

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

House, on the 13 day of  
September, 2011  
Present:  
Hon. Moulton Justice

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THE PEOPLE OF THE STATE OF NEW YORK,  
by ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York,

Petitioner,

Index No. 11A 02466

ORDER TO SHOW CAUSE  
WITH TEMPORARY  
RESTRAINING ORDER

-against-

IAS Part \_\_\_\_\_  
Assigned to Justice \_\_\_\_\_

C.P. INTERNATIONAL SECURITY, INC.; GATEWAY  
PROTECTION SECURITY, INC.; CHARLES PIERRE,  
individually and as principal of  
C.P. INTERNATIONAL SECURITY, INC. and GATEWAY  
PROTECTION SECURITY, INC.; and NICOLE PIERRE,  
individually and as principal of C.P. INTERNATIONAL  
SECURITY, INC.,

Respondents.

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Upon reading and filing the annexed Verified Petition; Affirmation with exhibits  
of Benjamin Lee, Assistant Attorney General, dated September   , 2011; and upon the  
motion of ERIC T. SCHNEIDERMAN, Attorney General of the State of New York, for  
Petitioner, the People of the State of New York, it is hereby ordered that Respondents in  
this proceeding show cause at an IAS Assignment Part of the Supreme Court, New York  
County, <sup>111</sup> ~~60~~ Centre Street, <sup>1127B</sup> New York, New York on the <sup>3<sup>rd</sup></sup> ~~8<sup>th</sup>~~ day of ~~September~~ <sup>October</sup> 2011, at  
<sup>2:15</sup> 9:30 a.m. on that day or as soon thereafter as counsel may be heard why an order and  
judgment should not be made pursuant to Executive Law § 63(12) and General Business  
Law ("GBL") Article 22-A, granting the following relief:

7. directing Respondents to notify petitioner of any change of address within five days of such change;

8. directing Respondents to pay a penalty in the sum of \$5000.00 to the State of New York for each violation of GBL Article 22-A, pursuant to GBL § 350-d;

9. awarding Petitioner additional costs of \$2,000.00 against each Respondent pursuant to CPLR § 8303(a)(6); and

10. granting such other and further relief as the Court deems just and proper.

AND IT BEING FURTHER SHOWN by the Verified Petition, the Affirmation of Assistant Attorney General Benjamin Lee, and accompanying Exhibits that Respondents have engaged in repeated and persistent illegal and fraudulent acts and practices which have caused and threaten continued, immediate and irreparable injury to members of the public,

AND IT APPEARING therefrom that immediate and irreparable injury, loss and damages will result, and the potential dissipation of Respondents' assets would tend to render a judgment of restitution ineffectual, unless Respondents are temporarily restrained from transferring, selling or otherwise disposing of any of the assets owned by Respondents in the State of New York until a hearing on the Petition can be had,

AND IT FURTHER APPEARING that a cause of action for temporary relief exists under CPLR §§ 6301 and 6313 and Executive Law § 63(12), it is

ORDERED that pending the hearing of this special proceeding, Respondents are hereby temporarily restrained from advertising or offering employment opportunities or employment placement assistance and from offering to sell or selling security guard training or other training; and it is further

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1. permanently enjoining Respondents from violating Executive Law § 63(12) and GBL Article 22-A, and from engaging in the fraudulent, deceptive and illegal acts and practices alleged in the Verified Petition;

2. permanently enjoining Respondents from advertising or offering employment opportunities or employment placement assistance and from offering to sell or selling security guard training or other training, or in the alternative, requiring Respondents to execute and file with the Attorney General a performance bond in the sum of \$2,000,000 by a surety or bonding company licensed by, and in good standing with, the New York State Department of Insurance, guaranteeing that Respondents comply with any injunction that may be entered herein, the proceeds of the bond to provide a fund for restitution to consumers defrauded or damaged by the past or future conduct of Respondents;

3. directing Respondents to make full monetary restitution and pay damages to all injured consumers, including those not identified at the time of the order;

4. directing Respondents to render an accounting to the Attorney General of the names and addresses of each consumer who paid fees directly to C.P. International Security, Inc. or Gateway Security Protection, Inc. and the amount of money received from each such customer;

5. permanently enjoining Respondents from, directly or indirectly, destroying or disposing of any records pertaining to their business;

6. permanently enjoining Respondents from converting, transferring, selling or otherwise disposing of funds paid to them by New York consumers;

ORDERED that pending the hearing of this special proceeding, Respondents are hereby temporarily restrained from transferring, converting, or otherwise disposing of any assets owned, possessed or controlled by Respondents in New York; and it is further

ORDERED that Respondents shall provide to Petitioner, <sup>by September 16</sup> ~~within twenty-four (24)~~ hours after service of this Order, a list that identifies all New York assets for each Respondent and the names and addresses of all banks, savings and loan associations and other financial depositories located inside and outside of New York at which respondents maintain any account(s) or have the right to have funds credited to them in any account(s), together with the account numbers and titles; and it is further

ORDERED that upon service of a copy of this Order upon said bank(s), savings and loan association(s) or depositor(ies), it is hereby temporarily restrained ~~until further order of the Court~~ from paying out, transferring, honoring drafts or checks against or setting off or assigning to itself or to any other person or firm such funds; and it is further

ORDERED that upon service of a copy of this Order upon Bank of America, N.A., said bank is hereby temporarily restrained ~~until further order of the Court~~ from paying out, transferring, honoring drafts or checks against or setting off or assigning to themselves or to any other person or firm such funds including, but not limited to, funds held in Bank of America, N.A. accounts held in the name of Respondents C.P.

International Security, Inc., Gateway Protection Security, Inc., and Charles Pierre;

SUFFICIENT CAUSE to me appearing therefore,

LET service by overnight mail of a copy of this Order and supporting papers to the corporate addresses of Corporation Service Company, registered agent for Respondents C.P. International Security, Inc. and Gateway Protection Security, Inc., and

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2011  
at  
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by mail to the last known residences of Respondents Charles Pierre and Nicole Pierre, be deemed good and sufficient service hereof. *if made on or before the 14<sup>th</sup> day of September, 2011.*

ENTER

Oral Argument  
Directed

  
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\_\_\_\_\_  
J.S.C.

**HON. PETER H. MCULTON  
SUPREME COURT JUSTICE**

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE PEOPLE OF THE STATE OF NEW YORK,  
by ERIC T. SCHNEIDERMAN, Attorney General of the State  
of New York,

VERIFIED PETITION

Index No. 11 402466

IAS Part \_\_\_\_\_

Justice \_\_\_\_\_

Petitioner,

- against-

C.P. INTERNATIONAL SECURITY, INC., GATEWAY  
PROTECTION SECURITY, INC., CHARLES  
PIERRE, individually and as principal of C.P.  
INTERNATIONAL SECURITY, INC. and GATEWAY  
PROTECTION SECURITY INC., and NICOLE PIERRE,  
individually and as principal of C.P. INTERNATIONAL  
SECURITY, INC.,

Respondents.

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The People of the State of New York, by their attorney, ERIC T.  
SCHNEIDERMAN, Attorney General of the State of New York, respectfully allege,  
upon information and belief:

PARTIES AND JURISDICTION

1. Petitioner is the People of the State of New York, by Eric T. Schneiderman, Attorney General of the State of New York.
2. Petitioner brings this special proceeding pursuant to Executive Law § 63(12) and General Business Law (“GBL”) Article 22-A to enjoin respondents C.P. International Security, Inc., Gateway Protection Security, Inc., Charles Pierre, and Nicole Pierre (collectively, “C.P.I.” or “Respondents”) from engaging in fraudulent and illegal conduct, deceptive acts or practices, and false advertising in connection with the sale of security guard training courses. Executive Law § 63(12) empowers the Attorney General

to seek injunctive relief, restitution, damages and costs when any person or business entity has engaged in or otherwise demonstrated repeated or persistent fraudulent or illegal acts in the transaction of business. GBL § 349(a) prohibits deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in New York. GBL § 350 prohibits false advertising in the conduct of any business, trade or commerce or in the furnishing of any service in New York. GBL § 350-d empowers the Attorney General to seek penalties when any person or entity has engaged in deceptive business practices or false advertising in violation of GBL Article 22-A.

3. Respondent C.P. International Security, Inc., formerly known as Prestige Consultants, Inc., is a New York corporation with its principal place of business formerly located at 62 Williams Street, New York, New York.<sup>1</sup> The corporation was incorporated under the name Prestige Security Consultants, Inc. under the laws of the State of New York on July 7, 2007. On November 14, 2007, the name of the corporation was changed from Prestige Security Consultants to C.P. International Security, Inc. On July 27, 2011, C.P. International Security, filed a dissolution by proclamation.

4. Respondent Gateway Protection Security, Inc. (“Gateway”) is a New York corporation with its principal place of business formerly at 62 Williams Street, New York, New York

5. Respondent Charles Pierre is an individual who resides at 224 E. 28th Street, New York, New York 10016. He is a founder, principal and the current School Director of C.P.I. and a founder and principal of Gateway. Mr. Pierre is responsible for

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<sup>1</sup> Respondents have recently, within the last two weeks, moved from their location at 62 Williams Street to an undisclosed address.

the day-to-day operations of the businesses and participated in and had knowledge of the fraudulent and illegal conduct, false advertising, and deceptive acts and practices alleged herein.

6. Respondent Nicole Pierre is an individual who resides at 1607 W. Pacific Coast Highway, Wilmington California, 90744. She is a founder and former School Director of C.P.I. Ms. Pierre has participated in and had knowledge of the fraudulent and illegal conduct, false advertising, and deceptive acts and practices alleged herein.

### FACTS

7. Respondents have preyed on and defrauded thousands of unemployed, disadvantaged and otherwise vulnerable consumers who were desperately seeking a job. Respondents widely advertise in newspapers and online job openings for highly paid security guard and other positions. In particular, Respondents advertise heavily in Spanish and Chinese newspapers to attract individuals with limited English proficiency.

8. The advertisements typically offer security guard positions with salaries as high as \$25 per hour and state that no experience is necessary. When consumers respond to the advertisements by calling the listed telephone number, C.P.I. employees tell the consumers to come to the C.P.I. office for a “job interview.”

9. When consumers appear at C.P.I.’s office, they are interviewed and then told that they have been selected for a position. C.P.I. then tells consumers, for the first time, that they must pay \$399 for a series of three security guard training courses before they can begin working in the promised position. Respondents falsely represent that once consumers complete these courses, they will immediately start working in the promised position.

10. After paying for and completing the courses, consumers do not receive a position from C.P.I. Instead, C.P.I. provides graduates with “referrals” to companies who are not expecting the consumer, have no available positions, and often have not heard of C.P.I.

#### Respondents’ Deceptive Advertisements

11. Respondents have placed hundreds of advertisements in print newspapers and on internet websites purporting to offer security guard positions or other types of positions. These advertisements have been placed in newspapers such as the New York Post and the New York Daily News, as well as in a number of Spanish-language and Chinese-language newspapers. Respondents also have placed advertisements online at websites such as Craig’s List (<http://newyork.craigslist.org>).

12. Examples of advertisements placed by Respondents include the following:

- “Extra income for the Holidays now! **GUARDS NEEDED BY NOV. 1<sup>st</sup>** Perm/Temp FT PT Up to \$14/hr No experience will train if qualified. Call Ms. Grejis 212-470-0774.” (New York Post, Oct. 24, 2010, Lee Aff. Ex. K at 312)
- “70 CORPORATE SECURITY GUARDS FT/PT For immediate hire. All shifts avail. Up to \$17.25 hr No exp. Nec. Call 347-837-8730/646-490-4591” (New York Post, Mar. 2, 2011, Lee Aff. Ex. K at 324)
- “NOTICE Security Guards are Needed Full-time and Part-time for positions in offices and schools. Up to \$17 an hour. Benefits, Vacations, training is available. Call: 1-347-836-2410.” (Hudson El Especialito, Oct. 13, 2010, Lee Aff. Ex. K at 47) (translation from Spanish)
- “DOORMAN/SECURITY F/T Pt for positions in offices and schools up to \$13.75 an hour Benefits, vacations, Training available. Call 347-836-2410.” (El Especialito Jackson Heights, July 15-July 21, 2011, Lee Aff. Ex. K at 317) (translation from Spanish)

- “**SECURITY ATTENTION** We need Security guards P/T F/T up to \$13.75/hr. Benefits no experience nec. 18 years + No High School diploma nec. Training available. Legal documents required call 347-209-3600.” (El Diario/La Prensa, May 9-13, 2010, Lee Aff. Ex. K at 281) (translation from Spanish)
- “Commercial Building Hiring Security Guard \$10 -\$18 per hour pay; There is a Union and benefits; No experience necessary; Knows/Understands some English; Legal residence in U.S.; call 347-522-0745, 616-642-1048” (Sing Tao Daily, Sept. 1, 2010, Lee Aff. Ex. K at 309) (translation from the Chinese)
- “Government issued apartment hiring security guards; Knows basic English, \$11-\$25 per hour pay; 3 months later employee will get federal benefits; Please phone Mr. Mei 347-403-3380, 212 566-6815” (World Journal, April, 2010 Edition, Lee Aff. Ex. K at 308) (translation from Chinese)

13. More recently, in a variety of different newspapers, C.P.I.’s postings have focused on alleged front desk attendant/concierge positions rather than security guards.

- “**FRONT DESK ATTENDANT** Positions won’t last! All hrs, FT/PT, up to \$14.11/hr. w/train if qual. Serious applicants. Call John 212-470-7008.” (Metro, June 6-8, 2011, Lee Aff. Ex. K at 180)
- “**FRONT DESK ATTENDANTS NEEDED** Immediate openings avail. Must be able to work ASAP, No exp. nec. will train. Call HR Dep’t. 212-742-8192.” (New York Post, May 8, May 23, and June 6, 2011, Lee Aff. Ex. K at 313, 315-16)
- “**FRONT DESK ATTENDANT** 40 slot Avail. A.S.A.P. FT/PT. all shifts, will train. Up to \$13.75/hr. No exp nec. interviews being held this week only Ask for Mr. Jay 212-478-7008.” (a.m. New York, July 5-7, 2011, Lee Aff. Ex. K at 375)
- “**19 ACCESS CONTROL GUARDS** No Exp., \$16.50/Hr. Call 212-470-3920” (a.m. New York, June 27-July 4, 2011, Lee Aff. Ex. K at 21-26)

14. Respondents’ advertisements are false, deceptive and misleading in several material respects.

15. The advertisements create the impression that that they were placed by or

on behalf of a business seeking to hire security guards and that actual security guard positions exist.

16. In fact, the advertised positions do not exist, and the ads are simply the bait that Respondents use to sell their security guard training courses.

17. The advertisements omit any reference to Respondents' training courses.

18. Had Respondents disclosed in the advertisements that they sell security guard training courses, most consumers would not have called the number listed in the advertisements.

19. Furthermore, in order to lure consumers into their office, Respondents advertise inflated hourly wages and generous benefits, including for those without any security guard experience.

20. Advertisements indicate that the purported security guard positions pay as much as \$13-\$25 per hour and provide full benefits and vacation.

21. In reality, entry-level security guard positions for applicants with no prior experience typically pay much lower hourly wages than those advertised.

#### Respondents' Deceptive Misrepresentations to Consumers

22. Respondents' print and internet advertisements urge consumers to call a listed number to apply for a job as a security guard.

23. Invariably, no one answers the phone when consumers call. Instead, consumers reach a recording instructing them to leave a message. If the consumer does not leave a message, a C.P.I. employee typically uses caller identification to obtain the caller's telephone number and return the call.

24. C.P.I. employees represent to consumers who respond to Respondents'

advertisements that a security guard job is available and that the consumer should visit C.P.I.'s office for an interview.

25. Once consumers are in C.P.I.'s office, Respondents have them fill out an application requesting information concerning their education, military service, driver's license, past employment, reasons for leaving their prior job, and references.

26. By asking questions normally asked by employers looking to hire, the application furthers the impression that individuals are applying for jobs at C.P.I.

27. After the consumer completes the application, the consumer meets with a C.P.I. employee for a one-on-one "job interview." At the interview, consumers are offered a job as a security guard, typically with an hourly wage of at least \$12 per hour and with benefits.

28. To make the job offers sound more genuine and appealing, C.P.I. employees repeatedly fabricate details about the nonexistent jobs, such as the location of the job or hours of shifts.

29. After offering consumers high-paying positions during these in-person interviews, C.P.I. employees – for the first time – tell consumers that they need to take certain courses offered by C.P.I. before they can begin working in the promised position. The courses cost \$399.

30. C.P.I. represents that completion of the courses will satisfy New York security guard registration requirements and thereby allow individuals to work as security guards. C.P.I. further represents that the promised security guard positions will start shortly after completion of the courses.

31. Respondents' \$399 package includes three courses: (1) a "Fireguard"

course, (2) an eight hour pre-assignment security guard training course, and (3) a sixteen hour on-the-job security guard training course.

32. Respondents require consumers to sign an enrollment agreement that states that C.P.I. will provide enrollees job placement assistance service.

33. Respondents require consumers to tender up-front payments, which are described as a deposit or an enrollment or registration fee, of \$80-\$85, with the balance to be paid before the commencement of training. Payments must be made in cash or by money order.

34. Respondents not only dupe consumers into paying for the \$399 training course package through the false promise of a job, but also falsely represent that all three classes must be completed to be eligible to work as a security guard.

35. In fact, under New York law, security guards are required to complete only one approved eight hour pre-assignment training course to register as a security guard and commence work. See Security Guard Act of 1992, G.B.L. Article 7A, § 89-n.

36. The 16 hours of on-the-job training need only be completed within 90 days of beginning employment as a security guard. G.B.L. § 89(n)(1)(A)-(B).

37. Furthermore, there is no legal requirement that security guards take the Fireguard course offered by C.P.I. See G.B.L. § 89-n.

38. In addition, although Respondents target Spanish and Chinese-speaking consumers by placing advertisements in Spanish and Chinese-language newspapers, Respondents provide courses exclusively in English.

39. Respondents falsely represent to consumers who are not proficient in English that it is not necessary that they speak or understand English to attend

Respondents' courses and that they will have no difficulty in completing the courses.

40. When such consumers express concern about their ability to complete courses in English, Respondents represent that they will help them complete the course.

41. In fact, consumers who are not proficient in English have serious problems understanding the training, and Respondents do not provide such consumers with any special assistance.

42. Moreover, C.P.I. provides courses that do not meet the requirements of state law and regulations and improperly awards certificates of completion to consumers who complete such courses.

43. For example, C.P.I. fails to provide the required number of hours of instruction mandated by law. See 9 NYCRR §§ 6027.3(a), 6027.4(a).

44. C.P.I. also fails to cover all required topic areas. See 9 NYCRR §§ 6027.3(a), 6027.4(a).

45. In addition, in violation of state law and regulations, C.P.I. sometimes improperly places individuals who have never worked as security guards in the same class as experienced security guards who are supposed to be taking their required annual in-service training course. See GBL § 89-n; 9 NYCRR §§ 6027.3, 6027.6. The experienced security guards are awarded certificates of completion by C.P.I. for satisfying annual in-service training requirements, even though they took a class (pre-assignment) designed for individuals with no prior security guard training or experience.

#### Consumers Do Not Obtain the Promised Jobs or Meaningful Job Placement Assistance

46. Respondents fail to provide consumers who complete their training with the promised employment.

47. Respondents also fail to provide consumers with any meaningful job placement assistance services, as promised in C.P.I.'s Enrollment Agreement.

48. After completing C.P.I.'s courses, consumers are instructed to meet with a C.P.I. "Vice President" to obtain their "job placement." During the meeting, which typically lasts five minutes, the C.P.I. Vice President provides consumers with one or two job "referrals" that consist of a piece of paper with the name and address of a security guard company and a date and time period for an appointment at the company's location.

49. By providing consumers with "referrals" that list a specific date and time period and even a specific contact person, Respondents represent that they have arranged job interview appointments on behalf of the consumer with companies that are hiring security guards and that Respondents have a relationship with these companies.

50. In fact, consumers who go to the specified companies find that the companies are not expecting them for an appointment at the time and date indicated, have not received any prior communication from C.P.I. about the applicant, have no relationship with C.P.I., and, in most cases, are not hiring.

51. The job referral forms do not even provide individuals an advantage over other candidates because anyone can visit the listed security guard companies with or without a "referral form," and companies do not appear to afford favorable treatment to applicants who show a C.P.I. referral.

52. In addition, contrary to Respondents' representations that those who complete C.P.I.'s courses will be eligible to immediately work as security guards and that neither prior work experience as a security guard nor proficiency in English is necessary, the companies to whom Respondents refer consumers also turn consumers away because

they are not registered with the State Division of Licensing, lack prior work experience as a security guard or are not proficient in English.

53. In fact, Respondents fail to disclose to consumers that, in order to work as a security guard, individuals must also be registered with the New York Department of State Division of Licensing, a process which requires numerous steps in addition to the consumer completing an eight hour pre-assignment course, and is subject to approval by the Department. In order to be eligible to serve as a security guard, an individual must meet the following criteria: (1) be 18 years of age or older, (2) have completed an eight-hour pre-assignment training course, (3) have not been convicted of a felony or misdemeanour, (4) be a citizen or resident alien of the United States, (5) not owe four or more months of child support payments, (6) have never been discharged from a correctional or law enforcement agency for incompetence or misconduct or had a permit or license revoked, suspended or denied and (7) be of good moral character and fitness. G.B.L. Article 7A § 89-h. Applicants must also pay fees for processing of the application as well as a fee as determined by the federal bureau of investigation for the cost of its fingerprint search procedures. G.B.L. Article 7A § 89-i. See generally GBL § 89-h; 19 NYCRR § 174.12(a).

Respondents Ignore Consumer Complaints and Fail to Pay Refunds to Defrauded Consumers

54. Respondents repeatedly ignore consumer complaints and requests for refunds.

55. Respondents refuse to refund deposits paid by consumers who decide not to take Respondents' training course either because they learn that Respondents do not place consumers in jobs as represented or because they realize that the courses, which are

taught all in English, are not appropriate for them.

56. Respondents also refuse to issue refunds to consumers who complete Respondents' training program but are unable to obtain jobs as promised. Despite Respondents' failure to honor their representations that consumers will obtain jobs, Respondents also routinely deny consumers' refund requests.

Respondents Currently Operate without DCJS Approval in Violation of State Regulations

57. C.P.I.'s status as a security guard training school approved by DCJS expired on July 31, 2011.

58. Despite the expiration of their authorization to operate a security guard training program, Respondents have continued to operate a security guard training business.

59. Respondents have continued to advertise security guard employment opportunities on the internet and in print ads (See Lee Aff., Ex. K at 370; Ex. T).

60. In addition, Respondents have been operating their security guard training school from the same location under a new name, Gateway Protection Security, Inc. ("Gateway"). However, Gateway is also not approved by DCJS as a security guard training school. Nor has Gateway applied for approval.

61. Respondents advertise security guard training courses on a website under Gateway's name. This website states that Gateway "is the premier security training institute in the industry" and it offers "job placement assistance to help" consumers who complete their security training programs "get started in their new careers."

62. Gateway further represents that it offers eighteen different security guard courses, including "an annual 8 hour security certifications [sic]" course. Lee Aff., Ex. T

at 1.

63. However, a security guard cannot obtain credit for completing Gateway's 8 hour annual in-service training course because Gateway is not approved to provide security guard training courses. See G.B.L. § 89-n; 9 NYCRR § 6027.6.

Respondents Charles Pierre and Nicole Pierre are Individually Liable

64. Both Respondents Charles Pierre and Nicole Pierre are individually liable for the fraudulent, illegal, and deceptive practices alleged herein.

65. Respondent Charles Pierre has been intimately involved in the management and day-to-day operations of the company since its founding.

66. Respondent Charles Pierre has knowledge of and personally participated in the fraudulent and deceptive practices alleged herein.

67. As the owner and School Director, Respondent Charles Pierre places and pays for Respondents' false and misleading advertisements and other business expenses.

68. Respondent Charles Pierre represents C.P.I. in interactions with the Division of Criminal Justice Services ("DCJS"), the entity responsible for regulation of security guard training schools in New York State. He submits applications to DCJS seeking approval of C.P.I. as a security guard training school, reviews, signs and submits class rosters to DCJS, and responds to DCJS's inspections of C.P.I.

69. Respondent Charles Pierre regularly responds to governmental agencies, including DCJS, the Office of the Attorney General and the New York City Department of Consumer Affairs, in connection with consumer complaints received by the agencies.

70. Respondent Charles Pierre also interacts directly with C.P.I. consumers who complain about C.P.I.'s practices.

71. Respondent Charles Pierre signs certificates of completion attesting that consumers have completed training courses that meet the requirements of New York law.

72. Respondent Charles Pierre has also commingled funds between C.P.I. and his personal accounts, and has used C.P.I. accounts to make personal, non-business purchases.

73. Respondent Nicole Pierre was also directly involved in the management and day-to-day operation of C.P. International Security and had knowledge of and personally participated in the fraudulent and deceptive practices alleged herein.

74. Respondent Nicole Pierre served as School Director for C.P.I. from November 2007 until November 2008.

75. During the time that she served as School Director of C.P.I., Respondent Nicole Pierre personally reviewed and responded to multiple consumer complaints to DCJS concerning C.P.I.'s false offers of employment.

76. Respondent Nicole Pierre signed certificates of completion attesting that consumers have completed training courses that meet the requirements of New York law.

77. Even after she stepped down as School Director, Respondent Nicole Pierre has placed dozens of the company's false and misleading advertisements.

78. A corporate credit card in Nicole Pierre's name was used to pay for over 100 transactions involving the purchase of company advertisements, as well as many personal purchases for plane tickets, luxury items, beauty supplies and restaurant bills.

**FIRST CAUSE OF ACTION PURSUANT TO  
EXECUTIVE LAW § 63(12) (ILLEGALITY)  
VIOLATIONS OF GBL § 349**

79. GBL § 349 declares unlawful "[d]eceptive acts or practices in the conduct

of any business, trade or commerce or in the furnishing of any service in [New York].”

80. By virtue of the conduct alleged above, Respondents have engaged in repeated and persistent deceptive acts and practices in violation of GBL § 349.

81. By repeatedly and persistently violating GBL § 349, Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**SECOND CAUSE OF ACTION PURSUANT TO  
EXECUTIVE LAW § 63(12) (ILLEGALITY)  
VIOLATION OF GBL § 350**

82. GBL § 350 prohibits “[f]alse advertising in the conduct of any business, trade or commerce or in the furnishing of any service in [New York].”

83. GBL § 350-a further provides that “false advertising” is advertising that is “misleading in a material respect.”

84. By virtue of the conduct alleged above, Respondents have engaged in repeated and persistent false advertising in violation of GBL § 350.

85. By repeatedly and persistently violating GBL § 350, Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**THIRD CAUSE OF ACTION PURSUANT TO  
EXECUTIVE LAW § 63(12) (ILLEGALITY)  
VIOLATION OF TITLE 9 NYCRR PARTS 6027 AND 6028  
(FAILING TO MEET MINIMUM REQUIREMENTS FOR  
SECURITY GUARD TRAINING SCHOOLS)**

86. Executive Law Article 35, § 841-c provides that the Commissioner of DCJS shall prescribe minimum requirements for security guard training courses and shall approve and certify security guard training schools and courses.

87. State regulations promulgated pursuant to Executive Law § 841-c set forth the standards for security guard training schools and courses. See 9 NYCRR Parts 6027 and 6028.

88. The regulations provide specific minimum requirements for each type of security guard training course, such as the eight hour pre-assignment course (9 NYCRR § 6027.3), the 16 hour on-the-job training course (9 NYCRR § 6027.4), and the annual eight hour in-service course (9 NYCRR § 6027.6), including the minimum number of hours of instruction and required topic areas.

89. Title 9 NYCRR § 6027.11(a) provides that “no security guard training course shall be conducted which does not meet the minimum standards as set forth in this Part.”

90. Title 9 NYCRR § 6028.7(b) provides that “the school director shall ensure that the security guard training school is conducted in accordance with applicable standards, policies and procedures.”

91. Title 9 NYCRR §6027.11(b) provides that “the security guard training school director shall ensure that security guard training courses are conducted in accordance with applicable standards.” 9 NYCRR § 6027.11(b).

92. Title 9 NYCRR § 6027.12(c) provides that “[u]pon attestation by a school director that an individual listed on the roster has satisfactorily completed the requirements of a security guard training course and upon verification of the documentation forwarded by such school director in accordance with this Part, a certificate of successful completion in the form and manner prescribed by the commissioner, shall be issued to such individual.”

93. As discussed above, Respondents have repeatedly and persistently violated the requirements of Title 9 NYCRR Parts 6027 and 6028 by their acts and practices, including but not limited to:

- conducting security guard training courses that provide fewer than the minimum number of hours of instruction;
- conducting security guard training courses that do not cover all of the required topic areas;
- combining distinct courses, such as the eight hour pre-assignment training course with the annual eight hour in-service training course;
- attesting that Respondents' training courses meet state minimum requirements when they do not, and
- providing certificates of completion to consumers who complete courses that do not meet the requirements.

94. As discussed above, Respondents C.P.I., Charles Pierre and Nicole Pierre have violated 9 NYCRR §§ 6027.11(b), 6027.12(c) and 6028.7(b) by failing to ensure that C.P.I.'s security guard training courses were conducted in accordance with the standards set out in the applicable regulations.

95. By repeatedly and persistently violating Title 9 NYCRR Parts 6027 and 6028, Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12).

**FOURTH CAUSE OF ACTION PURSUANT TO  
EXECUTIVE LAW § 63(12) (ILLEGALITY)  
VIOLATION OF TITLE 9 NYCRR PARTS 6027 AND 6028  
(OPERATING A SECURITY GUARD SCHOOL AND  
OFFERING SECURITY GUARD TRAINING COURSES  
WITHOUT AUTHORIZATION)**

96. Executive Law Article 35, § 841-c provides that the Commissioner of DCJS shall prescribe minimum requirements for security guard training courses and shall approve security guard training schools and courses.

97. 9 NYCRR Part 6028 is intended to set out the minimum requirements for

approval of security guard training schools. 9 NYCRR Part 6028.2

98. 9 NYCRR Part 6028.3 provides that “[n]o entity shall be designated as an approved security guard training school by the commissioner unless it satisfies all requirements prescribed by the commissioner. . .’

99. 9 NYCRR Part 6028.4 provides that security guard training school applicants shall “file a copy of the school qualifications with the commissioner,” 9 NYCRR Part 6028.4(b), and that the Commissioner shall grant approval of a security guard training school when “in his or her judgment, the information provided warrants approval.” 9 NYCRR Parts 6028.4(e).

100. 9 NYCRR Part 6028.7 (a) provides that “[n]o entity shall operate as a security guard training school which does not meet the minimum standards as established in this Part.”

101. 9 NYCRR Part 6027 is intended to set out the minimum requirements for approval of security guard training courses. 9 NYCRR Part 6027.2

102. 9 NYCRR Part 6027.8(a) provides that in order to obtain approval for a security guard training course, the school director shall provide the commissioner with a proposed curriculum including among other things “the name and location of the approved security guard training school,” 9 NYCRR Part 6027.8 (a), and that the “commissioner shall provide a written approval of a security guard training course to be conducted when in his or her judgment, the information provided warrants such approval.” 9 NYCRR Part 6027.8(c).

103. 9 NYCRR Part 6027.11 provides that “[n]o security guard training course shall be conducted which does not meet the minimum standards as set forth in this part . .

.” and that that the “school director shall ensure that the security guard training course is conducted in accordance with applicable standards, policies and procedures.”

104. Neither C.P.I. nor Gateway Protection Security, Inc. is approved by DCJS to operate as a security guard training school or to offer security guard training courses.

105. C.P.I. and Gateway Protection Services continue to advertise in newspapers and on the web seeking consumers to buy their security guard and other training courses, even though they are no longer approved by DCJS to offer such courses.

106. Gateway Protections Services advertises on their website that they offer “8 hour annual certifications” among other courses.

107. As set forth above, Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12) by repeatedly and persistently violating Title 9 NYCRR Parts 6027 and 6028 by soliciting students for security guard training courses and operating as an approved security guard training school without having obtained approval.

**FIFTH CAUSE OF ACTION PURSUANT TO  
EXECUTIVE LAW § 63(12): FRAUD**

108. Pursuant to Executive Law § 63(12), it is illegal for a business to engage in repeated fraudulent business conduct.

109. By reason of the conduct alleged above, Respondents engage in repeated and persistent fraudulent conduct in violation of Executive Law § 63(12).

**WHEREFORE**, Petitioner requests an order and judgment pursuant to Executive Law § 63(12) and GBL §§ 349, 350 and 350-d:

1. temporarily restraining Respondents from advertising or offering employment opportunities or employment placement assistance and from offering to sell or selling security guard training or other training;

2. temporarily restraining Respondents from transferring, converting, or otherwise disposing of any assets owned, possessed or controlled by Respondents in New York;

3. temporarily freezing Respondents' bank accounts;

4. directing Respondents to provide to Petitioner a list that identifies all New York assets for each Respondent and the names and addresses of all banks, savings and loan associations and other financial depositories located inside and outside of New York at which Respondents maintain any account(s) or have the right to have funds credited to them in any account(s), together with the account numbers and titles;

5. temporarily restraining said bank(s), savings and loan association(s) or depositor(ies) from paying out, transferring, honoring drafts or checks against or setting off or assigning to itself or to any other person or firm such firms;

6. temporarily restraining Bank of America, N.A., from paying out, transferring honoring drafts or checks against or setting off or assigning to themselves or to any other person or firm such funds including, but not limited to, funds held in Bank of America, N.A. accounts held in the name of Respondents C.P. International Security, Inc., Gateway Protection Security, Inc., and Charles Pierre;

7. permanently enjoining Respondents from engaging in the fraudulent,

deceptive and illegal acts and practices alleged in the Verified Petition;

8. permanently enjoining Respondents from advertising or offering employment opportunities or employment placement assistance and from offering to sell or selling security guard training or other training, or in the alternative, requiring Respondents to execute and file with the Attorney General a performance bond in the sum of \$2,000,000 by a surety or bonding company licensed by, and in good standing with, the New York State Department of Insurance, guaranteeing that Respondents comply with any injunction that may be entered herein, the proceeds of the bond to provide a fund for restitution to consumers defrauded or damaged by the past or future conduct of Respondents;

9. directing Respondents to make full monetary restitution and pay damages to all injured persons or entities, including those not identified at the time of the order;

10. directing Respondents to render an accounting to the Attorney General of the names and addresses and the amount of money received from each consumer from July 7, 2007 to the present;

11. permanently enjoining Respondents from, directly or indirectly, destroying or disposing of any records pertaining to their business;

12. directing Respondents to notify petitioner of any change of address within five days of such change;

13. directing Respondents to pay a civil penalty of \$5,000 to the State of New York for each violation of GBL Article 22-A, pursuant to GBL § 350-d;

14. awarding Petitioner additional costs of \$2,000.00 against each respondent pursuant to CPLR § 8303(a)(6); and

15. granting such other and further relief as the Court deems just and proper.

DATED: New York, New York  
September 12, 2011

Yours, etc.  
**ERIC T. SCHNEIDERMAN**  
Attorney General of the State of New York  
Attorney for Petitioner  
120 Broadway, 3rd floor  
New York, New York 10271  
(212) 416-8844

JANE M. AZIA  
Bureau Chief  
Bureau of Consumer Frauds and Protection

**JEFFREY K. POWELL**  
**BENJAMIN J. LEE**  
**CAROLYN FAST**  
Assistant Attorneys General  
*of counsel*

VERIFICATION

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

BENJAMIN J. LEE, being duly sworn, deposes and says:

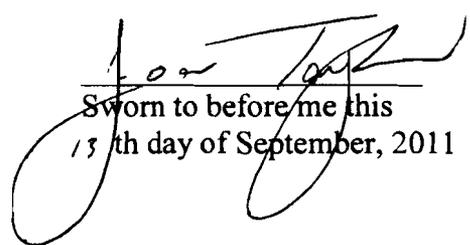
I am an Assistant Attorney General in the office of Eric T. Schneiderman, Attorney General of the State of New York, and am duly authorized to make this verification.

I have read the foregoing petition and know the contents thereof, which is to my knowledge true, except as to matters stated to be alleged on information and belief, and as to those matters, I believe them to be true. The grounds of my belief as to all matters stated upon information and belief are investigative materials contained in the files of the Attorney General's office.

The reason this verification is not made by petitioner is that petitioner is a body politic and the Attorney General is its duly authorized representative.



BENJAMIN J. LEE  
Assistant Attorney General



Sworn to before me this  
15<sup>th</sup> day of September, 2011

**JOAN TAYLOR**  
Notary Public, State of New York  
No. 4999162  
Qualified in Bronx County  
Commission Expires July 20, 2014

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE PEOPLE OF THE STATE OF NEW YORK,  
by ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York,

Petitioner,

-against-

C.P. INTERNATIONAL SECURITY, INC., GATEWAY  
PROTECTION SECURITY, INC., CHARLES  
PIERRE, individually and as principal of C.P.  
INTERNATIONAL SECURITY, INC. and GATEWAY  
PROTECTION SECURITY, INC., and NICOLE PIERRE,  
individually and as principal of C.P. INTERNATIONAL  
SECURITY, INC.

Respondents.  
----- X

AFFIRMATION

Index No. 11 402466

IAS Part \_\_\_\_\_  
Assigned to Justice \_\_\_\_\_

BENJAMIN J. LEE, an attorney duly admitted to practice in the courts of the State of  
New York, affirms the following under penalty of perjury:

1. I am an Assistant Attorney General in the office of Eric T. Schneiderman, Attorney  
General of the State of New York, assigned to the Consumer Frauds and Protection Bureau. I  
make this Affirmation in support of the Verified Petition and the relief sought therein and in  
support of the Order to Show Cause for a Temporary Restraining Order.
2. I am familiar with the facts and circumstances of this proceeding. The facts set  
forth in this Affirmation are based upon information contained in the investigative files of the  
Office of the Attorney General (the "OAG").
3. Petitioner brings this special proceeding pursuant to Executive Law § 63(12) and  
General Business Law ("GBL") Article 22-A to enjoin Respondents from engaging in false  
advertising, deceptive acts and practices, and repeated and persistent fraud and illegality in

connection with their purported security guard training and job placement business.

#### RESPONDENTS

4. Respondent C. P. International Security, Inc. (“C.P.I.”), f/k/a Prestige Security Consultants, Inc. (“Prestige Security”), is a New York corporation with its principal place of business formerly at 62 Williams Street, New York, New York.<sup>1</sup> On July 27, 2011, C.P. International Security, filed a dissolution by proclamation. See New York State Department of State, Division of Corporations, Entity Information for C.P. International Security, Inc., attached hereto as Exhibit (“Ex.”) A. On November 14, 2007, the name of the corporation was changed from Prestige Security Consultants, Inc. to C.P. International Security, Inc. Prestige Security’s July 6, 2007 Certificate of Incorporation and the November 14, 2007 Amendment to the Certificate of Incorporation changing the name of the corporation to C.P. International Security, Inc. are attached hereto as Ex. A.

5. Respondent Gateway Protection Security, Inc. (“Gateway”) is a New York corporation with its principal place of business formerly at 62 Williams Street, New York, New York. Charles Pierre filed the certificate of incorporation for Gateway. Gateway’s Certificate of Incorporation is attached hereto as Ex. B.

6. Respondent Charles Pierre is an individual who resides at 224 E. 28<sup>th</sup> Street New York, NY 10016. He is a principal of C.P.I. and Gateway and its current School Director.<sup>2</sup> See

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<sup>1</sup> Respondents have recently, within the last two weeks, moved from their location at 62 Williams Street to an undisclosed address. They have not provided a forwarding address. Nor have they notified Con Edison that they were cancelling service or changing their address. Telephone response numbers listed in their recent August, 2011 advertisements (Ex. K at 379-390) are operating.

<sup>2</sup> New York State regulations provide that a School Director shall ensure that security guard training courses are conducted in accordance with applicable standards. 9 NYCRR § 6027.11(b). See also 9 NYCRR § 6028.7. The regulations further require that before issuing a certificate of completion, a School Director attest that individuals listed on class rosters have satisfactorily completed the requirements of security guard training courses. 9 NYCRR § 6027.12(c).

New York State Division of Criminal Justice Services (“DCJS”) Security Guard Training School Application, dated July 10, 2007, and Renewal Application, dated June 24, 2009, attached hereto as Ex. C. As a principal and Director of C.P.I., Mr. Pierre is responsible for the day-to-day operation of the business. Mr. Pierre has participated in and had knowledge of the fraudulent and illegal conduct, false advertising, and deceptive acts and practices alleged herein.

7. Respondent Nicole Pierre resides at 1607 W. Pacific Coast Hwy Apt., Wilmington, CA 90744. She served as the School Director of C.P.I. from November 2007 through November 2008, and was the individual who filed the original Certificate of Incorporation for C.P.I. See Exs. B, C; Report from Thomas Canning, Associate Training Technician, DCJS, attached hereto as Ex. D (providing chronology of contacts between DCJS and C.P.I.). As the School Director of C.P.I., Ms. Pierre was responsible for the day-to-day operation of the business, and she has participated in and had knowledge of the fraudulent and illegal conduct, false advertising, and deceptive acts and practices alleged herein.

8. Respondents C.P.I., Gateway, Charles Pierre, and Nicole Pierre are hereafter collectively referred to as “Respondents.”

### INTRODUCTION

9. The OAG brings this proceeding after receiving over 100 consumer complaints against C.P.I. for false advertising and fraudulent and deceptive business practices. Eighteen of these complainants have signed affidavits setting forth their experiences, which are attached as Ex. E.<sup>3</sup> Copies of the other complaints, which include complaints filed directly with the OAG, as

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<sup>3</sup> The affidavits accompanying this affirmation are attached sequentially. The first affidavit, which is from OAG Investigator Andres Rodriguez, is labeled Ex. E-1; the second affidavit is labeled Ex. E-2; and so forth. In cases where the affiants are not fluent in English, drafts of the affidavits were provided to the affiants in their primary language (Spanish and, in one instance, Chinese). The drafts are attached as exhibits to these affidavits. Also included are the affidavits of Awilda Aponte and LanYoung Fan, who translated the drafts from English to Spanish

well as those filed with DCJS, the New York City Department of Consumer Affairs (“DCA”) and the Better Business Bureau (“BBB”), are attached hereto as Exs. F, G, H and I, respectively.

10. In addition to the consumer affidavits and complaints, the OAG conducted an undercover investigation that confirmed the experiences reported by consumers and revealed extensive evidence of Respondents’ fraudulent and deceptive practices. Posing as a consumer who was seeking employment and had seen one of Respondents’ false and misleading advertisements, Investigator Andres Rodriguez contacted C.P.I. and enrolled in Respondents’ program. Investigator Rodriguez’s experience, interactions with Respondents, and observations are set forth in his affidavit, which is attached hereto as Ex. E-1. Investigator Rodriguez recorded and videotaped his encounters with Respondents. Transcripts of excerpts from the audio and videotapes are annexed to his affidavit, and the complete recordings and videotapes are available upon the Court’s request.

11. As discussed in greater detail below and in Petitioner’s supporting affidavits, since in or around July 2007, Respondents have preyed on and defrauded thousands of unemployed, disadvantaged and otherwise vulnerable consumers who were desperately seeking a job. Respondents falsely advertise online and in newspapers throughout the New York metropolitan area job openings for highly paid security guard and other positions. Respondents advertise heavily in Spanish and Chinese newspapers to attract individuals with limited English proficiency. The advertisements typically offer security guard positions with salaries between \$13 and \$25 per hour and state that no experience is necessary. When consumers respond to the advertisements by calling the listed telephone number, C.P.I. employees tell the consumers to come to the C.P.I. office for a “job interview.” In some cases, C.P.I. tells consumers on the

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and English to Chinese. Exs. E-20 and E-21.

telephone that they will definitely be hired for the advertised job opening.

12. However, when consumers appear at C.P.I.'s office, they are told that they must first pay \$399 for a series of three "training courses" before receiving the promised job. Respondents falsely represent that once consumers complete these courses they will immediately start working as a security guard. However, after paying for and completing the courses, consumers do not receive a position from C.P.I., but instead are given "referrals" to companies that often have not heard of C.P.I. and either have no available positions or only hire individuals with experience and who are proficient in English. When consumers complain about Respondents' worthless referrals, Respondents ignore the complaints and refuse to provide refunds.

13. Respondents also falsely represent that all of the offered courses must be completed to work as a security guard. In contrast, under New York law, security guards are required to complete only one approved eight hour pre-assignment training course in order to register and work as a security guard.

14. Further, C.P.I.'s training courses are of poor quality, do not comply with state law requirements, and cost significantly more than comparable training offered elsewhere. Courses are also taught exclusively in English so the many limited English speaking consumers are unable to fully understand the training.

15. Although the OAG does not know the precise total number of consumers who have enrolled in Respondents' training courses since July 2007, records show that more than 4,000 consumers paid for the courses in 2009 and 2010 alone. See Letter from DCJS Associate Attorney Natasha M. Harvin to Benjamin Lee, dated June 8, 2011, attached as Ex. J.

16. C.P.I. has an "F" rating with the BBB and is not BBB accredited. See Ex. I at

327.

Respondents' Deceptive Advertisements

17. Respondents have placed hundreds of advertisements in print newspapers and on internet websites purporting to offer security guard positions, and occasionally receptionist or "front desk" positions, with high salaries and generous benefits. These advertisements have been placed in newspapers such as the New York Post, New York Daily News, a.m. New York, Metro, Bronx News, Brooklyn News, and New Jersey Star Ledger. In addition, Respondents place numerous advertisements in a number of Spanish language newspapers, including El Diario/La Prensa, El Especialito, and Hora Hispana, as well as several Chinese language newspapers, including World Journal and Sing Tao Daily. Respondents also have placed advertisements online at websites such as Craig's List (<http://newyork.craigslist.org>). Representative copies of Respondents' print and internet advertisements from 2008 through the present are attached hereto as Ex. K.

18. For instance, since 2007, C.P.I. and its predecessor company, Prestige Security, have run at least 142 advertisements in the New York Post. The following are some examples of New York Post advertisements:

- "**SECURITY GUARDS NEEDED** Immed. Openings avail. Must be able to work Nov. 1<sup>st</sup>. No exp. Nec. Will train. Call Ms. Greqis 212 470-0774." (Oct. 19, 2010, Ex. K at 311)
- "Extra income for the Holidays now! **GUARDS NEEDED BY NOV. 1<sup>st</sup>** Perm/Temp FT PT Up to \$14/hr No experience will train if qualified. Call Ms. Greqis 212-470-0774." (Oct. 24, 2010, Ex. K at 312)
- "**SECURITY GUARDS NEEDED** immediate openings avail. Must be able to work April 1<sup>st</sup>. Up to \$14/hr No exp nec. Will train. Call HR 917-279-2693." (March 27, 2011, Ex. K at 314)
- "70 CORPORATE SECURITY GUARDS FT/PT For immediate hire. All

shifts avail. Up to \$17.25 hr No exp. Nec. Call 347-837-8730/646-490-4591"  
(Mar. 2, 2011, Ex. K at 324)

See also Ex. L, business records from the New York Post that summarize C.P.I.'s advertising history with the New York Post.

19. Since November 2008, C.P.I. has run approximately 300 advertisements in the Spanish newspaper El Especialito, which has editions in various cities and areas in New York and New Jersey, such as El Especialito Hudson, El Especial NY/NJ, El Especialito Jackson Heights, El Especialito Washington Hts, El Especialito Bronx, El Especialito Essex, El Especialito Brooklyn, and El Especialito Bergen. Examples of these newspaper advertisements include the following:

- "NOTICE Security Guards are Needed Full-time and Part-time for positions in offices and schools. Up to \$17 an hour. Benefits, Vacations, training is available. Call: 1-347-836-2410." (Hudson El Especialito, Oct. 13, 2010, Ex. K at 47) (translation from Spanish)
- "DOORMAN/SECURITY F/T Pt for positions in offices and schools up to \$13.75 an hour Benefits, vacations, Training available. Call 347-836-2410." (El Especialito Jackson Heights, July 15-July 21, 2011, Ex. K at 317) (translation from Spanish)

See also Ex. M, business records from El Especialito that summarize C.P.I.'s advertising history with El Especialito.

20. C.P.I.'s also advertised as follows in El Diario/La Prensa.

- "**SECURITY ATTENTION** We need Security guards P/T F/T up to \$13.75/hr. Benefits no experience nec. 18 years + No High School diploma nec. Training available. Legal documents required call 347-209-3600." (El Diario/La Prensa, May 9-13, 2010, Ex. K at 281) (translation from Spanish)
- "**ATTENTION ALL** Security guards needed immediately. Up to \$13.75/hr. Benefits after 90 days. Call now 212-797-2138." (El Diario/La Prensa, June 29, 2010, Ex. K at 283) (translation from Spanish)

21. C.P.I. also ran advertisements in Chinese language newspapers:

- "Commercial Building Hiring Security Guard \$10 -\$18 per hour pay; There is a Union and benefits; No experience necessary; Knows/ Understands some English; Legal residence in U.S.; call 347-522-0745, 616-642-1048" (Sing Tao Daily, Sept. 1, 2010, Ex. K-309) (translation from the Chinese)
- "Government issued apartment hiring security guards; Knows basic English, \$11-\$25 per hour pay; 3 months later employee will get federal benefits; Please phone Mr. Mei 347-403-3380, 212 566-6815" (World Journal, April 15, 2010 Edition, Ex. K-308) (translation from Chinese)

22. In addition, since September 2007, C.P.I. has placed approximately 390 advertisements in a.m. New York. The following are examples of representative advertisements:

- "**DOORMAN/SECURITY** Need for Comm & Educational Facilities in NYC up to \$13.75/Hr bnfts. Vac, No. Exp Req. Will train, clean record. Call HR 212-498-9079." (May 11 to May 13, 2011, Ex. K at 4)
- "**FRONT DESK ATTENDANT** 40 slot Avail. A.S.A.P. FT/PT. all shifts, will train. Up to \$13.75/hr. No exp nec. positions will not last. Imm. Interviews Call HR 212 470-0772." (June 20 through June 22, 2011, Ex. K at 18)

See also Ex. N, business records from Newsday, the parent company of a.m. New York, that summarize C.P.I.'s advertising history with a.m. New York.

23. Similarly, C.P.I. ran hundreds of advertisements in the classified sections of local free newspapers affiliated with the New York Daily News, including Metro, Bronx News, Brooklyn News, and Hora Hispana, as well as in the New York Daily News itself. See Ex. K at 49-279. The following are examples of some of C.P.I.'s classified listings:

- "CORPORATE SECURITY MUST BE AVAIL ASAP. FT/PT \$9-\$15/hr. No Exp req'd. Serious inq. Call HR 212-668-0364." (Hora Hispana and Bronx News, Oct. 18 through Nov. 12, 2009, Ex. K at 247)
- "CORPORATE SECURITY FT/PT MUST BE AVAIL ASAP. \$9-\$15/hr. No exp req'd Serious inq. Call HR 212-668-0364." (Hora Hispana, Bronx News and Metro, April 5 and 6, 2010, Ex. K at 178)

24. C.P.I. also advertised on Craigslist. For instance, an advertisement for a purported security guard position, dated January 7, 2010, read in all capital letters and bold:

"INTERVIEWING TOMORROW. PAYING UP TO \$12.33.  
CALL NOW. NO EXP NECESSARY (MATURE & SERIOUS  
INDIVIDUALS ONLY)."

This advertisement sought candidates for a:

"frontline position that enables qualified applicants the opportunity to interact with and provide great consumer service to people every day in a fun and engaging environment. . ." and "offer[ed] competitive pay, rank advancement, paid vacations and insurance benefits" as well as a "[h]ire bonus awarded after 90 days of employment."

Ex. K at 320-21.

25. More recently, in a variety of different newspapers, C.P.I.'s postings have focused on alleged front desk attendants/concierge positions rather than security guards.

- "FRONT DESK ATTENDANT 45 pos, all hrs, FT/PT, up to \$13.75/hr. w/train if qual. Serious applicants only. Call HR 212-742-8192." (Hora Hispana and Bronx News, March 27 through 31, 2011, Ex. K at 186)
- "FRONT DESK/CONCIERGE Positions won't last! all hrs, FT/PT, up to \$16.10/hr. w/train if qual. Serious applicants. Ms. A 212-470-0774." (Hora Hispana, Bronx News and Metro, March 29 through 31, 2011, Ex. K at 185)
- "FRONT DESK ATTENDANT Positions won't last! All hrs, FT/PT, up to \$14.11/hr. w/train if qual. Serious applicants. Call John 212-470-7008." (Metro, June 6-8, 2011, Ex. K at 180)
- "**FRONT DESK ATTENDANTS NEEDED** Immediate openings avail. Must be able to work ASAP, No exp. nec. will train. Call HR Dep't. 212-742-8192." (New York Post, May 8, May 23, and June 6, 2011, Ex. K at 313, 315-16)
- "**FRONT DESK ATTENDANT** 40 slot Avail. A.S.A.P. FT/PT. all shifts, will train. Up to \$13.75/hr. No exp nec. interviews being held this week only Ask for Mr. Jay 212-478-7008." (a.m. New York, July 5-7, 2011, Ex. K at 375)

- “19 ACCESS CONTROL GUARDS No Exp., \$16.50/Hr. Call 212-470-3920” (a.m. New York, June 27-July 4, 2011, Ex. K at 21-26)
- “DOORMAN-SECURITY WANTED No experience needed – will train Work in Hotels, Hospitals, schools, banks, museums, stores etc. up to \$17.25/Hour Full time- Part Time call Mr. SHENG 212 470-0773.” (Sing Tao Daily, August 6-12, 2011, Ex. K at 370)

26. Respondents’ advertisements are false, deceptive and misleading in several material respects. Most importantly, the advertisements create the impression that that they were placed by or on behalf of an existing business seeking to hire security guards and that actual security guard positions exist. In fact, the advertised positions do not exist, and the ads are simply the bait that Respondents use to sell their security guard training courses. The advertisements omit any reference to the facts that Respondents are selling training courses and that applicants need to pay for and complete the courses in order to be eligible for the advertised positions. Had Respondents disclosed this information in their advertisements, most consumers would not have called the advertised number. See Ex. E-6, Rivera Aff. ¶ 12 (“I would never have contacted C.P.I. if I knew they were selling security guard training classes”); Ex. E-13, Moscoso Aff. ¶ 13 (“If the advertisement had identified C.P.I. as a fee-charging security guard training school, I would never have contacted them.”); Ex. E-16, Kuffo Aff. ¶ 12 (“I would not have contacted C.P.I. if I knew they were selling security guard training classes.”).

27. Furthermore, in order to lure consumers into their office, Respondents’ advertisements reference inflated hourly wages and generous benefits. Advertisements indicate that the purported security guard positions pay as much as \$13-\$25 per hour and provide full benefits and vacation. See Ex. E-13, Moscoso Aff. ¶ 3 (advertisement promised up to \$17/hr.); Ex. E-19, Ahumada Aff. ¶ 2 (advertised job paid up to \$15/hr.); Ex. E-3, Lonergan Aff. ¶ 3

(advertisement promised \$13/hr); Ex. E-15, Aldaz Aff. ¶ 3 (“Notice Security Guards are Needed Full Time and Part-time for positions in offices and schools. Up to \$17 an hour. Benefits, vacations, training is available.”).

28. In reality, entry-level security guard positions for applicants with no prior experience typically pay much lower hourly wages than those advertised. For example, a consumer reported that the security guard companies to which she was “referred” by C.P.I. (Metro One and Cambridge Security) each paid \$7.50 per hour for entry-level security guard positions. See Letter from Calesha Miller, dated December 28, 2009, attached as Ex. G at 47; see also Ex. E-4, Carter, Aff. ¶ 2 (estimating that entry-level security guard positions pay approximately \$8 to \$9 an hour and typically do not offer benefits). The U.S. Department of Labor’s May 2010 National Compensation Survey (attached as Ex. O) indicates that in the New York-Newark-Bridgeport region, the average hourly wage for entry-level full-time security guards of \$9/hr. is well below the rates listed in C.P.I.’s advertisements. When consumer Calesha Miller complained about C.P.I.’s misrepresentations concerning hourly wages, Respondent Charles Pierre acknowledged (in contrast to his company's advertisements and other representations) that “there is no way a precise figure of how much will be made [by a security guard] can be said by C. P. International.” Ex. U at 18.

Respondents’ Deceptive Telephone Conversations With Consumers Who Respond to the False and Misleading Job Advertisements

29. Respondents’ print and internet advertisements urge consumers to call a listed number to apply for a job as a security guard. Invariably, no one answers the phone when consumers call. Instead, consumers reach a recording instructing them to leave a message, and a C.P.I. employer later returns the call. If the consumer does not leave a message, a C.P.I.

employee typically uses caller identification to obtain the caller's telephone number and return the call. See Ex. E-6, Rivera Aff. ¶ 4 (consumer did not leave a call back number and call was returned); Ex. E-13, Moscoso Aff. ¶ 4 (same); Ex. E-9, Batista Aff. ¶ 3 (same); Ex. E-10, Serrano Aff. ¶ 3 (same); Ex. E-11, Gomez Aff. ¶ 4 (same).

30. During these initial telephone conversations, C.P.I. employees represent to consumers that a security guard job is available and that the consumer should visit C.P.I.'s office for an interview. See Ex. E-6, Rivera Aff. ¶ 4 ("A man who identified himself as Mr. Lugo called back. He told me that security guard positions were available and that I should come into C.P.I.'s office . . . for an interview."); Ex. E-16, Kuffo Aff. ¶ 4 ("I received a call back from a man who told me to come into the C.P.I. office for an interview and to bring \$85 for a uniform and for certifications I would need to begin work"); Ex. E-4, Carter Aff. ¶ 4 (C.P.I. representative "told me that the position would start shortly and that I needed to come into C.P.I.'s office quickly for an interview.").

31. Some consumers are told that the available security guard positions will start right away and that they need to come to C.P.I.'s offices immediately. See Ex. E-2, Meredith Aff. ¶ 4 ("A C.P.I. employee called me back and told me that they were choosing security guards right now and that I should come in for an interview."); Ex. E-3, Lonergan Aff. ¶ 4 (The C.P.I. employee "told me that they had a full-time position for me that paid between \$13 and \$15 an hour and which included benefits after 90 days work. Ms. Anderson told me that the position would start shortly and that I needed to come into C.P.I.'s office quickly for an interview.").

32. C.P.I. representatives instruct consumers to bring \$80-\$85 in cash to the interview to pay for various costs, including processing, an application fee, a uniform, and certifications. See Ex. E-13, Moscoso Aff. ¶ 4 (told to bring money for training); Ex. E-2, Meredith Aff. ¶ 4

(told to bring money for an application fee); Ex. E-16, Kuffo Aff. ¶ 4 (told to bring money for a uniform and certifications). At no time during these conversations does the C.P.I. representative mention that the consumer must pay for and complete C.P.I.'s training classes to be eligible for the advertised position.

### Respondents' False and Misleading Representations to Consumers During "Job Interviews"

33. Based on Respondents' advertisements and telephone conversations, consumers are lured into C.P.I.'s office at 62 William Street with the false prospect of a high-paying job. Once in Respondents' office, consumers are asked to fill out an application and are then brought to a large waiting area, which is typically crowded with a dozen or more people. The application requests information including education, whether applicant has served in the military, whether applicant has a driver's license, past employment, reasons for leaving the job, and references. The application form requests that applicants "[u]se the space below to summarize any additional information necessary to describe your full qualifications for the specific position for which you are applying." Ex. E-1, Rodriguez Aff. Ex. A. By asking for information normally sought by employers looking to hire, the application furthers the impression that individuals are applying for jobs at C.P.I. After the consumer completes the application, a C.P.I. representative then escorts individual consumers into an office for a one-on-one "job interview." See Ex. E-1, Rodriguez Aff. ¶ 5.

34. At the interview, consumers are offered a job as a security guard, typically with an hourly wage of at least \$12 per hour and with benefits. See Ex. E-1, Rodriguez Aff. ¶ 6 (received offer of a position paying \$12 per hour with full benefits); Ex. E-6, Rivera Aff. ¶ 5 (received offer of a position paying \$17 per hour); Ex. E-2, Meredith Aff. ¶ 5 (received offer of a position paying \$17-\$25 per hour); Ex. E-18, Cuartas Aff. ¶ 5 (received offer of a position

paying \$13 per hour); Ex. E-19, Ahumada Aff. ¶ 4 (received offer of a position paying \$15 per hour); Ex. E-8, Francisco Aff. ¶ 5 (received offer of a position paying \$15-\$20 hour); Ex. E-3, Lonergan Aff. ¶ 5 (received offer of a position paying \$13-\$15 per hour with benefits).

35. To make the job offers sound more genuine and appealing, C.P.I. employees repeatedly fabricate details about the nonexistent jobs.

- Ms. Anderson, a C.P.I. employee, told Investigator Rodriguez that the purported security guard position had an 8:00 a.m. to 4:00 p.m. shift, that it was located in the financial district, and that it involved “very important work.” Ex. E-1 Rodriguez, Aff. ¶ 6.
- Ms. Anderson told Scott Lonergan that he could start working at the high end of the salary range for security guards because he had experience with fire protection and that the available position was located just around the corner from C.P.I.’s offices. Ex. E-3, Lonergan, Aff. ¶ 5.
- Evita Carter, who had answered an advertisement for a receptionist position, was told by Ms. Anderson that she was a “good fit” for the receptionist position because of her prior security guard experience, and that the alleged job paid \$12.10 an hour plus full benefits. Ex. E-4, Carter Aff. ¶ 5.

36. After offering consumers high-paying positions during these in-person interviews, C.P.I. employees – for the first time – tell consumers that they need to register to work as a security guard in New York and that they need to take certain courses offered by C.P.I. before they can start work. The courses cost \$399. C.P.I. represents that completion of the coursework will satisfy New York registration requirements and thereby allow individuals to work as security guards. C.P.I. further represents that the promised security guard positions will start shortly after completion of the courses. For instance, Ms. Anderson repeatedly assured Investigator Rodriguez during his interview that he would be hired as a security guard at a salary of \$12 per hour with full benefits once he completed C.P.I.’s courses, and that the job would start the week after the training. Ex. E-1, Rodriguez Aff. Ex. A at 10, 17. See also Ex. E-6, Rivera

Aff. ¶ 6 (“Ms. Anderson told me that before I started work I needed to take a course and obtain a security guard registration.”); Ex. E-13, Moscoso Aff. ¶ 5 (“Chris asked me if I was available to begin work the following week. I told him that I was. He told me that I had to pay \$399 for the training course.”); Ex. E-5, Bonilla Aff. ¶ 5 (“Mr. Lugo told me that I could start working as a security guard. However, before I could start working I had to get my security guard license.”); Ex. E-3, Lonergan Aff. ¶ 5 (“Ms. Anderson told me that I needed to take a class in order to get a security guard registration before I could start work.”).

37. Respondents’ \$399 package includes three courses: (1) a Fireguard course, (2) an eight hour pre-assignment course, and (3) a sixteen hour on-the-job training course. Ex. E-1, Rodriguez Aff. Ex. A at 8-10; Ex. E. The Fireguard course has a stand-alone price of \$269; the eight hour pre-assignment course has a stand-alone price of \$149; and the sixteen hour on-the-job training course has a stand-alone price of \$189. Ex. E-1, Rodriguez Aff. ¶¶ 9, 16; Ex. E.

38. Consumers sign an Enrollment Agreement which specifies the training package for which the consumer is enrolling and further provides that C.P.I. will “guarantee Job Placement Assistance Service.” Respondents do not provide Spanish or Chinese translations of the Enrollment Agreement to non-English-speaking consumers, or explain the terms and conditions of the agreement. Rather, C.P.I. employees simply direct consumers to sign the Enrollment Agreement. Ex. E-1 Rodriguez Aff. ¶ 7; Ex. E-2, Meredith Aff. ¶ 6.

39. Respondents require consumers to tender up-front payments, which are described as a deposit or an enrollment or registration fee, of \$80-\$85, with the balance to be paid before the commencement of training. Payments must be made in cash or by money order. Ex. E-1, Rodriguez Aff. Ex. A at 12; Ex. E-12, Zheng Aff. ¶¶ 5-6.

#### The Training Package Itself Offers Little Value To Consumers

40. Respondents not only dupe consumers into paying for the \$399 training course package through the false promise of a job, but also falsely represent that all three classes must be completed to serve as a security guard. Ex. E-1 Rodriguez Aff. Ex. B at 9-11 (“I’ll [C.P.I. representative] need you to be here tomorrow [for classes] I’ll need you to be here Saturday. I need you to be here next week Monday through Thursday.”) (transcript of C.P.I. representative speaking to Investigator); Ex. E-14, Beltre Aff. ¶ 5 (“[B]efore I could start working Ms. Colon told me that I had to register as a security guard. In order to register, I had to take classes with C.P.I. that cost \$399.”); Ex. E-7, Zepada Aff. ¶ 5 (“Mr. Lugo told me that I could start working as a security guard. However, before I could start working I had to get my security guard registration. In order to get the registration, I had to take classes with C.P.I. that cost \$379.”).

41. In fact, under New York law, security guards are required to complete only one approved eight hour pre-assignment training course to register as a security guard and commence work. See Security Guard Act of 1992, G.B.L. Article 7A, § 89-n. The 16 hours of on-the-job training need only be completed within 90 days of beginning employment as a security guard. G.B.L. § 89-n(1)(A)-(B). Furthermore, there is no legal requirement that security guards take the Fireguard course offered by C.P.I. G.B.L. § 89-n; see also Ex. E-1, Rodriguez Aff. ¶ 9.

42. In addition, the \$399 fee charged by C.P.I. is significantly more than other comparable course offerings. For example, the eight-hour pre-assignment course – the only course actually required to register as a security guard in New York – is offered for free by the Manhattan Educational Opportunity Center for individuals who meet certain low-income eligibility guidelines. Onondaga Community College offers the course for \$75, and Hostos Community College offers the same course for \$65. Gold Security Guard Services offers the

eight-hour pre-assignment course alone for \$90, and the three-course package sold by C.P.I. for a total of \$265. See Ex. P, Listings for security guard training courses offered by Onondaga Community College, Hostos Community College, Gold Security Guard Services and the Manhattan Educational Opportunity Center.

43. Furthermore, although Respondents regularly enroll non-English speaking consumers, the courses are taught only in English. Indeed, a majority of the students in Investigator Rodriguez’s training class were primarily Spanish-speaking and were not proficient in reading, writing and speaking English. See Ex. E-1, Rodriguez Aff. ¶ 21. Respondents falsely represent to non-English speaking consumers that they will have no difficulty in completing the courses. See Ex. E-16, Kuffo Aff. at ¶ 7. However, non-English speaking individuals have serious problems understanding the training. See, e.g., Ex. E-13, Moscoso Aff. ¶ 7 (“I did not understand much of what was said in the classes”); Ex. E-16, Kuffo Aff. ¶ 9 (“I was unable to understand any of what was being taught, so I left after ten minutes.”). The following experiences of non-English speaking consumers are representative:

- When Spanish-speaker Gabriel Kuffo appeared for his “job interview” at C.P.I., he was promised a job that would begin the same week he completed his security guard training course and told that it was not necessary for him to speak or understand English in order to take C.P.I.’s courses. Ex. E-16, Kuffo Aff. ¶¶ 6-7. After arriving on the first day of classes, he left after just a few minutes because he did not understand anything that was being said in class. He later asked Respondents for a refund based on his inability to understand the English-language instruction. Ex. E-16, Kuffo Aff. ¶ 9. C.P.I. Manager Ms. Anderson denied his request for a refund even though she had earlier promised that it was not necessary to understand English in order to understand the classes. Id. at ¶¶ 7, 10.
- Rosa Zepada asked during her “job interview” whether her lack of proficiency in English would prevent her from working as a security guard and/or benefitting from the classes. In response, a C.P.I. employee told her that the classes were conducted in English but that “it didn’t matter if she didn’t understand everything” and that most of the class spoke Spanish. Ex. E-7, Zepada Aff. ¶ 5.

- Zhe Wen Zheng told his interviewer that he did not speak English well and was not suited to take a course in English. The interviewer responded that he had to take the course to get the job and that C.P.I. would help him complete the course and get a security guard license. Ex. E-12, Zheng Aff. ¶ 5.

44. In addition, C.P.I.'s courses do not cover all of the topics or provide the minimum hours of instruction required by New York State regulations. For example, the 16-hour on-the-job training class does not cover incident command systems or instruction related to terrorism, as mandated by state law. See 9 NYCRR § 6027.4 (Requiring two hours of instruction regarding incident command systems and four hours on terrorism); Ex. E-1, Rodriguez Aff. ¶ 17 (Instructor did not cover incident command systems at all and did not spend required four hours discussing terrorism related topics). In addition, the pre-assignment course taken by Investigator Rodriguez, which is required to offer eight hours of instruction, 9 NYCRR § 6027.3, provided at most only five hours of instruction, while the on-the-job-training course, which is supposed to provide sixteen hours of instruction, provided only ten hours of instruction. 9 NYCRR § 6027.4. The rest of the course time was spent on frequent breaks and discussion of baseball, other sports, and current events unrelated to security guard training. See Ex. E-1, Rodriguez Aff. ¶¶ 8-15; Ex. E-4, Carter Aff. ¶ 7.

45. Moreover, Respondents improperly combine what should be distinct courses into one class. For example, the class rosters submitted to DCJS by C.P.I. for January 4, 11, 18, 25, and 28, and February 1 and 15 of 2011 (pursuant to an affirmation signed by Respondent Charles Pierre under penalty of perjury) indicate that the same instructor taught both an eight hour pre-assignment class and an eight hour annual in-service training course on the same dates. New York law differentiates between "pre-assignment training" and "in-service training." The former is intended as introductory training for individuals who have never worked as a security guard

while the latter is designed to help security guards enhance their skills. These classes can not be held concurrently. See GBL § 89-n; 9 NYCRR §§ 6027.3, 6027.6. Nevertheless, Respondents gave both pre-assignment and in-service training credit for the same class, (Ex. Q, Class Rosters), and Director Charles Pierre falsely affirmed under penalty of perjury, that the individuals listed completed one of the two courses and that each “course meets the minimum standards set forth by rule or statute.” Investigator Rodriguez also observed that certain individuals in his eight hour pre-assignment class were actually seeking credit for annual in-service training. Ex. E-1, Rodriguez Aff. ¶ 10. These students did not take the pre-assignment test required for students in the pre-assignment class and instead left class early. Id. ¶ 12.

#### Consumers Do Not Obtain the Promised Jobs or Actual Real Job Referrals

46. Consumers who complete C.P.I.’s training do not receive the positions referenced in Respondents’ advertising and during the in-person “interviews.” Nor do Respondents provide these individuals with any meaningful job placement assistance services, as promised in C.P.I.’s Enrollment Agreement. See Ex. E-1 Rodriguez Aff. Ex. D. Indeed, none of the more than 100 individuals who complained to the OAG, the BBB, DCA, and DCJS were able to obtain a security guard position. See Exs. F, G, H and I. Investigator Rodriguez contacted 11 students who completed the C.P.I. courses with him, and not one was able to obtain a position as a security guard. Ex. E-1, Rodriguez Aff. ¶ 22.

47. After completing C.P.I.’s courses, consumers meet with C.P.I. Vice President Kenneth Pollard to obtain their “job placement.” During the meeting, which typically lasts around five minutes, Pollard gives students a Certificate of Course Completion and one or two job “referrals” that consist of a piece of paper with the name and address of a security guard company and a date and time for an appointment at the company’s location. When questioned

by Investigator Rodriguez about why he was being sent for interviews with security guard companies when he had already been promised a job, Vice President Pollard told Rodriguez, for the first time, that there was a process including an interview, and a background and referral check that applicants had to go through before getting the job. Ex. E-1, Rodriguez Aff. Ex I at 4-6. Evita Carter describes her meeting with Pollard as follows:

“[H]e told me that he would help me find a job. Mr. Pollard took out two forms from his office from a large stack of forms. Mr. Pollard wrote my name and date on a referral form for a security guard company called Cannady Security. He also handed me a second referral form, to a company called Metro-One, without adding my name or the date to the form.”

Ex. E-4, Carter Aff. ¶ 12.

48. Respondents’ “referrals,” which typically list a specific date and time period and the name of a specific contact person, perpetuate the false impression that Respondents have arranged job interview appointments with companies that are hiring security guards, that they have a relationship with the company and that they have communicated with the company to arrange an appointment. However, consumers who go to the “referred” companies find that the companies are not expecting them for an appointment, have not received any prior communication from C.P.I., have no relationship with C.P.I., and, in many cases, are not hiring. See, e.g., Ex. E-1, Rodriguez Aff. ¶ 19 (Defender Security representative “was not expecting me and took no notice when I mentioned that an interview had been scheduled by C.P.I.”); Ex. E-6, Rivera Aff. ¶ 9 (“[Security company representative] was not expecting me and did not acknowledge C.P.I. during our meeting. She told me that she did not have a job for me but that I could fill out and submit a job application form.”); Ex. E-5, Bonilla Aff. ¶ 9 (“[Security company representative] was not expecting me and did not acknowledge C.P.I. during our meeting and did not treat my application more favorably because I took classes at C.P.I. [She said] they would

call me, if a position became available.”); Ex. E-3, Lonergan Aff. ¶ 9 (“[Security company representative] was not expecting me”).

49. In fact, the job referral forms provide individuals no advantage whatsoever because anyone can visit the listed security guard companies with or without a “referral form,” and the companies do not consider a C.P.I. referral as a favorable factor in assessing a candidate. See Ex. E-4, Carter Aff. ¶ 13 (“When I read the referral forms, I saw that they were worthless. I knew from my previous experience applying for security guard positions that anyone could go to either of these two security guard companies (Cannady Security and Metro-One) and fill out an application to work as a security guard. These so-call ‘job referral’ forms would not, in any way, help an applicant get a job at either of these firms.”).

50. The experience of Juan Bonilla “interviewing” with Honor Guard Security is typical. Mr. Bonilla received a referral form from C.P.I. Vice President Pollard that purportedly scheduled a job interview for him with Ms. Irma Mercado. Mr. Bonilla “waited along with a group of others to see Ms. Mercado. Ms. Mercado was not expecting me and did not acknowledge C.P.I. during our meeting and did not treat my application more favorably because I took classes at C.P.I. In a matter of fact way, she told me to fill out and submit a job application form, which I did, and that they would call me, if a position became available.” Ex. E-5, Bonilla Aff. ¶ 9. Mr. Bonilla never heard from Honor Guard or C.P.I. after the meeting and has been unable to find work as a security guard. Id.

51. Rosa Zepada had a similar experience. She went to Metro One’s office in October 2010 and reported as follows: “I went to the front desk and told them I was there for an appointment. The guard at the front desk told me that they are not taking any personnel and that he was not sure why I was sent there. I showed the guard my job referral form and he told me

that it made no difference.” Ex. E-7, Zepada Aff. ¶ 9.

52. In some cases, consumers were turned away by companies because they did not have their security guard registration. See Ex. E-3, Lonergan Aff. ¶ 9; Ex. E-14, Beltre Aff. ¶ 9; Ex. E-2, Meredith Aff. ¶ 9. In contrast to Respondents’ assurance that those who complete C.P.I.’s courses will be eligible to immediately work as security guards, individuals must be registered with the New York State Division of Licensing Services before they work as security guards. In addition to completing an eight hour pre-assignment training course, there are numerous other legal requirements that individuals must meet to become registered, including the submission a \$36 application fee and a \$105.75 fingerprinting fee.<sup>4</sup> In fact, it can take several weeks for the Division of Licensing Services to process and approve a security guard application for registration. Yet, Respondents fail to inform consumers of these additional requirements and the process to formally register as a security guard.

53. The following is Scott Lonergan's account of his visit to Maximum Security’s office after receiving a C.P.I. “referral”:

“Ms. Manning [security company representative] was not expecting me. She asked me whether I had a security guard registration and whether I had been fingerprinted. She told me that it would cost over \$100 to be fingerprinted. I told her that I could not afford to pay for fingerprinting and that I had just paid C.P.I. \$399 for the training classes. She was extremely surprised and sympathetic. She told me that I could take the security guard training classes for free and did not understand why C.P.I. had charged me \$400 and why they would send me to Maximum Security

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<sup>4</sup> In order to be eligible to serve as a security guard, an individual must meet the following criteria: (1) be 18 years of age or older, (2) have completed an eight-hour pre-assignment training course, (3) have not been convicted of a felony or misdemeanor, (4) be a citizen or resident alien of the United States, (5) not owe four or more months of child support payments, (6) have never been discharged from a correctional or law enforcement agency for incompetence or misconduct or had a permit or license revoked, suspended or denied and (7) be of good moral character and fitness. G.B.L. Article 7A § 89-h. Applicants must also pay fees for processing of the application as well as a fee as determined by the federal bureau of investigation for the cost of its fingerprint search procedures. G.B.L. Article 7A § 89-i. A copy of the New York State security guard registration application form is attached as Ex. R to this Affirmation.

for a job interview when they knew that I did not have a registration and had not been fingerprinted and was therefore ineligible for a security guard position.” Ex. E-3, Lonergan Aff. ¶ 9.

54. In other cases, contrary to Respondents' representations that the available security guard position do not require prior experience, firms often reject applicants due to their lack of prior experience. See, e.g., Ex. E-14, Beltre Aff. ¶ 9 (“she [the representative] told me that they were looking for people who had security guard experience and that I would not be able to work as a security guard without a registration.”); Ex. E-2, Meredith Aff. ¶ 9 (“These employers were more interested in candidates who already had experience working as a security guard. They never contacted me about a security guard position and never showed any interest in my application.”).

55. Also, contrary to Respondents' representations that proficiency in English is not required, some of the security guard companies to which Respondents refer consumers reject applicants because they do not speak English. For example, Jose Moscoso reported “I visited McLane Security's office on March 15, 2011 after my meeting with Mr. Pollard. I waited along with a group of others to see a company official there. While I was waiting, an employee of McLane Security told a group of applicants who spoke only Spanish, including myself, that we would not be hired and that we should come back when we spoke English better.” Ex. E-13, Moscoso Aff. ¶ 9.

#### Respondents Ignore Consumer Complaints and Fail to Pay Refunds to Defrauded Consumers

56. Many consumers contact C.P.I. after they are unable to secure employment as a security guard. Respondents typically ignore such complaints. For example, Investigator Rodriguez spoke with C.P.I. Vice President Pollard after his appointment at Defender Security and complained to Mr. Pollard that the referral was useless because the company was not hiring.

Mr. Pollard responded by telling Investigator Rodriguez that he was “a professional” and should “stand on his own.” Although Pollard had previously told Investigator Rodriguez to call if he had any questions, he now stated that “he did not want people calling him with problems. . .he only wanted to hear from people with results.” Ex. E-1, Rodriguez Aff. ¶ 20.

57. Consumers who pay for and complete C.P.I. \$399 package of courses based on the promise of employment frequently seek refunds when they do not received the promised jobs. In many cases, Respondents do not even respond when individuals call to complain:

- Jose Moscoso called C.P.I. employee Ms. Colon after he was unable to obtain a position at a security guard company to which he was referred. She told him not to worry and that she would call him back. She never did. Ex. E-13, Moscoso Aff. ¶ 11.
- Scott Lonergan contacted C.P.I. Manager Ms. Anderson by phone after he was unable to obtain a security guard position. Ms. Anderson never returned his calls. Ex. E-3, Lonergan Aff. ¶ 11.
- Miguel Beltre called Vice President Pollard to complain. Mr. Pollard did not return his call. Ex. E-14, Beltre Aff. ¶ 10.

58. In any event, Respondents routinely fail to provide refunds to consumers who do not receive the jobs promised. See Ex. E-16, Kuffo Aff. ¶ 9 (denied refund request for \$399 payment in full for courses); Ex. E-7, Zepada Aff. ¶ 11 (denied refund request for \$379 payment in full for courses); Ex E-18, Cuartes Aff. ¶ 11 (denied request for \$379 refund); Ex. H at 456-78 (consumer who signed up for and completed courses based on promise of a job was denied refund). Trevor Dyll sought a \$349 refund after signing up and completing a homeland course with C.P.I. based on a promised of a \$12/hr. to \$15/hr. security job in a federal building upon completion of the course. Ex. F at 165-68. Respondents refused to award the refund and Mr. Dyll had to take the company to Civil Court where he was awarded a full refund. Ex. F at 179-80.

59. Respondents also refuse to refund deposits and partial payments made prior to the beginning of training - relying on language in the enrollment agreement which is generally not explained to consumers stating that deposits under \$100 are non-refundable.

- Bruno Francisco paid C.P.I. \$160 in cash because the company promised that after training he would earn \$15 to \$20 an hour as a security guard. Before classes began, he discovered many internet complaints about the company and requested a refund. C.P.I. ignored his several requests for a refund. A C.P.I. employee first told him that he had to check with his supervisors, then he was told to put the request in writing, and finally he was threatened with physical violence by a C.P.I. employee who told him that they knew where he lived. Ex. E-8, Francisco Aff. ¶¶ 5-8.
- Zhe Wen Zheng, who is not proficient in English, visited C.P.I.'s office and was promised a job by a Chinese speaking employee of C.P.I. He signed an enrollment agreement that was not translated into Chinese and gave a C.P.I. employee a \$100 bill for the deposit that was supposed to be \$80. No change was given. Zheng complained repeatedly and requested a refund until C.P.I. called security, who told Zheng to leave C.P.I.'s offices. Zheng filed a complaint with DCA. Ex. E-12, Zheng Aff. ¶¶ 5-6. In response to the complaint, Director Charles Pierre argued that Zheng agreed in the enrollment agreement that deposits under \$100 were non-refundable and offered to credit the \$100 towards his future enrollment for up to 90 days. Ex. H at 725. Ex. E-12, Zheng Aff. ¶ 6.

#### Respondents Currently Operate Without Approval from DCJS

60. Respondents currently operate their security guard training school without approval from DCJS, in violation of state regulations that require security guard training schools and security guard training courses to be approved by DCJS. See 9 NYCRR Parts 6027 and 6028. C.P.I.'s status as a security guard training school approved by DCJS expired on July 31, 2011. See Letter from Natasha Harvin dated August 30, 2011 attached as Ex. S. When C.P.I.'s approval period ended, C.P.I. did not submit a renewal application. Instead, Respondents began operating their business from the same location (62 Williams Street 2<sup>nd</sup> Floor) under a new name, Gateway Protection Security, Inc. Gateway Protection Security Inc. is not approved by DCJS to offer security guard training courses. Ex. S.

61. Even though Gateway is not approved and thus does not have authority to offer security guard training courses, Gateway continues to place print and internet advertisements purporting to offer security guard employment opportunities. See internet advertisements, attached as Ex. T and print advertisements, attached as Ex. K at 370, 378-90. Gateway's website states that Gateway "is the premier security training institute in the industry" and that it offers "job placement assistance to help" consumers who complete their security training programs "get started in their new careers." In addition, the website offers eighteen different security guard courses, including "an annual 8 hour security certifications [sic]" course. Ex. T at 1. However, individuals cannot obtain credit for completing Gateway's 8 hour annual in-service training course because Gateway is not an approved security guard training school. See 9 NYCRR §§ 6027 and 6028. By continuing to operate as a security guard training school, Respondents are in violation of the state regulatory scheme that requires DCJS approval of security guard training courses, instructors, and schools. See 9 NYCRR Parts 6027 and 6028.

Respondents Charles Pierre and Nicole Pierre are Individually Liable

62. Both Respondents Charles Pierre and Nicole Pierre are individually liable for the fraudulent and deceptive practices alleged in the Verified Petition.

63. Respondent Charles Pierre has been intimately involved in the management and day-to-day fraudulent operations of the company since its founding. He is listed as the school's owner on the company's initial security guard training school application and on its June 24, 2009 renewal application. See Ex. C. He is also listed as the owner of Gateway in Gateway's Certificate of Incorporation. See Ex. B. On November 10, 2008, he replaced Nicole Pierre as the School Director of C.P.I. and has served in that capacity since then. As the owner and School Director, Mr. Pierre:

- Pays for the placement of advertisements. Ex. K at 377 (July 15, 2011 invoice from El Especialito Jackson Heights for \$84 for advertising costs billed to Mr. Pierre).
- Uses a corporate credit card in his own name to pay for advertisements. Ex. K at 338-39 (invoice from Sing Tao Daily for \$140 for advertising costs from August 13, 2010 to September 12, 2010 billed to Mr. Pierre and paid for using a Visa credit card held in his name).
- Responds to consumer complaints submitted to government agencies and the BBB, and on occasion, directly to consumers requesting refunds. For example, Mr. Pierre met individually with consumer Evita Carter after Ms. Carter complained that she had been falsely promised a job in order to induce her to enroll in a course that she did not want or need. See Ex. E-4, Carter Aff. at ¶¶ 10-11; see also, Examples of responses submitted by Mr. Pierre in connection with complaints to government agencies (attached as Ex. U to affirmation).
- Is responsible for regulatory compliance with DCJS. For instance, submitted school renewal application on June 24, 2009 and responded to DCJS' unsatisfactory rating of C.P.I. following March 12, 2009 inspection based on late course completion documentation and failure to make training records and student examinations available for inspection. Ex. G at 37. In March 2009, Mr. Pierre was contacted by a representative of DCJS regarding complaints of false advertising and false promises of employment. See Ex. D. Mr. Pierre spoke with representatives of DCJS several times by telephone in connection with these types of complaints. Id.
- Signs Certificates of Completion attesting that each consumer has completed the applicable coursework for each course and that each course itself complies with applicable New York State requirements and regulations. See Ex. E-1 Rodriguez Aff. Ex. G.
- Reviews and signs class rosters under penalty of perjury, affirming that the individuals listed completed the course and that the "course meets the minimum standards set forth by rule or statute." See Ex. Q.
- Pays the company's bills. For instance, Mr. Pierre personally established an account with Con Edison for C.P.I.'s offices at 62 Williams Street and used personal checks to pay Con Edison. See Ex. V at 13 (C.P.I. business records obtained from Con Edison).

64. Moreover, records from a C.P.I. corporate credit card in Charles Pierre's name attached as Ex. W show that the card was used to purchase many personal/non-business related

items<sup>5</sup> and further demonstrates that Respondents including Mr. Pierre co-mingled monies by using a corporate credit card to pay for personal items.

65. Respondent Nicole Pierre is listed as a founder on C.P.I.'s application with the DCJC and served as School Director for C.P.I. from November 2007 until November 2008. See Ex. D. During the time that she served as School Director of C.P.I., Ms. Pierre personally responded to DCJS complaints regarding Respondents' practices. See Ex. G at 69, 78-80 (Correspondence between DCJS and Nicole Pierre relating to failure to provide DCJS with rosters in a timely manner and improper advertising of armed security guard training courses). Like Mr. Pierre, she also signed Certificates of Completion attesting that individuals had completed training classes. See Ex. G at 31-33. Even after she stepped down as School Director, Ms. Pierre remained involved in the company's business, placing many of the company's false and misleading advertisements. For example, from June 18, 2009 through August 2, 2010, Ms. Pierre personally placed 19 separate advertisements in the New York Post on behalf of C.P.I. Ex. L. Similarly, from July 2009 through June 2010, Ms. Pierre placed dozens of ads in the classified sections of local newspapers affiliated with the New York Daily News, including Hora Hispana, Bronx News, Metro and the Brooklyn News. See Ex. K at 276-77, 312-29, 343-71. Ms. Pierre also paid for advertisements in the Sing Tao Daily from July 10, 2010 to August 9, 2010 using a Visa credit card held in her name. See, e.g., Ex. K at 330-31

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<sup>5</sup>The OAG subpoenaed account records from VISA regarding six different corporate credit cards used by C.P.I. Two of the cards (ending in 1407 and 2907) are in Charles Pierre's name while one (ending in 9398) is in Nicole Pierre's name. See Ex. K at 327, 331, 339. All six accounts show numerous transactions involving purchases of advertisements from print and other media as well as purchases of hundreds of personal items. Charles Pierre's credit card accounts included purchases from Bebe Stores, Heights Liquor Sup, Brands Wine and Licquors, Bestbuycom, Gucci America, Ticketmaster, Modells, Kingway Boxing, Benihana, M2 Ultra Lounge, Wise Wine & Liquor, Louis Vuitton, Wall Street Wine Merchant, Cablevision, Lacoste, IHOP, GNC, Jetblue Airways, Fountainebleau Resorts, Rigel Dermatology, Walgreen, the Chief, Greenhouse, Best Western Seaport Inn, Cheap Tickets.com, American Airlines, Le Souk Harem, Spa Castle Inc., Hotel on Rivington, Madame X, and 809 Bar & Grill. Ex. W at 2-21, 25-31.

(invoice from Sing Tao Daily for \$150 for advertising costs billed to Charles and Nicole Pierre). Last, Nicole Pierre also co-mingled company monies by using the same credit card to purchase numerous personal items.<sup>6</sup>

#### NEED FOR A TEMPORARY RESTRAINING ORDER

66. As demonstrated above and through the more than 100 complaints and affidavits attached to this Affirmation, Respondents' business is replete with fraud.

67. Given the extensive evidence of Respondents' fraudulent practices, the OAG seeks a Temporary Restraining Order ("TRO") temporarily restraining Respondents from advertising employment opportunities, from offering to sell or selling any job assistance services and from offering to sell, selling, or conducting any security guard or other training courses. The TRO also seeks to temporarily restrain Respondents from transferring, converting or otherwise disposing of property or funds derived from Respondents' business as stated in the Order to Show Cause and to freeze any bank accounts that hold funds in the name of or to the credit of Respondents, including the personal bank accounts of Charles Pierre. The TRO further seeks to require Respondents to provide Petitioner within 24 hours with a list of all New York assets for each Respondent and the names and addresses of all banks at which Respondents maintain accounts.

68. The TRO sought by Petitioner is essential to protect the public from further harm and to ensure that funds are available from which to recover restitution for the thousands of consumers victimized by Respondents' deceptive scheme.

---

<sup>6</sup> Nicole Pierre purchased items using a corporate credit card in her name from the following companies: Jetblue Airlines, 42<sup>nd</sup> Street Wine Loft, American Airlines, Dream Seats, Civant Skin Care, Greenhouse, Target, McDonalds, Wal-Mart, Skin Care Nails and Spa, Albertsons, Sally Beauty, Rapid #51, La Sup-San Petro, South Bay Sup Court, the Veggie Grill, Beverages & Moore #56, Food4less, Sports Chalet, Elephant Bar, Aristo Café, and GAP USA. Ex. W at 22-24.

69. The victims of Respondents' fraud are financially strapped individuals who are looking for work and have little or no money to spare. Many had to borrow money or use money reserved for essential items such as rent to pay for C.P.I.'s training courses. See, e.g., Ex. E-6, Rivera Aff. ¶ 6 (borrowed money to pay for classes); Ex. E-3, Lonergan Aff. ¶ 6 (same); Ex. E-8, Francisco Aff. ¶ 6 (same); Ex. E-7, Zepada Aff. ¶ 6 (same); Ex. E-14, Beltre Aff. ¶ 6 (used money reserved for paying rent to pay for classes); Ex. E-5, Bonilla Aff. ¶ 6 (used money reserved for renewing driver's license to pay for classes). The loss of these funds is a substantial hardship to these individuals. See Ex. E-6, Rivera Aff. ¶ 14; Ex. E-13, Moscoso Aff. ¶ 14; Ex. E-2, Meredith Aff. ¶ 13; Ex. E-16, Kuffo Aff. ¶ 13. It is necessary for the court to freeze Respondents' assets to ensure that these and other victims of C.P.I. can be made whole.

70. Respondents' business is almost exclusively a cash business. See Ex. E-6, Rivera Aff. ¶ 6 (paid with cash); Ex. E-13, Moscoso Aff. ¶ 6 (same); Ex. E-2, Meredith Aff. ¶ 6 (same); Ex. E-3, Lonergan Aff. ¶ 6 (same). As such, C.P.I.'s revenues and cash-flow can be easily transferred or hidden. Therefore, there is an even greater need to secure whatever assets C.P.I. has to ensure that C.P.I.'s victims are compensated.

71. In addition, as discussed above in paragraphs 63-65, Charles and Nicole Pierre have improperly co-mingled monies from C.P.I. by paying bills out of his personal account and by using a corporate credit card in their names to pay for hundreds of personal expenses.

72. Moreover, C.P.I. lacks long-standing, well-established ties to the community. In its approximately four-year history, C.P.I. has already (1) changed its name from Prestige Security Consultants, Inc. to C.P. International Security, Inc., and recently began operating under a third name, Gateway Protection Security, Inc. and (2) changed its address three times (from 110 West 14<sup>th</sup> Street, to 116 John St., 2<sup>nd</sup> Floor, to 90 John Street, Suite 609, to 62 William

Street, 2<sup>nd</sup> Floor). Ex. D Canning Report (listing school address changes). Moreover, Respondents have previously moved locations without providing notice to DCA and the OAG making it difficult for these agencies to investigate complaints against C.P.I. See Ex. H at 231-34, 246-47, 258-59, 309-10. Recently, Respondents have moved out of their current address (62 Williams Street New York, NY) again without providing a forwarding address to any of their customers.

73. C.P.I. also constantly changes the telephone number it lists in its advertisements for consumers to call, which would not be necessary if they ran a stable and legitimate business. See Ex. K (listing dozens of different telephone numbers for consumers to call). C.P.I. also has a history of being delinquent in paying its Con Edison electricity bills, which casts further doubt on its financial stability and ultimate ability to provide restitution to its victims. See Ex. V at 2, 9. Together, these factors raise concerns that, absent a temporary restraining order, Respondents will dissipate their assets and leave their victims without recompense.

74. Unless Respondents are temporarily restrained from transferring or otherwise disposing of funds before a final order and judgment can be rendered in this case, there is a significant likelihood that Petitioner and all of Respondents' victims will be significantly prejudiced. Absent the grant of a temporary restraining order, Respondents may dispose of all of their assets, including potentially large sums of cash, and thereby frustrate any final order and judgment granting restitution and damages for the consumers who were victimized by Respondents' unlawful and fraudulent business practices.

75. In a fraud case, such as this proceeding, the confidence of the public in the government's ability to enforce laws governing transactions will be severely undermined if the Court fails to act swiftly to protect the funds available for refunds.

76. Because of Petitioner's legitimate concern that Respondents will transfer, convert, or otherwise dissipate their assets if given notice of this proceeding, Petitioner has not served Respondents with the notices provided for in GBL § 350-c, and has submitted the Order to Show Cause for a Temporary Restraining Order to the Ex Parte Clerk.

77. There has been no prior application for the relief sought herein.

CONCLUSION

78. Respondents prey on vulnerable New York consumers who are desperately seeking employment in dire financial times. Many are economically disadvantaged and do not speak English fluently. Respondents lure these consumers through false promises that they are offering high-paying security guard jobs, which in reality do not exist. Consumers who respond to Respondents' advertisements end up paying for overpriced security guard courses that they do not want or need, and that do not lead to the promised employment.

WHEREFORE, it is respectfully requested that the relief sought in the Verified Petition be granted in all respects, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York  
September 12, 2011



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Benjamin Lee  
Assistant Attorney General

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

-----X  
THE PEOPLE OF THE STATE OF NEW YORK,  
by ERIC T. SCHNEIDERMAN,  
Attorney General of the State of New York,

Petitioner,

-against-

Index No. 114 02466

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Assigned to Justice  
\_\_\_\_\_

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PROTECTION SECURITY, INC.; CHARLES PIERRE,  
individually and as principal of  
C.P. INTERNATIONAL SECURITY, INC. and GATEWAY  
PROTECTION SECURITY, INC.; and NICOLE PIERRE,  
individually and as principal of C.P. INTERNATIONAL  
SECURITY, INC.

Respondents.

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**MEMORANDUM OF LAW IN SUPPORT OF  
THE VERIFIED PETITION AND  
ORDER TO SHOW CAUSE FOR A TEMPORARY RESTRAINING ORDER**

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SUPREME COURT OF THE STATE OF NEW YORK  
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C.P. INTERNATIONAL SECURITY, INC. and GATEWAY  
PROTECTION SECURITY, INC.; and NICOLE PIERRE,  
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SECURITY, INC.,

Respondents.

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**MEMORANDUM OF LAW IN SUPPORT OF  
THE VERIFIED PETITION AND ORDER TO SHOW CAUSE  
FOR A TEMPORARY RESTRAINING ORDER**

Petitioner, the People of the State of New York, by Eric T. Schneiderman, Attorney  
General of the State of New York, submits this Memorandum of Law in support of the Verified  
Petition and Order to Show Cause for a Temporary Restraining Order.

**PRELIMINARY STATEMENT**

Petitioner brings this summary proceeding pursuant to Executive Law § 63(12) and  
Article 22-A, §§ 349 and 350 of New York General Business Law ("G.B.L.") for injunctive  
relief, restitution, damages, and civil penalties against respondents C.P. International Security,  
Inc. ("C.P.I."), Gateway Protection Security, Inc. ("Gateway"), Charles Pierre, and Nicole Pierre  
(collectively, "Respondents") for their fraudulent and illegal conduct, deceptive acts or practices,  
and false advertising in connection with the sale of security guard training courses. As set forth

fully in the Verified Petition and the Affirmation of Assistant Attorney General Benjamin Lee (the "Lee Aff."), Respondents have scammed thousands of unemployed, financially-insecure consumers by placing false advertisements of employment opportunities and making false promises of employment to deceive consumers into paying for security guard training courses.

For the reasons set forth below and in the Verified Petition and Lee Affirmation, the Attorney General seeks an order, *inter alia*, temporarily (a) enjoining Respondents from advertising, offering to sell or selling employment opportunities or job placement assistance and from offering to sell or selling security guard or other training, (b) enjoining Respondents from transferring, converting, selling, or otherwise disposing of property or funds in New York, and (c) freezing their bank accounts. Petitioner further requests that the Court (a) permanently enjoin Respondents from the fraudulent, deceptive and illegal acts and practices alleged in the Petition; (b) require Respondents to pay full restitution and damages to all injured consumers; and (c) require Respondents to pay penalties for their deceptive practices and false advertising.

### **STATEMENT OF FACTS**

The facts relevant to this proceeding, which are set forth in the Lee Affirmation and the exhibits annexed thereto, are summarized below.

Respondents have scammed thousands of consumers by placing phony job listings online and in numerous metropolitan area newspapers for security guard as well as other similar positions. Respondents advertise heavily in Spanish and Chinese-language newspapers to attract individuals who have limited English proficiency. The advertisements offer security guard positions with high salaries and attractive benefits and state that no experience is necessary. When consumers respond to these phony job listings, C.P.I. conducts "job interviews" and advises the consumers that they have been selected for a position. It is only after promising the

consumers employment that C.P.I. informs the consumers that before they can begin working at the promised positions, the consumers must complete a series of three security guard training courses offered by C.P.I. at a cost of \$399. C.P.I. promises consumers that they will be able to start working in the promised positions as soon as they complete C.P.I.'s security guard training courses. However, when consumers complete C.P.I.'s training courses, C.P.I. does not provide employment. Instead, C.P.I. offers graduates worthless "referrals" to security guard companies. These "referrals" consist of a piece of paper listing the name and address of a security guard company, as well as a date and time period for a purported appointment to interview for a position with the company. When consumers appear at the designated place and time, they find that the companies have no knowledge of C.P.I., are not expecting the consumer for an interview, and are not actually hiring.

Respondents also falsely represent that consumers must complete the entire \$399 package of courses to be eligible to work as a security guard. Contrary to Respondents' representation, to register and begin work as a security guard, New York law requires security guards to complete only one of the three courses in the series -- the eight hour pre-assignment training course. Moreover, C.P.I.'s training courses, which cost significantly more than comparable training offered elsewhere, fail to comply with New York requirements for security guard training courses, including requirements for minimum hours of instruction and topics that must be covered. In addition, although C.P.I. targets advertising to Spanish-speaking and Chinese-speaking consumers and assures consumers with limited English skills that English proficiency is not required to complete C.P.I.'s courses, C.P.I.'s courses are taught exclusively in English, preventing consumers who are not proficient in English from fully understanding the training. Finally, consumers who complete the courses find that, contrary to Respondents' representations,

they are not be eligible to work as a security guard immediately upon completion of the training because registration as a security guard with the State Division of Licensing requires an additional application process and additional fees.

Furthermore, although C.P.I.'s approval from the New York State Division of Criminal Justice Services ("DCJS") to operate as a security guard training school expired on July 31, 2011, Respondents continue to advertise security guard positions on the internet and in print ads.<sup>1</sup> Respondents also operate their security guard training school from the same location under a new name, Gateway Protection Security Inc. See Lee Aff. ¶ 60. Gateway also lacks DCJS approval to operate as a security guard training school. See id. Respondents' operation of an unapproved security guard training school violates the state regulatory scheme that requires DCJS approval of security guard training courses, instructors, and schools. Furthermore, Respondents falsely represent that completion of the unapproved courses will lead to eligibility to work as a security guard (see Lee Aff. ¶ 61), when in fact, security guards must complete courses at an approved school to be eligible.

The evidence of Respondents' fraudulent scheme is overwhelming. As set forth below and in the Lee Affirmation and Exhibits thereto, the evidence includes transcripts of recordings made during the Office of the Attorney General's ("OAG") undercover investigation of Respondents; the Affidavit of the OAG undercover investigator; over 100 consumer complaints submitted to the OAG, the Better Business Bureau of Metropolitan New York (the "BBB"), the New York City Department of Consumer Affairs (the "DCA"), and the New York State Division of Criminal Justice Services ("DCJS"); affidavits from 18 consumers; copies of more than 100 false advertisements of employment placed by Respondents; records provided to the OAG pursuant to subpoenas to the newspapers where Respondents placed the false advertisements;

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<sup>1</sup> On July 27, 2011, C.P. International Security, Inc. filed a dissolution by proclamation.

and substantial additional documentary evidence.

## ARGUMENT

### **I. RESPONDENTS' ACTIVITIES CONSTITUTE REPEATED AND PERSISTENT FRAUD AND ILLEGALITY IN VIOLATION OF EXECUTIVE LAW § 63(12)**

Executive Law § 63(12) empowers the Attorney General to bring a special proceeding for permanent injunctive relief, restitution, and damages whenever a person or business engages in “repeated or persistent fraud or illegality.” “Repeated” is defined as conduct which affects more than one person. People v. Empyre Inground Pools, Inc., 227 A.D.2d 731, 733 (3d Dep’t 1996). The Attorney General is not required to establish that a large percentage of the person’s or business’s transactions were fraudulent or illegal. State v. Princess Prestige Co., 42 N.Y.2d 104, 107 (1977) (finding 16 out of 3,600 total transactions a sufficient basis to proceed under Executive Law § 63(12)). Accordingly, the existence of some satisfied consumers is not a defense to otherwise fraudulent and illegal practices. State v. Midland Equities of N.Y., Inc., 117 Misc. 2d 203, 207 (Sup. Ct. N.Y. Co. 1982); Federal Trade Comm’n v. Crescent Publ’g Group Inc., 129 F. Supp. 2d 311, 322 (S.D.N.Y. 2001).

#### **A. Respondents Have Engaged in Repeated and Persistent Fraud within the Meaning of Executive Law § 63(12)**

The term “fraud” acquires a special meaning within the context of Executive Law § 63(12). Executive Law § 63(12) defines the words “fraud” or “fraudulent” to include “any device, scheme or artifice to defraud and any deception, misrepresentation, concealment, suppression, false pretense, false promise or unconscionable contractual provisions.” Courts have consistently applied an extremely broad view of what constitutes fraudulent and deceptive conduct in proceedings brought by the Attorney General under Executive Law § 63(12), going well beyond the view of fraud and deception that is found in the common law. See, e.g.,

Lefkowitz v. Bull Investment Group, 46 A.D.2d 25, 28 (3d Dep't 1974), aff'd, 35 N.Y.2d 647 (1975); 21<sup>st</sup> Century Leisure Spa Int'l Ltd., 153 Misc. 2d at 943 (Sup. Ct. N.Y. Co. 1991). Thus, it is well-settled that it is not necessary to establish the traditional elements of common law fraud, such as intent to deceive and reliance, in order to establish liability for statutory fraud under Executive Law § 63(12). People v. Apple Health & Sports Clubs, Ltd., 206 A.D.2d 266, 267 (App. Dep't 1994), appeal denied, 84 N.Y.2d 1004 (1994); 21<sup>st</sup> Century Leisure Spa Int'l Ltd., 153 Misc. 2d at 944; State v. Ford Motor Co., 136 A.D.2d 154, 158 (3d Dep't 1988), aff'd, 74 N.Y.2d 495 (1989).

The test of fraudulent conduct under Executive Law § 63(12) is whether the act “has the capacity or tendency to deceive, or creates an atmosphere conducive to fraud.” In re People v. Applied Card Systems, Inc., 27 A.D.3d 104, 107 (3d Dep't 2005), aff'd on other grounds, 11 N.Y.3d 105 (2008); People v. General Elec. Co., 302 A.D.2d 314 (1st Dep't 2003). Executive Law § 63(12) protects the credulous and the unthinking as well as the cynical and the intelligent; the trusting as well as the suspicious. General Elec., 302 A.D.2d at 314; Applied Card, 27 A.D.3d at 106; Guggenheimer v. Ginzburg, 43 N.Y.2d 268, 273 (1977).

In this case, the evidence submitted by Petitioner overwhelmingly demonstrates that Respondents engaged in repeated fraudulent conduct within the meaning of Executive Law § 63(12) by, inter alia, placing hundreds of false advertisements of job opportunities and making false promises of high-paying jobs to consumers to trick them into purchasing security guard training courses. See Lee Aff. ¶ 18 - 26. Respondents falsely represent the wages and benefits that consumers would receive and that security guard positions were available to applicants with little or no experience. See Lee Aff. ¶ 27 - 28. Respondents also falsely represent that C.P.I. provides meaningful job placement assistance. See Lee Aff. ¶ 38. In fact, the promised jobs do

not exist and C.P.I. provides no job placement assistance whatsoever. More than 100 consumers complained to the OAG, BBB, DCA, and DCJS about the above-described practices. See Lee Aff., Exs. F, G, H, and I.

The practice of making false offers of employment to induce consumers to pay for training courses or other services constitutes a fraudulent and illegal practice within the meaning of Executive Law § 63(12). See, e.g., Lefkowitz v. Person, 75 Misc. 2d 252 (Sup. Ct. N.Y. Co. 1973) (enjoining paralegal training school from misrepresenting the state of the job market for paralegals and ordering the creation of a restitution fund for students); State v. Management Transition Resources, 115 Misc. 2d 489 (Sup. Ct. N.Y. Co. 1982) (granting injunctive relief and restitution to consumers where company made false representations that it would help consumers obtain employment). Even in the context of a private action against a vocational school, a school's false promise of employment has been found to constitute fraud in the inducement of a contract to enroll in the school. See Joyner v. Albert Merrill School, 97 Misc. 2d 568 (N.Y. Civ. Ct. 1978).

The Federal Trade Commission Guides for vocational schools provide additional support for the proposition that false offers of employment constitutes fraud within the meaning of Exec. Law § 63(12).<sup>2</sup> Pursuant to these Guides, a vocational school's false advertisements of employment or false promises of employment constitute false and misleading practices in violation of Section 5 of the of the Federal Trade Commission ("FTC") Act of 1914, 15 U.S.C. § 45. See 16 C.F.R. 254, et seq., <http://www.ftc.gov/bcp/guides/vocation-gd.htm>. The FTC's Guides for vocational schools provide that the following acts, all of which are engaged in by

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<sup>2</sup> It is well established that the interpretation of the deceptive practices provision of FTC Act § 5 is a guide for construing what constitutes fraud or deception under Exec. Law § 63(12). See Oswego Laborers' Local 214 Pension Fund v. Marine Midland Bank, 85 N.Y.2d 20, 26 (1995), Applied Card., 27 A.D.3d at 107, State v. Feldman, 210 F. Supp. 2d 294, 302 (S.D.N.Y. 2002); In re State v. Colorado State Christian College of the Church of the Inner Power, Inc., 76 Misc. 2d 50, 55 (Sup. Ct. N.Y. Co. 1973).

Respondents, are deceptive:

- using advertisements that misrepresent, directly or by implication, that employment is being offered (16 C.F.R. § 254.7(a));
- misrepresenting, directly or indirectly, that the school is an employment agency or an employment agent, or otherwise deceptively concealing the fact that it is a school (16 C.F.R. § 254.2(b)(2));
- misrepresenting, directly or indirectly, the nature and extent of job placement assistance offered by the school (16 C.F.R. § 254.4(a)(7));
- misrepresenting, directly or by implication, the availability of employment after graduation (16 C.F.R. § 254.4(d)); and
- misrepresenting, directly or by implication, the salary that graduates will receive in employment after graduation (16 C.F.R. § 254.4(d)).

In addition to engaging in the above-referenced fraudulent acts, Respondents have engaged in fraudulent conduct within the meaning of Executive Law § 63(12) by falsely representing that consumers must complete all three of the courses offered by C.P.I. to work as a security guard and that once they do so they will be immediately eligible to work. In fact, only one of the three courses must be completed prior to beginning work as a security guard (see G.B.L. Article 7A, § 89-h(2)). Furthermore, to be eligible to work as a security guard, graduates must be registered with the State Division of Licensing -- a process that requires additional fees, fingerprinting, and application approval. See G.B.L. Article 7A, § 89-h.

Finally, Respondents target Spanish-speaking and Chinese-speaking consumers, many of whom are not proficient in English, by placing advertisements in Spanish-language and Chinese-language newspapers. Respondents falsely represent to such consumers that English language proficiency is not required to benefit from C.P.I.'s courses, when in reality C.P.I.'s courses are taught exclusively in English. See Lee Aff. ¶ 43. In addition, Respondents falsely represent that English language proficiency is not required to secure a security guard position, when in reality,

English proficiency is required by some actual employers of security guards. See Lee Aff. ¶ 55.

**B. Respondents have Engaged in Repeated and Persistent Illegality within the Meaning of Executive Law § 63(12)**

A violation of state, federal, or local law constitutes illegality within the meaning of Executive Law § 63(12) and is actionable thereunder when persistent or repeated. Princess Prestige, 42 N.Y.2d at 107; Empyre Inground, 227 A.D.2d at 733; Lefkowitz v. E.F.G. Baby Products, 40 A.D.2d 364 (3d Dep't 1973). Respondents' repeated and persistent violations of G.B.L. Article 22-A, §§ 349 and 350, and Title 9 NYCRR Parts 6027 and 6028 are actionable under Executive Law § 63(12).

**(i) Respondents repeatedly and persistently violate G.B.L. Article 22-A, § 349**

G.B.L. Article 22-A, § 349 states: "Deceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service in this state are hereby declared unlawful." The definition of deceptive practices under G.B.L. § 349 is given parallel construction to that of fraud under Executive Law § 63(12). In re State v. Colorado State Christian College of the Church of the Inner Power, Inc., 76 Misc. 2d 50, 54 (Sup. Ct. N.Y. Co. 1973).

Like Executive Law § 63(12), G.B.L. § 349 is "intended to be broadly applicable, extending far beyond the reach of common law fraud." State v. Feldman, 210 F. Supp. 2d 294, 301 (S.D.N.Y. 2002). As with statutory fraud under Executive Law § 63(12), the elements of common law fraud need not be established to demonstrate a violation of G.B.L. § 349. Applied Card, 27 A.D.3d at 107; General Elec., 302 A.D.2d at 315; People v. Network Assocs. Inc., 195 Misc. 2d 384, 389 (Sup. Ct. N.Y. Co. 2003); Colorado State Christian College, 76 Misc. 2d at 56. Thus, a practice may carry the capacity to mislead or deceive a reasonable person, and thus violate G.B.L. § 349, and not be fraudulent under common law. Gaidon v. Guardian Life Ins.,

94 N.Y.2d 330, 348 (1999). Even omissions may be the basis for claims pursuant to G.B.L. § 349. Applied Card, 27 A.D.3d at 107.

G.B.L. § 349 declares unlawful “[d]eceptive acts or practices in the conduct of any business, trade or commerce or in the furnishing of any service” in New York. A representation or omission is deceptive pursuant to G.B.L. § 349 if it is likely to mislead a reasonable consumer acting reasonably under the circumstances. Oswego Laborers’ Local 214 Pension Fund v. Marine Midland Bank, 85 N.Y.2d 20, 26 (1995).

Respondents’ false advertisements, false promises of employment, and other fraudulent and deceptive acts detailed above and in the Petition and Lee Affirmation constitute deceptive acts and practices in violation of G.B.L. § 349 and constitute repeated illegality within the meaning of Executive Law § 63(12). See, e.g., Mgmt. Transition, 115 Misc. 2d at 491 (falsely advertising that Respondents could “help people seeking a better job” a deceptive practice under G.B.L. § 349).

**(ii) Respondents repeatedly and persistently violate G.B.L. Article 22-A, § 350**

G.B.L. Article 22-A, § 350 states: “False advertising in the conduct of any business, trade or commerce or in the furnishing of any service in this state is hereby declared unlawful.” G.B.L. § 350-a defines false advertising as advertising which is “misleading in material respect.” In determining whether advertising is misleading, G.B.L. § 350-a provides: “[T]here shall be taken into account (among other things) not only representations made by statement, word, design, device, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in light of such representations with respect to the commodity to which the advertising relates under the conditions proscribed in said advertisement or other such conditions as are customary and usual.”

The test for false advertising, like the test for deceptive practices, is whether the representations or omissions are “likely to mislead the reasonable consumer acting reasonably under the circumstances.” Applied Card, 27 A.D.3d at 107, citing Oswego, 85 NY2d at 26. For conduct to be actionable, “it need not rise to the level of fraud” (Gaidon, 94 N.Y.2d at 343); even omissions may be the basis for such claims. Bildstein v. MasterCard Intl., 2005 WL 1324972 \*3 (S.D.N.Y., June 6, 2005). Proof of intent to deceive is not necessary, and furthermore, it is not necessary to show that the advertising in question actually deceived any consumer. People v. Wilco Energy, 284 A.D.2d 469, 470-71 (2d Dep’t 2001); State v. Abandoned Funds Info. Center, Inc., 129 Misc. 2d 614, 617 (Sup. Ct. N.Y. Co. 1985).

It is well-settled that whether an advertisement or claim is deceptive depends on its overall or net impression. See Kraft, Inc. v. FTC, 970 F.2d 311, 314 (7th Cir. 1992), cert. denied, 507 U.S. 909 (1993); In re Thompson Med. Co., 791 F.2d 189, 197 (D.C. Cir. 1986), cert. denied, 479 U.S. 1086 (1987); State v. National Home Protection, 2009 WL 4821492 (Sup. Ct. N.Y. Co. 2009) (holding that disclosures included in “terms and conditions” section of solicitation were insufficient to alter misleading net impression of the solicitation). “The ultimate impression upon the mind of the reader arises from the sum total of not only what is said but also of all that is reasonably implied.” Aronberg v. FTC, 132 F.2d 165, 167 (7th Cir. 1942); see also Guggenheimer, 43 N.Y.2d at 273. Even advertisements or claims that are literally or technically true are considered deceptive if they create a false impression or if they are subject to more than one interpretation, one of which is false. E.F.G. Baby Products, 40 A.D.2d at 368; Ciba-Geigy Corp. v. Thompson Medical Co., 672 F. Supp. 679 (S.D.N.Y. 1985); American Home Products Corp. v. FTC, 695 F.2d 681, 688 (3d Cir. 1982).

Respondents’ acts, as detailed above and in the Petition and Lee Affirmation, constitute

false advertising within G.B.L. § 350 and constitute repeated illegality within the meaning of Executive Law § 63(12). Respondents' advertisements are false, deceptive and misleading in several material respects. The advertisements create the impression that that they were placed by or on behalf of a business seeking to hire security guards and that actual security guard positions exist. In fact, the advertised positions do not exist, and the advertisements are simply the bait that Respondents use to sell their security guard training courses. The advertisements fail to disclose that Respondents really intend to sell security guard training courses to consumers who respond to the advertisements.

Respondents have placed hundreds of advertisements of employment opportunities that are false, misleading, and deceptive. Although the Attorney General need not show that a single consumer was misled by Respondents' conduct to establish liability under G.B.L. §§ 349 and 350 (see Mgmt. Transition Resources, Inc., 115 Misc.2d at 491), the evidence establishes overwhelmingly that consumers were routinely misled by Respondents' false advertising and deceptive business practices. See Lee Aff. Exs. E, F, G, H, and I.

**iii. Respondents Repeatedly and Persistently Violate Title 9 NYCRR Parts 6027 and 6028 by Failing to Meet Minimum Requirements for Security Guard Training Schools**

Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12) by repeatedly and persistently violating state regulations governing security guard training courses and security guard training schools by conducting courses and awarding course certificates for courses that do not meet the mandated standards. In addition, beginning on July 31, 2011, Respondents have engaged in repeated and persistent illegal conduct in violation of Executive Law § 63(12) by operating their security guard training school without approval from DCJS, in violation of state regulations governing security guard training schools.

G.B.L. § 89-n provides that security guards must complete a training program administered by a security guard training school that is approved by the Commissioner of DCJS pursuant to Executive Law § 841-c. Executive Law § 841-c provides that the Commissioner shall approve and certify security guard training schools and courses and shall prescribe minimum requirements for security guard training courses. State regulations promulgated pursuant to this section provide minimum requirements for schools and courses (see 9 NYCRR §§ 6027 and 6028) and provide that “no security guard training course shall be conducted which does not meet the minimum standards as set forth in this Part.” 9 NYCRR § 6027.11(a). The regulations provide specific minimum requirements for each type of security guard training course, such as the eight hour pre-assignment course (9 NYCRR § 6027.3), the 16 hour on-the-job training course (9 NYCRR § 6027.4), and the annual eight hour in-service course (9 NYCRR § 6027.6), including the minimum number of hours of instruction and required topic areas. The regulations also provide that the School Director of a security guard training school is responsible for ensuring that schools and courses are conducted in accordance with applicable standards. See 9 NYCRR § 6027.11(b) and 9 NYCRR 6028.7(b). The regulations further provide that certificates of completion of security guard courses shall be issued “[u]pon attestation by a school director that an individual . . . has satisfactorily completed the requirements of a security guard training course.” 9 NYCRR § 6027.12(c).

As set out in detail in the Verified Petition and Lee Affirmation, Respondents have repeatedly and persistently violated the requirements of 9 NYCRR §§ 6027 and 6028 by their acts and practices, including but not limited to:

- conducting security guard training courses that provide fewer than the minimum number of hours of instruction;
- conducting security guard training courses that do not cover all of the required topic areas (for example, conducting 16-hour on-the-job training courses that do not provide

- instruction related to incident command systems or terrorism);
- combining distinct courses, such as the eight-hour pre-assignment training course with the annual eight hour in-service training course;
  - attesting that Respondents' training courses meet state minimum requirements when they do not, and
  - providing certificates of completion to consumers who complete courses that do not meet the requirements.

Furthermore, Respondents Charles Pierre and Nicole Pierre have repeatedly violated 9 NYCRR §§ 6027.11(b), 6027.12(c) and 6028.7(b) by failing to ensure that C.P.I.'s security guard training courses and security guard training school were conducted in accordance with the standards set out in the applicable regulations and by issuing certificates of completion for courses that did not meet the applicable standards.

**iv. Respondents Repeatedly and Persistently Violate Title 9 NYCRR Parts 6027 and 6028 by Operating a Security Guard Training School Without Authorization**

9 NYCRR Part 6028 is intended to set out the "minimum qualifications for approval as a security guard training school," 9 NYCRR § 6028.2, while 9 NYCRR § 6027 is intended to set out the "minimum standards for the security guard training courses," 9 NYCRR § 6027.2. In addition to providing detailed requirements for approval for security guard training schools and courses, both Parts provide that "the Commissioner shall grant approval" of a security guard training school and courses when "in his or her judgment, the information provided warrants approval." 9 NYCRR §§ 6028.4(e) and 6027.8(c).

However, Respondents are currently operating without approval from DCJS, in violation of the state regulatory scheme that requires DCJS approval of security guard training courses, instructors, and schools. See 9 NYCRR §§ 6027.2; 6027.8; 6027.11; 6028.2; 6028.3; 6028.4, and 6028.7. C.P.I.'s approval to operate as a security guard training school expired on July 31, 2011, and C.P.I. did not submit a renewal application to DCJS. See Lee Aff. ¶ 60. Despite C.P.I.'s unapproved status, Respondents continue to advertise security guard positions and to

operate a security guard training school under a new name, Gateway Protection Security Inc. See id. Respondents represent on a website under Gateway’s name that Gateway “is the premier security training institute in the industry” and that it offers “job placement assistance to help” consumers who complete their security training programs “get started in their new careers.” See Lee Aff. ¶ 61. However, Gateway, like C.P.I., lacks DCJS approval to operate as a security guard training school. See Lee Aff. ¶ 60. Respondents also represent on Gateway’s website that Gateway offers eight-hour security guard “certification” courses. See Lee Aff. ¶ 61. However, because Gateway is not an approved security guard training school, students who complete Gateway’s courses are not eligible to work as a security guard. See G.B.L. § 89-n.

**II. RESPONDENTS CHARLES PIERRE AND NICOLE PIERRE ARE PERSONALLY LIABLE FOR THE REPEATED AND PERSISTENT ILLEGAL AND FRAUDULENT ACTS ALLEGED IN THE PETITION**

Executive Law § 63(12) is directed against “any person” who “shall engage in repeated fraudulent or illegal acts.” Similarly, G.B.L. § 349 provides that the Attorney General may bring an action to enjoin conduct in violation of G.B.L. § 349 when the Attorney General believes that “any person” has engaged in or is about to engage in such violations, and G.B.L. § 350-d provides that “any person” may be liable for civil penalties for violations of G.B.L. §§ 349 and 350. It is well-settled that corporate officers and directors are liable for illegal or fraudulent acts in violation of Executive Law § 63(12) and G.B.L. §§ 349 and 350 if they personally participate in the illegal or fraudulent acts or have actual knowledge of them. Apple Health & Sports Clubs, Ltd., 80 N.Y.2d at 807; People v. Court Reporting Inst., 245 A.D.2d 564 (2d Dep’t 1997); Empyre Inground, 227 A.D.2d at 734; People v. Concert Connection Ltd., 211 A.D.2d 310 (2d Dep’t 1995); Midland Equities, 117 Misc. 2d at 208; Management Transition Resources, 115 Misc. 2d at 492. Where such liability is found, all the relief that can be obtained against a

corporate entity can also be obtained against the officers or directors of the corporation, including injunctive relief, restitution, penalties, and costs. See, e.g., State v. Frink Am. Inc., 2 A.D.3d 1379, 1381 (4th Dep't 2003); Court Reporting Inst., Inc., 245 A.D.2d at 565; People v. American Motor Club, Inc., 179 A.D.2d 277, 284-85 (1st Dep't 1992); State v. Daro Chartours, Inc., 72 A.D.2d 872, 873 (3d Dep't 1979); 21<sup>st</sup> Century Leisure Spa Int'l Ltd., 153 Misc. 2d at 944. As set forth in the Lee Affirmation and below, Respondents Charles Pierre and Nicole Pierre have participated in and had knowledge of the conduct alleged in the Petition, and thus are personally liable for this conduct.

A. Respondent Charles Pierre

Respondent Charles Pierre is the owner, principal, and Director of C.P.I. and the owner and principal of Gateway. Mr. Pierre is directly involved in the management and day-to-day operation of C.P.I. and Gateway and has knowledge of and has personally participated in the fraudulent, illegal, and deceptive practices described above and in the pleadings. He represents C.P.I. in interactions with DCJS, the entity responsible for regulation of security guard training schools in New York State, and has submitted the school's renewal application to DCJS and personally responded to DCJS' unsatisfactory rating of C.P.I. following its inspection based on late course completion documentation and failure to make training records and student examinations available for inspection. He has also handled inquiries by DCJS and other governmental agencies, including the OAG and the New York City Department of Consumer Affairs, regarding C.P.I.'s deceptive advertisements and consumer complaints. See Lee Aff. ¶ 63.

In addition, Mr. Pierre pays for the placement of some of C.P.I.'s false and misleading advertisements and other business expenses. See Lee Aff., Ex. K. He also regularly reviews

and signs class rosters and certificates of completion for C.P.I. course graduates. See Lee Aff., Ex. Q. As set forth above, Mr. Pierre has improperly provided certificates of completion to students who attended courses that did not meet the minimum requirements of state regulations. See Lee Aff. ¶ 63. Finally, Mr. Pierre has co-mingled C.P.I.'s corporate funds with his personal funds. See Lee Aff. ¶ 63 - 64. Mr. Pierre has used personal checks to pay C.P.I.'s bills. See Lee Aff. ¶ 63. Mr. Pierre has also used a C.P.I. corporate credit card in his name to make numerous personal, non-business purchases, including purchases from liquor stores, Gucci America, Louis Vuitton, Bestbuy.com, Ticketmaster and JetBlue Airways. See Lee Aff. ¶ 64.

B. Respondent Nicole Pierre

Nicole Pierre was also directly involved in the management and day-to-day operation of C.P.I. and had knowledge of and personally participated in the fraudulent and deceptive practices alleged in the pleadings. Ms. Pierre served as the School Director for C.P.I. from November 2007 until November 2008. See Lee Aff. ¶ 65. Ms. Pierre personally placed many of C.P.I.'s false and misleading advertisements. See Lee Aff., Ex. L. In addition, Ms. Pierre personally reviewed and responded to multiple consumer complaints to DCJS concerning C.P.I.'s false offers of employment, further demonstrating her knowledge of C.P.I.'s deceptive acts and practices. See Lee Aff., Ex. P. Ms. Pierre has also signed certificates of completion for C.P.I. course graduates. See Lee Aff., Ex. G. Ms. Pierre also used a C.P.I. corporate card in her name to make numerous personal, non-business purchases including purchases from a liquor store, American Airlines, Wal-Mart, GAP USA, and Skin Care Nails and Spa. See Lee Aff., Ex. W.

**III. PETITIONER'S ORDER TO SHOW CAUSE FOR A TEMPORARY RESTRAINING ORDER SHOULD BE GRANTED**

Petitioner seeks a Temporary Restraining Order, *inter alia*, temporarily (a) enjoining Respondents from advertising, offering to sell or selling employment opportunities or job

placement assistance and from offering to sell or selling security guard or other training, (b) enjoining Respondents from transferring, converting, selling, or otherwise disposing of property or funds in New York, and (c) freezing their bank accounts. Significant harm would result to Petitioner and to the public in the absence of a temporary restraining order. Without a restraining order enjoining Respondents from continuing their fraudulent scheme, Respondents will be able to defraud additional consumers. In addition, without a temporary restraining order enjoining Respondents from disposing of funds and freezing Respondents' bank accounts, there will be no assurance that funds will be available to compensate victims of Respondents' scheme or to otherwise satisfy Petitioner's likely judgment in this special proceeding.

Pursuant to Executive Law § 63(12), courts are empowered to grant wide-ranging equitable relief, including temporary restraining orders or preliminary injunctions, to redress the kind of fraudulent or illegal conduct engaged in by Respondents. See, e.g., Apple Health & Sports Club, Ltd., 80 N.Y.2d at 807. The power of the court to grant and the standing of the Attorney General to seek broad remedial relief is not simply a matter of statutory authority under Executive Law § 63(12), but is grounded in general equitable principles. Once the equitable jurisdiction of the court is invoked, the full range of equitable remedies becomes available to the court. The court's power is not to be limited except by a clear provision in the statute. Porter v. Warner Co., 328 U.S. 395, 397-98 (1946). Furthermore, where the public interest is served, the court's powers are even broader than in private litigation. Id. In Porter v. Warner Co., the Supreme Court stated:

[T]he Administrator invoked the jurisdiction of the District Court to enjoin acts and practices made illegal by the Act and to enforce compliance with the Act. Such a jurisdiction is an equitable one. Unless otherwise provided by statute all the inherent equitable powers of the District Court are available for the proper and complete exercise of that jurisdiction. And since the public

interest is involved in a proceeding of this nature, those equitable powers assume an even broader and more flexible character than when only a private controversy is at stake. In addition, the court may go beyond the matters immediately underlying its equitable jurisdiction and decide whatever other issues and give whatever other relief may be necessary under the circumstances...

Moreover, the comprehensiveness of this equitable jurisdiction is not to be denied or limited in the absence of a clear and valid legislative command. Unless a statute in so many words, or by a necessary and inescapable inference, restricts the court's jurisdiction in equity, the full scope of that jurisdiction is to be recognized and applied.

328 U.S. at 397-98 (emphasis added, citations omitted). See also Mitchell v. Robert DeMario Jewelry, Inc., 361 U.S. 288 (1960).

A court's power to grant equitable relief such as that authorized under Executive Law § 63(12) includes the power to award the kind of interim ancillary relief requested here. In FTC v. Southwest Sunsites, Inc., 665 F.2d 711 (5th Cir. 1982), cert. den., 456 U.S. 973 (1982), the circuit court held that the trial court had the equitable power to grant preliminary relief to protect consumers, including freezing the assets of defendants, who were targets of a investigation by the FTC into consumer fraud. The court recognized that:

In the exercise of this inherent equitable jurisdiction, the ... court may order temporary, ancillary relief preventing dissipation of assets or funds that may constitute part of the relief eventually ordered in the case...

We also believe the exhortation in DeMario to preserve the possibility of complete relief, which merely restates the purpose of preliminary injunctions in general... makes it appropriate to consider that final, complete relief in this case may entail consumer redress... [I]t has long been considered within a court's equitable jurisdiction to issue an injunction preserving property pending a subsequent determination in another forum of the rights of parties in the property.

665 F.2d at 718-19. (citations omitted).

The reason for invoking the court's equitable powers to preserve assets is that

[w]ithout this injunction power consumers have no protection at all during the pendency of the suit... It is only good sense that where there is a probability that the act will eventually be found illegal and the perpetrator ordered to cease, that some method be available to protect innocent third parties while the litigation winds its way through final decision.

665 F.2d at 720. (citing 119 Cong. Rec. 36608-9 (Nov. 12, 1973)).

New York courts routinely use their equitable powers under Executive Law § 63(12) to impose such financial restrictions or requirements as they deem necessary to protect consumers. See, e.g., Apple Health & Sports Clubs, 80 N.Y.2d 803 (upholding trial courts' grant of a temporary restraining order freezing respondents' bank accounts); Court Reporting Inst., Inc., 240 A.D.2d 413 (denying respondents' motion to modify a stipulation entered into after the court granted a temporary restraining order enjoining respondent school from accepting new students and from disposing of funds in its bank account); 21<sup>st</sup> Century Leisure Spa, Int'l Ltd., 153 Misc. 2d 938 (enjoining respondent owner of company from transferring, withdrawing or otherwise disposing of funds in any bank account in New York State except for ordinary living expenses); State v. ZKG Associates, N.Y.L.J., 10/29/74, at 2, col. 2 (Sup. Ct. N.Y. Co.) (“[C]orporate defendants, their agents, representative and employees and the individual defendants are enjoined and prohibited, *pendente lite*, from removing, withdrawing, dispensing or transferring any funds not on deposit in bank accounts in the name of or under the control of the corporate defendants”); State v. Abortion Info. Agency, 69 Misc. 2d 825, 830 (Sup. Ct. N.Y. Co. 1971), aff'd, 37 A.D.2d 142 (1st Dep’t 1972) (enjoining respondents “from transferring or otherwise disposing of corporate assets or property” and appointing receiver to preserve assets); State v. Saksniit, 69 Misc. 2d 554, 562 (Sup. Ct. N.Y. Co. 1972) (“[T]he defendants and the officers and directors of the defendant companies...are enjoined from and may not pay out or cause to be paid out any of the money of the corporate defendant Termpapers, Inc. nor any of the money of the

other companies under which it or defendant Saksniit operates.”); State v. Remedial Educ., Inc., 70 Misc. 2d 1068, 1070 (Sup. Ct. N.Y. Co. 1972) (enjoining defendants from paying out corporate funds and from dispersing corporate property).

Here an order temporarily restraining Respondents from continuing to advertise and offer jobs and placement services it fails to provide and from transferring, converting or otherwise disposing of property or funds is necessary to protect the public pending the final determination of this proceeding. A temporary restraining order freezing any bank accounts which hold funds in the name of or to the credit of Respondents, including the personal bank accounts of Respondent Charles Pierre, is also warranted.

Unless Respondents are temporarily restrained from transferring or otherwise disposing of funds before a final order and judgment can be rendered in this case, there is a significant likelihood that Petitioner and all of Respondents’ victims will be significantly prejudiced. Absent the grant of a temporary restraining order, Respondents may dispose of all of their assets, including potentially large sums of cash, and thereby frustrate any final order and judgment granting restitution and damages for the consumers who were victimized by Respondents’ unlawful and fraudulent business practices.

A number of factors raise concerns that Respondents will dissipate their assets and leave their victims without recompense. Respondents’ business is almost exclusively a cash business. See Lee Aff. ¶ 70. Accordingly, C.P.I.’s revenues can be easily transferred or hidden. Respondent Charles Pierre has co-mingled his personal funds with C.P.I.’s corporate funds by paying C.P.I. bills out of his personal account. See Lee Aff. ¶ 63. In addition, as noted above, both Charles and Nicole Pierre used C.P.I corporate credit card in their names to purchase many personal, non-business related items. See Lee Aff. ¶ 64 - 65.

In addition, C.P.I. lacks long-standing, well-established ties to the community. In its approximately four-year history, C.P.I. has already changed its name twice, changed its address three times, and changed the telephone number listed in its advertisements numerous times. See Lee Aff. ¶ 72. Furthermore, Respondents have moved locations without providing notice to DCA and the OAG, making it difficult for these agencies to investigate complaints against C.P.I. See id. C.P.I. also has a history of being delinquent in paying its Con Edison electricity bills, which casts further doubt on its ability to provide restitution to its victims. See Lee Aff. ¶ 73. Together, these factors raise substantial concerns that, absent a temporary restraining order, Respondents will dissipate their assets and leave their victims without recompense.

#### **IV. THE COURT SHOULD GRANT PERMANENT INJUNCTIVE RELIEF, RESTITUTION, CIVIL PENALTIES, AND COSTS**

In proceedings brought pursuant to Executive Law § 63(12) and G.B.L. §§ 349 and 350, the Court has broad equitable authority to grant injunctive relief, restitution, damages, civil penalties and costs. See Empyre Inground, 227 A.D.2d at 734; Princess Prestige, 42 N.Y.2d at 107; State v. Scottish-Am. Ass'n, 52 A.D.2d 528 (1st Dep't 1976). Here, Respondents' repeated and persistent fraudulent and illegal acts warrant the imposition of injunctive relief, as well as restitution to affected consumers, civil penalties, and costs.

##### **A. The Court Should Grant Permanent Injunctive Relief Against Respondents' Illegal and Fraudulent Conduct**

In actions brought pursuant to Executive Law 63(12), a court's remedial powers are extremely broad, and courts routinely grant permanent injunctive relief in addition to other forms of relief. See Princess Prestige, 42 N.Y.2d at 108; Daro Chartours, Inc., 72 A.D.2d at 873; Scottish-Am. Ass'n, 52 A.D.2d at 528; Management Transition, 115 Misc. 2d at 489; Midland Equities, 117 Misc. 2d at 206; Hotel Waldorf-Astoria Corp., 67 Misc. 2d 90 (Sup. Ct. N.Y. Co.

1971). The Court should enjoin Respondents from engaging in the fraudulent, deceptive, and illegal practices alleged in the Verified Petition.

Furthermore, in view of Respondents' egregiously fraudulent conduct affecting thousands of consumers, the Court should permanently enjoin Respondents from advertising or offering employment opportunities or employment placement assistance and from offering to sell or selling security guard training or other training. See Midland Equities, 117 Misc. 2d at 208 (permanent injunction issued against engaging in foreclosure consulting services); People v. Helena VIP Pers. Introduction Servs. of N.Y., Inc., 199 A.D.2d 186 (1st Dep't 1993) (permanent injunction issued against engaging in social referral business). In the alternative, the Court should require Respondents to execute and file with the Attorney General a performance bond in the sum of \$2,000,000 as a condition of permitting them to offer to sell or sell security guard training or other training in New York. The Court's power to grant equitable relief includes the requirement of a performance bond, and New York courts routinely require businesses that have engaged in illegal, deceptive, or fraudulent business practices to file a bond. See Allied Mktg. Group, 220 A.D.2d at 370; Empyre Inground, 227 A.D.2d at 732.

**B. Respondents Must Pay Restitution to Aggrieved Consumers**

In addition to injunctive relief, the Court should grant restitution to all victims who have been injured as a result of Respondents' illegal and fraudulent conduct. Executive Law § 63(12) was amended in 1970 to provide for restitution to affected consumers (ch. 44, L. 1970). The purpose of the amendment, as stated in the Governor's Memorandum, 1970 McKinney's Session Law 3074, was to strengthen the consumer protection powers of the Attorney General by "clarifying his powers to obtain restitution for defrauded consumers in [63(12)] proceedings." The memorandum further noted that the power granted the Attorney General by the amendment

“will provide a means to make the victims of past fraud whole again.” See id. The scope of the relief granted “is addressed to the sound judicial discretion of the courts.” Princess Prestige, 42 N.Y. at 108.

Courts have routinely held that illegal, deceptive and fraudulent business conduct and false advertising warrants restitution to victims. See, e.g., Empyre Inground, 227 A.D.2d at 733-34 (restitution ordered after respondents engaged in misleading advertising and deceptive practices in connection with its door-to-door sales); People v. Telehublink Corp., 301 A.D.2d 1006, 1008-09 (3d Dep’t 2003) (restitution ordered for illegal advance fees charged by loan broker); Management Transition, 115 Misc. 2d at 492 (unlicensed employment agency ordered to pay restitution to consumers who paid fees); Midland Equities, 117 Misc. 2d at 208 (respondents ordered to pay restitution for fraudulent mortgage consulting services); In re State v. Bevis Indus., 63 Misc. 2d 1088 (Sup. Ct. N.Y. Co. 1970) (restitution ordered after respondents falsely advertised the availability of refunds and misrepresented value of goods and timeliness of delivery).

In actions brought pursuant to § 63(12), courts customarily order restitution to all defrauded victims, even where they are not all identified at the time of the order. See, e.g., Telehublink Corp., 301 A.D.2d at 1007; General Elec., 302 A.D.2d at 316; Scottish-Am. Ass’n, 52 A.D.2d at 529; Midland Equities, 117 Misc.2d at 208; Management Transition, 115 Misc. 2d at 492; Hotel Waldorf-Astoria, 67 Misc. 2d at 92. The Court should order Respondents to provide restitution to all consumers who were victims of Respondents’ fraudulent practices.

The Court has wide latitude to fashion an appropriate form of restitution. Thus, in actions brought pursuant to Executive Law § 63(12), courts frequently order the creation of a restitution fund for distribution to affected consumers and sometimes also specify how

consumers should be notified and how restitution should be distributed. See, e.g., People v. Life Science Church, 113 Misc. 2d 970, 971 (Sup. Ct. N.Y. Co. 1982); Bevis Indus., 63 Misc. 2d at 1091 (Sup. Ct. NY Co. 1970). In other cases, courts direct the parties to suggest a mechanism for identifying and notifying affected consumers and distributing restitution in their settling of an order. See, e.g., Princess Prestige, 42 N.Y.2d at 108; General Elec., 302 A.D.2d at 316.

In this case, the Court should direct Respondents to pay restitution to all consumers from whom they received fees for their security guard training courses, as these fees were obtained through fraud and misrepresentations and were paid for jobs that never existed and were not provided. The restitution payable to each consumer should be in the amount that Respondents received from the consumer.

**C. Respondents Should be Ordered to Pay Penalties for Repeated Illegal Conduct**

G.B.L. Article 22-A, § 350-d provides for the assessment of a civil penalty of up to \$5000 for each deceptive act or false advertisement in violation of Article 22-A.<sup>3</sup> Courts routinely award penalties in civil enforcement cases brought by the OAG. See, e.g., Telehublink Corp., 301 A.D.2d 1006; Wilco Energy Corp., 284 A.D.2d at 474; People v. Allied Mktg. Group, 220 A.D.2d 370 (1st Dep't 1995). Since civil penalties are paid to the State, their purpose is to deter future violations and to punish illegal conduct, not to compensate the injured party. See Meyers Bros. Parking Sys. v. Sherman, 87 A.D.2d 562, 563 (1st Dep't 1982), aff'd, 57 N.Y.2d 653 (1982). The total penalty should not be so small as to represent merely a cost of doing business; to the contrary, the penalty should be large enough to serve as a warning to discourage the prohibited act. See id. at 563.

Here, Respondents have engaged in numerous deceptive acts and practices and false

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<sup>3</sup> Prior to July 3, 2007, G.B.L. § 350-d provided for a \$500 penalty per violation.

advertising, in violation of G.B.L. Article 22-A, §§ 349 and 350. Respondents placed hundreds of deceptive advertisements and defrauded thousands of consumers. The Court should impose the maximum penalty under G.B.L. § 350-d for each deceptive act and false advertisement.

**D. Respondents Should be Ordered to Pay Costs**

CPLR § 8303(a)(6) provides that the court may award the Attorney General “a sum not exceeding two thousand dollars against each defendant” in a special proceeding pursuant to Executive Law § 63(12). Courts have routinely granted these costs. *See, e.g., Daro Chartours*, 72 A.D.2d at 873; *Midland Equities*, 117 Misc. 2d at 208; *In re People v. Therapeutic Hypnosis Inc.*, 83 Misc. 2d 1068, 1071-72 (Sup. Ct. Alb. Co. 1975), *rev’d on other grounds*, 52 A.D.2d 1017 (3d Dep’t 1976); *Hotel Waldorf-Astoria Corp.*, 67 Misc. 2d. at 92. Accordingly, an award of additional costs in the amount of \$2,000 against each Respondent should also be granted.

**V. CONCLUSION**

For the reasons set forth in this memorandum, the Court should make a summary

determination in Petitioner's favor on all causes of action and grant injunctive relief, restitution, damages, civil penalties and costs, as requested in the Verified Petition. The Court should also grant a Temporary Restraining Order pending the determination of this proceeding.

Dated: September 13, 2011

Respectfully submitted,

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