE, I affirm that my signature below binds me personally and individually to the terms and conditions of this Assurance of Voluntary Compliance.

By: 
Anthony Gonzalez, Individually


Date: 06/07/17

STATE OF FLORIDA
COUNTY OF Hillsborough

BEFORE ME, an officer duly authorized to take acknowledgments in the State of Florida, personally appeared Anthony Gonzalez, individually, and acknowledged before me that he executed the foregoing instrument for the purposes therein stated, on this 7 day of June, 2017.

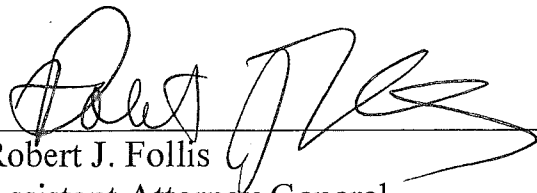
Sworn to and subscribed before me this 7th day of June, 2017.

MITCHELL LL PERE
Notary Public, State of Florida
My Comm. Expires Feb. 9, 2018
No. FF 197587


NOTARY PUBLIC

Type of Identification Produced: FLD

**FOR THE OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA, DEPARTMENT OF LEGAL AFFAIRS**



Robert J. Follis
Assistant Attorney General
Office of Attorney General, Pam Bondi
Consumer Protection Division
3507 E. Frontage Rd., Suite 325
Tampa, Florida 33607
Tel: 813-287-7950
Fax: 813-281-5515

Accepted this 15th day of June, 2017.



Victoria Butler, Director
Consumer Protection Division
Office of Attorney General, Pam Bondi
3507 E. Frontage Rd. Suite 325
Tampa, Florida 33607

Accepted this 15 day of June, 2017.