

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT, CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS)	
<i>ex rel.</i> KWAME RAOUL, Attorney General of the)	
State of Illinois,)	
)	
Plaintiff,)	
)	No. 2023CH02054
v.)	
)	
ENERGY ACQUISITIONS GROUP LLC,)	
a Michigan limited liability company,)	
)	
Defendant.)	

COMPLAINT

Plaintiff, the People of the State of Illinois, by Kwame Raoul, the Attorney General of the State of Illinois (“Attorney General”), brings this action against Defendant Energy Acquisitions Group LLC (“EAG LLC”) for a violation of Section 6 of the Consumer Fraud and Deceptive Business Practices Act (“Act”), 815 ILCS 505/6. EAG LLC—a company engaged in the business of marketing, soliciting, and sales to Illinois consumers on behalf of alternative retail energy suppliers—has refused to produce documents or other information in response to a Subpoena Duces Tecum issued by the Attorney General in connection with his investigation of deceptive marketing practices in the sale of retail electricity and natural gas supply in Illinois.

PARTIES

1. The Attorney General is authorized to enforce the Act and believes this action is in the public interest of the People of the State of Illinois. He brings this action pursuant to the Act and his common law authority to represent the People of the State of Illinois.

2. Defendant EAG LLC is a limited liability company organized under the laws of the State of Michigan with its principal place of business at 2885 Sanford Avenue SW in Grandville, Michigan.

JURISDICTION AND VENUE

3. The Court has jurisdiction over this action pursuant to the Court’s general jurisdiction and pursuant to the provisions of the Act.

4. The Court has jurisdiction over EAG LLC because it transacts business in Illinois and is registered with the Illinois Secretary of State, with an agent located in Springfield, Illinois.

5. Venue for this action properly lies in Cook County, Illinois, because, upon information and belief, EAG LLC is doing business in Cook County, and some of the transactions out of which this action arose occurred in Cook County.

TRADE AND COMMERCE

6. Section 1(f) of the Act provides in full as follows:

The terms “trade” and “commerce” mean the advertising, offering for sale, sale, or distribution of any services and any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situated, and shall include any trade or commerce directly or indirectly affecting the people of this State.

7. At all times relevant to this complaint, EAG has been engaged in trade and commerce in Illinois.

THE ATTORNEY GENERAL’S INVESTIGATION AND SUBPOENA

8. Under Illinois law, consumers may choose to purchase their electricity supply from an alternative retail electric supplier (“ARES”) rather than from the public utility, such as ComEd or Ameren. Numerous ARES licensed by the Illinois Commerce Commission market electricity supply to Illinois consumers by telephone and in-person solicitation. Illinois consumers who enter into a commercial relationship with an ARES agree to receive their electricity supply from that ARES.

9. The Attorney General is presently conducting an investigation to determine whether certain ARES are engaged in practices declared unlawful under the Act. As a general matter, the

types of marketing practices that are the subject of investigation include: failing to obtain consumers' consent to a telephone solicitation; misrepresenting that the ARES is affiliated with a public utility; misrepresenting to consumers that they will save money on their electric bill by switching from the public utility and enrolling with the ARES; and failing to disclose the new rate the consumer will pay. To assist in the investigation, the Attorney General has retained three law firms to provide legal services as Special Assistant Attorneys General ("SPAAGs"), including the undersigned counsel at Miner, Barnhill & Galland, P.C., who has been the primary point of contact with EAG LLC.

10. ARES often employ third-party sales representatives to market their products in person and over the phone to Illinois consumers. Based upon information obtained by the Attorney General, at least two ARES (Spark Energy and Atlantic Energy) have retained Defendant EAG LLC to market electricity supply to Illinois consumers. The Attorney General believes it to be in the public interest that a further investigation should be made to ascertain whether Defendant EAG LLC has engaged in, is engaging in, or is about to engage in practices declared unlawful under the Act.

11. In furtherance of his investigation, and pursuant to his authority set forth in Section 4 of the Act, the Attorney General issued a subpoena to EAG LLC on April 26, 2022 ("Subpoena") in order to obtain relevant information in its possession. A copy of the Subpoena is attached as Exhibit 1. It was served on the CEO and Michigan Registered Agent of EAG LLC, Mr. John Vantubergen, at the company's address, 2885 Sanford Ave. SW in Grandville, MI.

12. The Subpoena set forth requests for documents and interrogatories, and required EAG LLC to produce responsive information to the Attorney General on or before May 23, 2022. For example, the Subpoena required EAG LLC to produce copies of its contracts with

ARES, marketing scripts used to solicit Illinois consumers, as well as audio copies of all solicitation calls concerning Illinois consumers.

EAG REFUSES TO OBEY THE ATTORNEY GENERAL'S SUBPOENA

13. EAG LLC refused to obey the Attorney General's Subpoena. It did not produce any responsive documents or information by the May 23, 2022 deadline. Instead, during the months of July and August 2022, the company's CEO John Vantubergen engaged in almost two dozen email exchanges with the SPAAGs assigned to this matter and with the Deputy Chief of the Special Litigation Bureau, in which Mr. Vantubergen made clear that EAG LLC was unwilling to produce documents or information in compliance with the Subpoena. This lengthy email thread is attached as Exhibit 2.

14. EAG LLC offered two meritless justifications for its unilateral decision not to comply with the Subpoena: (a) that EAG LLC was "not going to open ourselves up to a lawsuit that we are not involved in," and (b) that no documented proof was provided that the Attorney General had retained the SPAAGs, or that Spark Energy and Atlantic Energy had advised the Attorney General that EAG LLC had performed marketing services for them. Exhibit 2 at pp. 4-5. EAG LLC continued to refuse compliance with the Subpoena even after corresponding by email with the Deputy Chief of the Special Litigation Bureau, who confirmed the authenticity of the Subpoena and offered to answer any questions. Exhibit 2 at pp. 1-3.

15. Meanwhile, on July 29, 2022, EAG LLC registered an Illinois-based agent with the Illinois Office of the Secretary of State ("SOS"). According to the SOS's records, the registered agent is Incorp Services, Inc., located at 901 S. 2nd St., Ste. 201, Springfield IL 62704. Exhibit 3. In an abundance of caution, on November 18, 2022, the Attorney General re-issued an identical copy of the April 26 Subpoena and served it on EAG LLC's Illinois registered agent, Incorp Services Inc., by Federal Express. Exhibit 4 (Nov. 18, 2022 Subpoena). A copy of the

proof of delivery, effected on November 21, 2022, is attached as Exhibit 5. The Attorney General also provided a courtesy copy of the re-served Subpoena to EAG LLC's CEO, Mr. Vantubergen, by U.S. mail and email.

16. On November 22, 2022, after receiving a copy of the re-served subpoena, Mr. Vantubergen emailed SPAAG Blustein that Mr. Vantubergen's previous email correspondence to the April 26 Subpoena (set forth in full in Exhibit 2) would serve "as my official response to this subpoena." Exhibit 2 at p. 1.

17. On January 11, 2023, in a last effort to obtain compliance with the subpoena, SPAAG Blustein notified Mr. Vantubergen that the Attorney General intended to file a subpoena enforcement action against EAG, and again offered to discuss the matter further by telephone. Exhibit 6. Mr. Vantubergen did not respond.

VIOLATION

18. EAG LLC's decision to withhold responsive documents or information constitutes a refusal to obey the Subpoena and therefore a violation of Section 6 of the Act, which provides in relevant part as follows:

If any person fails or refuses to file any statement or report, or obey any subpoena issued by the Attorney General or a State's Attorney, the Attorney General or the State's Attorney may file a complaint in the circuit court for the:

- (a) Granting of injunctive relief, restraining the sale or advertisement of any merchandise by such persons, or the conduct of any trade or commerce that is involved;
- (b) Vacating, annulling, or suspending of the corporate charter of a corporation created by or under the laws of this State or the revoking or suspending of the certificate of authority to do business in this State of a foreign corporation or the revoking or suspending of any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

- (c) Granting of such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

19. The Attorney General brings this action solely to seek enforcement of the Subpoena.

PRAYER FOR RELIEF

Wherefore, plaintiff prays that this Honorable Court enter an order:

- (a) compelling Energy Acquisition Group LLC to obey the Subpoena;
- (b) enjoining Energy Acquisitions Group LLC from engaging in trade or commerce within the State of Illinois until it obeys the Subpoena;
- (c) revoking or suspending Energy Acquisition Group’s certificate of authority to do business in the State of Illinois as a foreign corporation until it obeys the Subpoena;
- (d) requiring Energy Acquisitions Group LLC to pay all costs of prosecution and investigation in this action; and
- (e) providing such other and further relief as justice and equity may require.

Respectfully submitted,

THE PEOPLE OF THE STATE OF ILLINOIS,
by KWAME RAOUL, Attorney General of the
State of Illinois

Dated: March 1, 2023

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