

COMMONWEALTH OF KENTUCKY
HARDIN CIRCUIT COURT
DIVISION II
CIVIL ACTION NO. 25-CI-1223

COMMONWEALTH OF KENTUCKY
ex rel. RUSSELL COLEMAN, ATTORNEY GENERAL

PLAINTIFF

v.

ORDER

C & P GARAGE, INC., et al

DEFENDANTS

* * * * *

Plaintiff, Commonwealth of Kentucky ex rel. Russell Coleman, Attorney General (“Commonwealth”) filed this civil enforcement action under the Kentucky Consumer Protection Act (“KCPA”) following an investigation by the Kentucky Office of the Attorney General (“KYOAG”) into the business practices of the Defendants. The Commonwealth alleges the Defendants, operating as a veteran’s charity, have misappropriated charitable donations intended to benefit veterans and their families for their own purposes. The Commonwealth also alleged the Defendants refused to obtain the accreditation required by the U.S. Department of Veterans Affairs (“VA”) to lawfully assist others with submitting VA claims. The Commonwealth filed a Motion for a Temporary Restraining Order on July 2, 2025 (“TRO”). The Defendants filed a Response to the TRO and a motion to Dismiss on July 7, 2025. The Commonwealth filed their Reply to the TRO on July 11, 2025 and their Response to the Motion to Dismiss on July 29, 2025. The issues have been fully briefed and are now submitted to the Court for a ruling.

Motion to Dismiss

In the Defendants Response to the TRO and Motion to Dismiss they do not state forth the grounds for relief but appear to argue that the Commonwealth's Complaint should be dismissed for insufficiency of service of process and failure to state a claim upon which relief can be granted. Defendants allege they have not been properly served. Detective Herman Hall with the Kentucky Attorney General's office served Carlos Fernandez with the Complaint on July 3, 2025. Defendants allege there has not been a return of service as required by CR 4.02 and Detective Hall is not a person authorized by KRS 454.140 to serve the Complaint and Summons. "The purpose of [KRS 454.140] is to safeguard against placing the summons in the hand of an interested party who might, by reason of his interest in the case, deliberately refuse to serve the summons, or fraudulently return the process against an antagonist." Adams v. Letcher Cnty., 184 S.W.2d 801, 802 (1944). There is not dispute that the Defendants actually received the Summons and Complaint. Therefore, service was achieved.

Temporary Restraining Order

KRS 367.190 expressly authorizes the Attorney General to move immediately to prohibit the uses of those methods and practices whenever he "has reason to believe that any person is using, has used, or is about to use any method, act or practice declared by KRS 367.170 to be unlawful, and that proceeding would be in the public interest" KRS 267.190(1) "Unlawful acts" are defined in KRS 367.170 as "[u]nfair, false, misleading, or deceptive acts or practices in the conduct or any trade or commerce." KRS 367.170(1) Additionally, KRS 367.667 sets for "the following acts and practices in the conduct of charitable solicitation shall be considered unfair, false, misleading, or deceptive in violation of KRS 367.170" which includes: Representing when

soliciting funds that a charity will be the recipient of the funds when the professional solicitor or his employer pursuant to a contract is allowed to or will receive more than fifty percent (50%) of the gross receipts of the funds solicited as his compensation. It shall be a defense in any action brought to enforce this subsection for the professional solicitor to show that he disclosed in a clear and conspicuous manner to the prospective donor the percentage of the funds which he was allowed by contract to receive.” KRS 367.667(1)(d) Within the Consumer Protection statutes, KRS 367.650-367.670 govern solicitations by charitable organizations and required charitable organizations to fulfill various reporting and registration requirements with the Office of the Attorney General.

Defendants argue the Consumer Protection Act does not apply to their “voluntary services to veterans.” The Court has not been presented with any caselaw to support the argument that a charity organization cannot fall under the Consumer Protection Act. As stated above, KRS Chapter 367, specifically sets forth applicable sections to charitable organizations. The Kentucky Court of Appeals has previously held “the Kentucky Consumer Protection Act was broadly designed to curtail unfair, false, misleading or deceptive practices in the conduct of commerce and that the Attorney General is therefore not limited to prosecuting only those selected types of illegal business acts or practices which are used in the merchandising of goods or services intended for personal, family or household use.” Com. Ex rel. Stephens v. North American Van Lines, Inc., 600 S.W.2d 459, 462 (Ky. App. 1979) Furthermore, The Consumer Protection Act defines the words “trade” and “commerce” to mean “the advertising, offering for 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, and shall include any trade or

commerce directly or indirectly affecting the people of this Commonwealth.” KRS 367.110(2)(emphasis added)

The Commonwealth has set forth various allegations against the Defendants for their use of funds solicited through their charity. The Commonwealth alleges the Defendants have misappropriated charitable donations intended to benefit veterans and their families for their own purposes, including thousands of dollars spent on personal gambling expenses. The Commonwealth has submitted evidence to support these allegations including but not limited to: (1) an affidavit of the KYOAG Investigator Scott Whitaker, (2) C & P Garage’s banking records along with an analysis by the KYOAG’s Department of Criminal Investigations (“DCI”) Auditor, Leslie Broussard, (3) affidavit of DCI Detective Herman Hall describing his interviews with Fernandez’s former chief associate, Patti Parrott, and C & P Garage board members Pete Hernandez and Toni Driggers, (4) Carlos Fernandez’s Caesars Entertainment gambling records, (5) C & P Garage’s URS Form 990s, (6) affidavit of Kentucky Department of Veterans Affairs Director of Veterans Benefits, Stephen Buford, describing KDVA’s concerns with C & P Garage, and (7) the Kentucky Secretary of State’s online records demonstrating that C & P Garage, Inc. and CNP Garage LLC entities are one in the same. The Defendants have not set forth any argument or evidence to dispute the evidence set forth by the Commonwealth for the TRO other than a general denial.

Based on the evidence and argument presented, the Court finds the Attorney General has made the requisite showing that “person[s] will suffer immediate harm, loss of injury from a method, act or practice prohibited by KRS 367.170” unless a TRO is granted as set forth in KRS 367.190(2).

Therefore, the Defendants' Motion to Dismiss is DENIED and the Attorney General's Motion is GRANTED. **IT IS HEREBY ORDERED** that:

1. Defendants are enjoined from engaging in unfair, false, misleading, or deceptive sales practices in violation of KRS 367.170, including, but not limited to:
 - a. Misappropriating donations for the personal expenses of persons associated with C & P Garage. Defendants are further enjoined from soliciting or accepting donations to C & P Garage during the pendency of this matter.
 - b. Providing assistance to others with filing claims for VA benefits without appropriate accreditation and approval from the U.S. Department of Veterans Affairs. Any subsequent request for accreditation submitted to the VA by any of the Defendants shall include a copy of this Order.
 - c. Disposing of or concealing any documents or evidence associated with Carlos Fernandez and C & P Garage.
2. The Kentucky Office of the Attorney General may enter upon the premises of C & P Garage, located at 1182-A Jones Street, Radcliff, KY 40160, and any other location from which C & P operates ("Premises") for the following reasons:
 - a. Removing, scanning (or copying), and later returning any files related to this action;
 - b. Removing, scanning (or copying), and later returning any electronic files and equipment located at the Premises, including the obtaining of passwords and usernames to access electronically stored records whether hosted locally or on a third-party server (such as email or cloud service);
 - c. Taking photographs of any part of the Premises; and

- d. Identifying any individuals present at the Premises.
3. The assets of C & P Garage are hereby subject to an asset freeze and Defendants are hereby temporarily restrained and enjoined from directly or indirectly;
- a. Transferring, liquidating, converting, encumbering, pledging, loaning, selling, concealing, dissipating, disbursing, assigning, spending, withdrawing, granting a lien or security interest or other interest in, or otherwise disposing of any funds, real or personal property, accounts, contracts, consumer lists, or any other assets, or any interest therein, wherever located, including outside the United States, that are (1) owned or controlled, directly or indirectly, by any C & P Garage, in whole or in part for the benefit of C & P Garage; (2) in the actual or constructive possession of C & P Garage; or (3) owned, controlled by, or in the actual or constructive possession of any corporation, partnership, or other entity directly or indirectly owned, managed, or controller by, or under common control of C & P Garage, including, but not limited to, any assets under the name of C & P Garage at any bank, savings and loan institution, or with any broker-dealer, escrow agent, title company, commodity trading company, precious metal dealer, or other financial institution or depository of any kind.
 - b. Opening of causing to be opened any safe deposit boxes titled in the name of C & P Garage or subject to access by C & P Garage.
 - c. Incurring charges or cash advances on any credit card, debit card, or checking card issued in the name, singly or jointly, of C & P Garage.
 - d. Obtaining a personal or secured loan in the name of C & P garage.

- e. Incurring liens or encumbrances on real property, personal property or other assets in the name, singly or jointly, of C & P Garage; and
- f. Cashing checks from any person made as a donation to C & P Garage.

The assets subject to this order include, but are not limited to, C & P Garage's Cecilian Bank account ending in 3042 and Chase Bank account ending in 0825.

- 4. This Order does not preclude the Defendants from continuing to pay the following claimed monthly expenses:
 - a. Rent: \$600.00
 - b. Canon: \$102.56
 - c. Kerr: \$102.76
- 5. Within ten (10) days, Defendants shall provide a list of all assets belonging to C & P Garage, including bank accounts, brokerage accounts, real property, cash, and the location thereof.

SO ORDERED, this ____ day of August, 2025.

	Hon. John David Simcoe 1st JUDGE JOHN DAVID SIMCOE electronically signed 8/25/2025 1:35:39 PM ET
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JUDGE, HARDIN CIRCUIT COURT
DIVISION TWO (II)