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IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION ____

STATE OF KANSAS, <i>ex rel.</i>)	
Derek Schmidt, Attorney General,)	
)	
Plaintiff,)	
)	
v.)	
)	
)	Case No. 2017-CV-_____
SEARCHTEC, INC,)	
and)	
SAMANTHA MILNER, an individual,)	
and)	
CANDACE LITTICH, an individual)	
)	
Defendants.)	

(Pursuant to K.S.A. Chapter 60)		

PETITION

COMES NOW the Plaintiff, State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, by and through counsel, Meghan D. Lowry, Assistant Attorney General, and for its cause of action against Defendant SearchTec, Inc., and Samantha Milner, an individual, and Candace Littich, an individual, alleges and states as follows:

PARTIES

1. Derek Schmidt is the duly elected, qualified, and acting Attorney General for the State of Kansas.
2. The Attorney General’s authority to bring this action is derived from the statutory and common law of the State of Kansas, specifically the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*, and the Wayne Owen Act, K.S.A. 50-6,139 *et seq.*, which is part of and supplemental to the Kansas Consumer Protection Act.
3. Defendant SearchTec, Inc., (“Defendant SearchTec”) is a Kansas Foreign For Profit Corporation organized under the laws of the State of Pennsylvania with a mailing address at 314 N 12th Street, Suite 101, Philadelphia, Pennsylvania 19107.
4. Defendant SearchTec can be served with process through its resident agent, Mechelle Pagan, at 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

5. Defendant SearchTec maintains a business location in Kansas at 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

6. Defendant Samantha Milner (“Defendant Milner”) is an individual and at all times relevant hereto has been an employee of Defendant SearchTec at Defendant SearchTec’s Topeka, Kansas, location.

7. Defendant Milner maintains a residential address at 2007 NW Clay Street, Topeka, Kansas 66608.

8. Defendant Milner may be served with process at her residential address or wherever she may be found.

9. Defendant Candace Littich (“Defendant Littich”) is an individual and at all times relevant hereto has been an employee of Defendant SearchTec at Defendant SearchTec’s Topeka, Kansas, location.

10. Defendant Littich maintains a residential address at 6281 Hickory Point, Meriden, Kansas 66512.

11. Defendant Littich may be served with process at her residential address or wherever she may be found.

12. All references to Defendants herein include acts individually, in concert, or by or through employees, agents, representatives, affiliates, assignees and successors.

JURISDICTION AND VENUE

13. This Court has personal and subject matter jurisdiction over this controversy by the Kansas Consumer Protection Act, K.S.A. 50-623, *et seq.*, specifically K.S.A. 50-638(a).

14. Venue is proper in the Third Judicial District (Shawnee County), pursuant to K.S.A. 50-638(b).

NATURE OF ACTION

15. Upon information and belief, the State alleges the Defendants engage in the handling and processing of documents for various customers and in the ordinary course of business collect, maintain and possess records containing the personal information of other persons. Thus, the Defendants are subject to at least the following legal duties: To implement and maintain reasonable procedures and practices to protect the personal information in their custody from unauthorized access, use, modification or disclosure; to exercise reasonable care to protect the personal information from unauthorized access, use, modification or disclosure; and

to take reasonable steps to destroy or arrange for the destruction of any records within Defendants' custody or control containing personal information when Defendants no longer intended to maintain or possess those records.

16. The State alleges Defendants breached each of these duties in violation of the Wayne Owen Act and the Kansas Consumer Protection Act, including *inter alia* by repeatedly disposing of records containing personal information by dumping them in various unsecured waste receptacles owned by other persons in and about the City of Topeka without rendering the personal information unreadable or undecipherable.

17. Effective July 1, 2016, the Wayne Owen Act, K.S.A. 50-6,139 *et seq.*, which is part of and supplemental to the Kansas Consumer Protection Act, expressly imposed on Defendants the duties described in Paragraph 15 and expressly made a breach of such duties a Kansas Consumer Protection Act violation. Prior to July 1, 2016, K.S.A. 50-7a03 expressly imposed on Defendants some, but not all, of the duties described in Paragraph 15.

18. At all times relevant hereto, the Kansas Consumer Protection Act has prohibited Defendants, as suppliers, from engaging in unconscionable acts or practices in connection with a consumer transaction.

19. The State brings this action for injunctive relief, civil penalties, consumer restitution, reasonable expenses and investigative fees under the Kansas Consumer Protection Act, K.S.A. 50-623 *et seq.*, for the Defendants' unlawful handling of the personal information of other persons.

ALLEGATIONS COMMON TO ALL COUNTS

20. All foregoing paragraphs are hereby incorporated by reference.

21. At all times relevant hereto, and in the ordinary course of business, Defendants acted as "suppliers," as that term is defined by K.S.A. 50-624(l).

22. At all times relevant hereto, and in the ordinary course of business, Defendants were "persons," as that term is defined by K.S.A. 2016 Supp. 50-6,139b(a)(2).

23. At all times relevant hereto, and in the ordinary course of business, Defendants engaged in "consumer transactions" in Kansas, as that term is defined by K.S.A. 50-624(c).

24. At all times relevant hereto, and in the ordinary course of business, Defendants acted as "holders," as that term is defined in K.S.A. 2016 Supp. 50-6,139b(a)(1), of "personal information," as that term is defined by K.S.A. 2016 Supp. 50-6,139b(a)(3).

25. At all times relevant hereto, and in the ordinary course of business, Defendants had in their custody or control “records,” as that term is defined by K.S.A. 2016 Supp. 50-6,139(a)(4), containing the personal information of any person, including persons other than Defendants.

26. Upon information and belief, Defendants contract to provide reporting services and legal research services to businesses who serve as registered agents, including, but not limited to: The Corporation Company, Inc., CT Corporation System, Inc., National Registered Agents, Inc. and Business Filings, Inc.

27. Upon information and belief, Defendants in the ordinary course of business receive, collect, maintain and possess records (including documents) that contain, in part, personal information of other persons.

28. Upon information and belief, such documents are received, collected, maintained and possessed on a daily basis at Defendants’ office maintained at 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

29. Upon information and belief, Defendants disposed of such documents on a weekly basis when Defendants no longer intended to maintain or possess such documents.

30. Upon information and belief, on or about December 12, 2016, Defendants disposed of such documents at a trash receptacle located at the United States Postal Office located at 424 S. Kansas Avenue, Topeka, Kansas 66603. The contents of the trash receptacle were readily available to persons who were not authorized to access such personal information.

31. Upon information and belief, at all times relevant hereto, Defendants did not maintain a shredding machine at Defendants’ office place.

32. Upon information and belief, at all times relevant hereto, Defendants did not contract with any trash disposal service or any commercial shredding service in order to have documents safely destroyed or shredded.

33. Upon information and belief, since January 2015 Defendants have disposed of at least 34,110 documents in publicly accessible waste bins at locations other than their place of business.

34. Upon information and belief, none of the 34,110 documents were shredded, erased or otherwise modified to make personal information unreadable or undecipherable before their disposal by Defendants.

CLAIMS

COUNT I

The Wayne Owen Act – Failure to Have Reasonable Procedures and Practices to Protect Personal Information

35. All of the foregoing paragraphs are hereby incorporated by reference.

36. At all times relevant hereto on and after July 1, 2016, and in the ordinary course of business, Defendants failed to implement and maintain reasonable procedures and practices appropriate to the nature of the personal information collected, maintained or possessed, or caused to be collected, maintained or possessed by the Defendants, in violation of K.S.A. 2016 Supp. 50-6,139b(b)(1).

37. As provided by K.S.A. 2016 Supp. 50-6,139b(d), Defendants' failure to implement and maintain reasonable procedures and practices as required by K.S.A. 2016 Supp. 50-6,139b(b)(1) constitutes an unconscionable act or practice under the Kansas Consumer Protection Act, in violation of K.S.A. 50-627.

38. Each day Defendants failed to implement and maintain such reasonable procedures and practices is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT II

The Wayne Owen Act – Failure to Exercise Reasonable Care to Protect Personal Information

39. All of the foregoing paragraphs are hereby incorporated by reference.

40. At all times relevant hereto on and after July 1, 2016, and in the ordinary course of business, Defendants failed to exercise reasonable care to protect the personal information collected, maintained or possessed or caused to be collected, maintained or possessed by the Defendants from unauthorized access, use, modification or disclosure, in violation of K.S.A. 2016 Supp. 50-6,139b(b)(1).

41. As provided by K.S.A. 2016 Supp. 50-6,139b(d), Defendants' failure to exercise reasonable care to protect personal information as required by K.S.A. 2016 Supp. 50-6,139b(b)(1) constitutes an unconscionable act or practice under the Kansas Consumer Protection Act, in violation of K.S.A. 50-627.

42. Each day Defendants failed to exercise such reasonable care is a separate violation of the Kansas Consumer Protection Act as provided by K.S.A. 50-636(d).

COUNT III

**The Wayne Owen Act – Failure to Take Reasonable Steps to Destroy or Arrange
Destruction of Records Containing Personal Information**

43. All of the foregoing paragraphs are hereby incorporated by reference.

44. At all times relevant hereto on and after July 1, 2016, and in the ordinary course of business, Defendants failed to take reasonable steps to destroy or arrange for the destruction of any records within Defendants' custody or control containing any person's personal information when Defendants no longer intended to maintain or possess such records, in violation of K.S.A. 2016 Supp. 50-6,139b(b)(2).

45. As provided by K.S.A. 2016 Supp. 50-6,139b(d), Defendants' failure to shred, erase or otherwise modify the personal identifying information in such records to make the personal information unreadable or undecipherable through any means constitutes an unconscionable act or practice under the Kansas Consumer Protection Act, in violation of K.S.A. 50-627.

46. Each record which Defendants failed to destroy in compliance with K.S.A. 2016 Supp. 50-6,139b(b)(2) constitutes a separate unconscionable act within the meaning of K.S.A. 50-627 as provided by K.S.A. 2016 Supp. 50-6,139b(d).

COUNT IV

The Kansas Consumer Protection Act – Unconscionable Acts or Practices

47. All of the foregoing paragraphs are hereby incorporated by reference.

48. At all times relevant hereto prior to July 1, 2016, Defendants failed to take reasonable steps to destroy or arrange for the destruction of a customer's records within their custody or control containing personal information which was no longer to be retained by Defendants by shredding, erasing or otherwise modifying the personal information in the records to make it unreadable or undecipherable through any means.

49. Defendants' failures described in the preceding paragraph were prohibited, prior to July 1, 2016, by K.S.A. 50-7a03 (repealed effective July 1, 2016).

50. Each breach of Defendants' duty to safeguard customer personal information by properly destroying records containing that information was an unconscionable act in violation of K.S.A. 50-627.

COUNT V

The Kansas Consumer Protection Act – Deceptive Acts or Practices

51. All of the foregoing paragraphs are hereby incorporated by reference.

52. Each failure by Defendants to disclose to consumers prior to July 1, 2016, that Defendants would not destroy, as required by law and as described in Paragraph 48, customer records containing personal information constitutes a willful failure to state a material fact, which is deceptive act or practice in violation of K.S.A. 50-626(b)(3).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgment as follows:

A. The above-mentioned acts and practices recited above shall be declared unconscionable or deceptive acts, as appropriate, in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 2016 Supp. 50-6,139b(d), K.S.A. 50-632(a)(1) and K.S.A. 50-632(c)(1);

B. Defendants be temporarily and permanently enjoined from these and other practices in violation of the Kansas Consumer Protection Act, pursuant to K.S.A. 50-632(a)(2) and K.S.A. 50-632(c);

C. Defendants pay restitution to all consumers referenced in this Petition or revealed during the course of discovery, pursuant to K.S.A. 50-632(a)(3) and K.S.A. 50-632(c);

D. Defendants pay reasonable investigative fees and expenses to the Office of the Kansas Attorney General, pursuant to K.S.A. 50-632(a)(4), K.S.A. 50-632(c) and K.S.A. 50-636(c);

E. Defendants pay civil penalties of \$10,000.00 for each violation of the Kansas Consumer Protection Act, or such other amount as the Court deems just and equitable, pursuant to K.S.A. 50-636;

F. Defendants pay all Court costs and all costs associated with distributing and executing on any restitution or judgment made by this Court.

Respectfully submitted,

/s/ Derek Schmidt

DEREK SCHMIDT, #17781
KANSAS ATTORNEY GENERAL

/s/ Meghan D. Lowry

Meghan D. Lowry, #26447
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DEMAND FOR JURY TRIAL

Plaintiff hereby demands trial by jury for all issues raised by this pleading which are so triable.

/s/ Meghan D. Lowry

Meghan D. Lowry, #26447

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2017 Jan 11 PM 2:57
CLERK OF THE SHAWNEE COUNTY DISTRICT COURT
CASE NUMBER: 2017-CV-000023



Court: Shawnee County District Court
Case Number: 2017-CV-000023
Case Title: State of Kansas ex rel Derek Schmidt Atty General
vs. SearchTec Inc, et al.
Type: Ex Parte Temporary Restraining Order

SO ORDERED.

A handwritten signature in black ink, appearing to read "T. Watson", is written over a large, stylized circular flourish.

/s/ Honorable Teresa L Watson, District Court Judge

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**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS
DIVISION 3**

STATE OF KANSAS, *ex rel.*
Derek Schmidt, Attorney General,

Plaintiff,

v.

SEARCHTEC, INC,
and
SAMANTHA MILNER, an individual,
and
CANDACE LITTICH, an individual

Defendants.

Case No. 2017-CV-23

(Pursuant to K.S.A. Chapter 60)

EX PARTE TEMPORARY RESTRAINING ORDER

NOW on this 11th day of January, 2017, Plaintiff's *Ex Parte* Motion for Temporary Restraining Order and Memorandum in Support, filed by the State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, comes before the Court pursuant to K.S.A. § 50-632.

After review of Plaintiff's Motion, and exhibits entered into evidence, the Court finds and orders the following:

1. The above-captioned matter was commenced by the State of Kansas, *ex rel.* Derek Schmidt, Kansas Attorney General, against Defendant SearchTec, Inc., and Defendant Samantha Milner, an individual, and Defendant Candace Littich, an individual.

2. Plaintiff filed its *Ex Parte* Motion for Temporary Restraining Order and Memorandum in Support pursuant to K.S.A. § 50-632 along with Plaintiff's Petition on January 10, 2017.

3. Defendant SearchTec, Inc. is a Kansas For Profit Corporation organized under the laws of the State of Pennsylvania with a mailing address at 314 N. 12th Street, Suite 101, Philadelphia, Pennsylvania 19107.

4. Defendant SearchTec, Inc. maintains a business location in Kansas at 112 SW 7th Street, Suite 3C, Topeka, Kansas 66603.

5. Defendants Samantha Milner and Candace Littich are individuals who, at all times relevant hereto, were employees of Defendant SearchTec at Defendant SearchTec's Topeka, Kansas, location.

6. Defendants are suppliers within the definition of K.S.A. 50-624(l).

7. Defendants are persons within the definition of K.S.A. 2016 Supp. § 50-6,129b(a)(2).

8. Defendants are holders, within the definition of K.S.A. 2016 Supp. § 50-6,139b(a)(1), of personal information, within the definition of K.S.A. 2016 Supp. § 50-6,139b(a)(3).

9. Defendants, at all times relevant hereto and in the ordinary course of business, had in their custody or control records within the definition of K.S.A. 2016 Supp. § 50-6,139(a)(4), which contained personal information of any person, including persons other than the Defendants.

10. K.S.A. § 50-632(a)(2) authorizes the Attorney General to seek a temporary restraining order against a defendant who “has violated, is violating, or is otherwise likely to violate” the Kansas Consumer Protection Act.

11. This Court has authority pursuant to K.S.A. § 50-632(c)(6) to issue the Temporary Restraining Order requested by the Attorney General.

12. Plaintiff has satisfied its burden of proof for obtaining a Temporary Restraining Order as required by K.S.A. § 50-632(a)(2).

13. Defendants have engaged, or are currently engaging, or are otherwise likely to engage in acts and practices in violation of the Wayne Owen Act, K.S.A. 2016 Supp. § 50,139 *et seq.*, which is part of and supplemental to the Kansas Consumer Protection Act.

14. In light of the foregoing, and the risk that Defendants may further harm persons through the unlawful handling of personal information in the future, a Temporary Restraining Order is appropriate.

15. A Temporary Restraining Order is necessary to ensure the Defendants’ compliance with the Wayne Owen Act and the KCPA during the pendency of this matter.

IT IS ORDERED, ADJUDGED AND DECREED that the Defendants, and the Defendants’ officers, agents, employees, and any persons acting in concert or participation with the Defendants are temporarily:

1. Enjoined to exercise reasonable care to protect the personal information of any person or persons, other than Defendants, that is collected, maintained or possessed by Defendants or that Defendants cause to be collected, maintained or possessed.

3. Enjoined from any action which may result in the destruction of records that may be relevant to this action, specifically:

A. Destroying or arranging for the destruction of any records containing personal information which, in the ordinary course of business, have already been collected, maintained or possessed or have already been caused to be collected, maintained or possessed by the Defendants; and

B. Destroying or arranging for the destruction of any documents which, in the ordinary course of business, are collected, maintained or possessed or caused to be collected, maintained or possessed by the Defendants during the pendency of this matter; and

C. Destroying any logs, registers, memoranda, record or any other document, including any such document stored in electronic format, related to the Defendants' dissemination, maintenance, storage, receipt, disposal or handling of documents related to any services provided by the Defendants in the ordinary course of business.

4. Restrained from transferring, liquidating, or in any way releasing or expending funds, except in the ordinary course of business, obtained by Defendants as a result of any contract to offer or provide services in the ordinary course of business.

5. Restrained from engaging in any corporate or non-corporate reorganization, reconstruction, dissolution, bankruptcy or any other business-entity restructuring or reforming without prior, written notice to this Court and Plaintiff.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court authorizes agents and attorneys of the Office of the Kansas Attorney General to monitor the Defendants' compliance with this Order pending further order of this Court or final resolution of this matter

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Court retains jurisdiction over this matter.

IT IS SO ORDERED.

THIS ORDER IS EFFECTIVE AS OF THE DATE AND TIME SHOWN ON THE ELECTRONIC FILE STAMP.

Prepared and respectfully submitted by:

/s/ Kathryn Carter

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