

**IN THE IOWA DISTRICT COURT FOR POLK COUNTY**

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THE STATE OF IOWA ex rel.	)	
THOMAS J. MILLER,	)	
ATTORNEY GENERAL OF IOWA,	)	EQUITY NO. _____
99AG25112	)	
	)	
Plaintiff	)	
	)	
v.	)	<b>APPLICATION FOR AN</b>
	)	<b>ORDER TO ENFORCE</b>
	)	<b>ATTORNEY GENERAL'S</b>
CALIFORNIA ALTERNATIVE HIGH	)	<b>CIVIL SUBPOENA</b>
SCHOOL, INC.,	)	
and	)	
DANIEL A.D. GOSSAI,	)	
	)	
Defendants.	)	

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COMES NOW the State of Iowa ex rel. Attorney General Thomas J. Miller by Special Assistant Attorney General William L. Brauch and applies to the Court, pursuant to Iowa Code section 714.16 (2003), for an order requiring defendants to provide a complete response to the civil subpoena served on defendants by the Attorney General and enjoining the defendants and their agents from advertising, selling or otherwise marketing in Iowa until defendants have provided a complete response to the subpoena. In support of this Application, the Attorney General states:

**PARTIES, JURISDICTION AND VENUE**

1. Defendant California Alternative High School is a California corporation which has offered "educational" classes in Iowa to individuals for a monetary fee.
2. Defendant Daniel A.D. Gossai is a California resident, is the "Principal" of California Alternative High School, and designs and is personally responsible for the business practices of California Alternative High School.
3. Thomas J. Miller is the duly elected Attorney General of Iowa.

4. The Iowa Attorney General enforces Iowa Code section 714.16, the Consumer Fraud Act, which prohibits, among other things, deceptive and unfair practices, as defined in section 714.16(1).

5. The Attorney General is authorized by Iowa Code section 714.16 to bring an action in Polk County District Court to seek a court order requiring full compliance with a civil subpoena issued pursuant to section 714.16.

### **FACTS**

6. The Attorney General initiated an investigation to determine whether defendants have violated or are violating Iowa Code section 714.16 in connection with the Iowa solicitations for their “alternative high school” program.

7. The Attorney General’s investigation, in part, was commenced to determine whether defendants engaged in deception by advertising and representing or implying that successful completion of their educational program would qualify consumers for acceptance at colleges and universities. (See exhibit 1, affidavit of Attorney General Investigator Stephen Switzer.)

8. Based on information available to the Attorney General, it appeared that defendants charged consumers generally \$600 or more to attend their “alternative high school” program for adults, that consumers were likely motivated to incur the charge and enroll in the program based on defendants' representations of college admission upon completion, and that the representations were deceptive due to the fact that it appeared that few, if any, colleges or universities would admit students based upon graduation from defendant’s unaccredited educational program. It further appeared that defendants targeted lower income, immigrant

populations with their solicitations. (See exhibit 1, affidavit of Attorney General Investigator Stephen Switzer.)

9. Therefore, it appeared to the Attorney General that the defendants had violated and were and would be violating Iowa Code section 714.16 in connection with their advertisements and representations for their educational programs.

10. Pursuant to Iowa Code section 714.16(3), the Attorney General may issue civil subpoenas requiring the production of written materials relating to investigations by the Attorney General of violations of section 714.16.

11. Pursuant to its investigation of defendants, the office of the Attorney General prepared a civil subpoena (exhibit 2) and served it upon defendants via registered mail as required by Iowa Code section 714.16(5). (Exhibit 3 is a copy of the U.S. registered mail receipt which is evidence of the completion of that service.)

12. The Attorney General's subpoena required defendants to provide all of the following documents:

a. those that support defendants' claims that "our graduates have been admitted at regionally and nationally accredited colleges and universities."

b. those relating to whether colleges or universities will accept students for admission based upon completion of courses through California Alternative High School.

c. a list of all individuals who have paid any money to defendants in connection with any classes attended in Iowa.

d. a list of all local, state or federal law enforcement agencies which have been in contact with defendants regarding California Alternative High School.

- e. communications between defendants and the Iowa Department of Education.
- f. copies of any complaints from individuals.

13. To date, defendants have not provided a complete response to the Attorney General's subpoena. Defendants' sole written response to the subpoena is attached as exhibit 4, consisting primarily of objections to the Attorney General's request on various, spurious grounds. Of particular concern is defendants' refusal to produce a customer list – a list of all individuals who have paid defendants money to attend their classes held in Iowa, including the individual's name, address, telephone number, and total amount of money paid. Defendant Gossai objected to this request on grounds that he may not lawfully produce the information due to federal restrictions on sharing of student data. That objection is groundless. The federal law applicable to sharing of student data cannot by any means be interpreted to prevent a state attorney general from obtaining a list of students who attended a particular institution under investigation. *See* 20 U.S.C. § 1232g(b)(1).

14. The office of the Attorney General took a sworn statement from defendant Daniel A.D. Gossai, on February 12, 2004. (Transcript excerpts attached as exhibit 5.) During the taking of that statement, defendant Gossai refused to supply responses to the following inquiries:

- a. His home address. (Page 4 of the transcript).
- b. The identity of states other than Iowa and Nebraska in which defendants have offered classes. (Pages 9 and 10 of the transcript).
- c. The identities of defendant California Alternative High School's corporate officers, other than defendant Gossai. (Page 13 of the transcript).

d. How California Alternative High School uses its revenue. (Page 16 of the transcript).

e. The identities of the offices of other state attorneys general which have been in contact with defendants. (Pages 23 and 24 of the transcript).

f. The identities of individuals who paid money to defendants in connection with defendants' Iowa classes. (Page 27 of the transcript).

15. Neither all nor any part of the application for injunctive relief herein has been previously presented to and refused by any court or justice. Iowa R.Civ.P. 1.1504.

16. In an action by the state, no security shall be required of the state. Iowa R.Civ.P. 1.207.

### **CAUSE OF ACTION**

17. Because defendants have failed to fully respond to the Attorney General's subpoena and, as evidenced during the sworn statement, have, in fact, expressly refused to provide the information, particularly the identities of individuals who may have been defrauded by defendants, defendants are in violation of Iowa Code section 714.16(4).

18. Because defendants have violated Iowa Code section 714.16(4), the Attorney General brings this action pursuant to Iowa Code section 714.16(6) to seek a court order mandating a response and barring defendants from taking money from Iowa consumers until further order of the Court.

### **REQUEST FOR RELIEF**

**WHEREFORE**, the State respectfully requests the following relief:

A. That the Court, pursuant to Iowa Code section 714.16(6), order defendants to comply fully with the Attorney General's civil subpoena by supplying the information identified

herein as missing from the defendants' response, and to supply such information within ten days of the Court's order.

B. That the Court, pursuant to Iowa Code section 714.16(6), enjoin the defendants and their partners, officers, employees, agents, successors, assigns, and all other persons, corporations or other entities acting in concert or participating with defendants, who have actual or constructive notice of the Court's injunction, from advertising, selling, or otherwise promoting or marketing any merchandise (as defined in Iowa Code section 714.16(1)) in Iowa until such time as defendants have fully complied with the Attorney General's subpoena.

C. That the Court, pursuant to Iowa Code section 714.16(11), order defendants to pay the State its attorney fees, investigative costs and all other costs incurred by the State in bringing this action.

D. That the Court, pursuant to Iowa Code section 714.16(11), require defendants to pay the court costs of this action.

E. That the Court set a hearing on this Application and prescribe the notice to be provided to the defendants.

F. That the Court grant any further relief it deems just and equitable.

Respectfully submitted,

**THOMAS J. MILLER**  
Attorney General of Iowa

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