

IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

FILED AND RECORDED  
2017 JUL 18 AM 9:58

*Rebecca Keaton*  
COBB SUPERIOR COURT CLERK

STATE OF GEORGIA *ex rel.* )  
CHRISTOPHER M. CARR, )  
Attorney General State of Georgia, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MARVELAY, LLC d/b/a Spot Reservation, )  
and d/b/a Rushcube, )  
ERRAN YEARTY, Individually, and )  
ASTA QUATTROCCHI, Individually, )  
 )  
Defendants. )

CIVIL ACTION

FILE NO. 17-1-5434-58

COMPLAINT FOR INJUNCTIVE RELIEF, CIVIL  
PENALTIES, RESTITUTION AND OTHER RELIEF

COMES NOW Plaintiff State of Georgia through Christopher M. Carr, Attorney General  
for the State of Georgia (“Attorney General”), and files this Complaint as follows:

NATURE OF THE ACTION

1.

The Attorney General brings this action pursuant to the Georgia Fair Business Practices Act, O.C.G.A. §§ 10-1-390 through 10-1-407 (“FBPA”), seeking remedies available under O.C.G.A. § 10-1-397(b) including but not limited to injunctive relief, civil penalties, restitution to consumers, and reimbursement of the costs to bring this matter against Marvelay, LLC d/b/a “Spot Reservation” and “Rushcube” (“Marvelay”), Erran Yearty (an individual), and Asta Quattrocchi (an individual) (collectively “Defendants”).

2.

The purpose of the FBPA is to protect consumers and legitimate business enterprises from “unfair or deceptive practices in the conduct of any trade or commerce in part or wholly in the state.” O.C.G.A. § 10-1-391(a).

3.

Pursuant to the provisions of O.C.G.A. § 10-1-403, the Attorney General conducted an investigation into the acts and practices of Defendants that appeared to be unlawful under the FBPA. At the conclusion of the investigation, Defendants were given the opportunity to execute an Assurance of Voluntary Compliance (“AVC”) acceptable to the Attorney General pursuant to the provisions of O.C.G.A. § 10-1-402. Defendants have refused to execute an AVC that is acceptable to the Attorney General.

### PARTIES

4.

Plaintiff Christopher M. Carr, Attorney General of the State of Georgia, under his authority to enforce the FBPA, is authorized to act in the public interest to protect consumers from unfair and deceptive practices. In his official capacity pursuant to O.C.G.A. § 10-1-397, the Attorney General commences this lawsuit against Defendants.

5.

Defendant Marvelay is a foreign limited liability company registered to do business in the State of Georgia, having its principal place of business at 2601 Summers Street, Kennesaw, Cobb County, Georgia 30144. Marvelay’s registered agent for service of process is Eric Register, 1800 Peachtree St. N.W., Atlanta, Fulton County, Georgia 30144.

6.

Defendant Erran Yearty (“Yearty”) is an individual believed to be residing in Cobb County, Georgia. Yearty is believed to reside at 1950 Barrett Lakes Boulevard NW, Apartment 1624, Kennesaw, Georgia 30144. Yearty is the sole member/owner of Marvelay and has directed and participated in the acts or practices that are the subject of this Complaint.

7.

Defendant Asta Quattrocchi (“Quattrocchi”) is an individual believed to be residing in Cobb County, Georgia. Quattrocchi is believed to reside at 2460 Due West Circle, Kennesaw, Georgia 30152. Quattrocchi is a manager of Marvelay and has directed and participated in the acts or practices that are the subject of this Complaint.

#### JURISDICTION AND VENUE

8.

This Court has jurisdiction over this action and the parties pursuant to GA. CONST. Art. 6, § 4, ¶ 1, O.C.G.A. § 10-1-397(b)(2), O.C.G.A. § 15-6-8, and O.C.G.A. § 9-10-91.

9.

Venue for this action properly lies in this Court, pursuant to GA. CONST. Art. 6, § 2, ¶ 6, O.C.G.A. § 10-1-397(b)(2), O.C.G.A. § 9-10-93, and O.C.G.A. § 14-2-510 because Marvelay’s principal place of business is in Cobb County, a substantial part of Marvelay’s business was transacted in Cobb County, and Yearty and Quattrochi reside in Cobb County.

10.

Defendants transacted business in the state of Georgia from their principal place of business in Kennesaw, Georgia. In addition, Defendants marketed and advertised goods and services through electronic media disseminated throughout Georgia. At all relevant times, Defendants have purposefully availed themselves of this forum.

## INTRODUCTION AND SUMMARY

11.

Marvelay filed an application for a certificate of authority with the Georgia Secretary of State on October 31, 2012. Since that time, Marvelay has been operating in Kennesaw, Georgia and doing business as both “Spot Reservation” and “Rushcube”.

12.

Marvelay advertises and sells access to a variety of recreational activities including but not limited to skydiving, hot air balloon rides, and airplane flight lessons. These activities are not actually provided by Marvelay; instead it makes reservations with third-party vendors on behalf of consumers who want to participate in an activity.

13.

Marvelay also sells gift certificates that represent a pre-paid activity that can be utilized by the purchaser of the gift certificate or any transferee of the gift certificate.

14.

Defendants control approximately 4,700 domain names. Many of these domain names are associated with websites through which Marvelay offers goods and services to consumers under a fictitious business name. Frequently, the domain names include a description of activities and a specific geographic location. This practice allows Marvelay to disguise its true identity.

15.

Many of Marvelay’s websites include a local telephone area code and a physical address that implies that the fictitious business operates from a specific location; Marvelay does not operate from these locations.

DEFENDANTS' BUSINESS ACTS AND PRACTICES

16.

Marvelay's websites contain false and misleading representations about its identity and the service it actually provides. For example, on the website, [www.atlantaballoonrides.net](http://www.atlantaballoonrides.net), Marvelay holds itself out as "Atlanta Balloon Rides", despite the fact that it does not actually provide balloon ride services to consumers.



17.

On a nearly identical website, [www.balloonrideschicago.com](http://www.balloonrideschicago.com), Marvelay represents itself as "Chicago Balloon Rides". Marvelay represents that consumers can call "Chicago Balloon Rides" at a local telephone number to purchase an activity. Calls made to the local telephone number automatically transfer to Marvelay's office in Kennesaw, Georgia.




The information and representations on Marvelay’s websites make it appear to consumers that the fictitious business advertising the goods and services is the actual provider of the activity and that the fictitious business has a geographic location specific to the services being offered, when such is not the case. On the website, [www.balloonrideschicago.com](http://www.balloonrideschicago.com), Marvelay, representing itself as “Chicago Balloon Rides” states “**We are** your destination for a **Chicago Balloon Ride!**” and “Chicago Balloon Rides has an extraordinary mix of packages to offer”.

Call Chicago Balloon Rides at 312-702-1917 to Book Your Flight Today!

**Chicago Balloon Rides are fascinating and relaxing.**

We are your destination for a Chicago Balloon Ride! If you're looking for a Shared Chicago Balloon Ride, place your trust in us! If you're interested, be sure to give us a call at 317-702-1917 to get started!



*Trust us for your Shared Chicago Balloon Ride!*

Chicago Balloon Rides has an extraordinary mix of packages to offer. The simplest option is the Shared Balloon Ride, which will easily support 2-8 people. You'll be able to take in all the incredible sights, but you won't be alone! If you want to bring your friends, you'll be able to bring as many as the

Marvelay further states on its website: “**We** pride ourselves on being versatile and modern. So in changing with the times **we** have become more knowledgeable in the proposal process and now make concessions specifically for this very special event”, “Along your ride **we** will hit a point....”, “No matter the event, if you are proposing or if you would just like a special time with a friend, **we** have the gloriously colorful vessel to take you to the Chicago skies!”.



for another reason. The romantic atmosphere high above the city is one that more and more couples are taking advantage of. We pride ourselves on being versatile and modern. So in changing with the times we have become more knowledgeable in the proposal process and now make concessions specifically for this very special event.

Along your ride we will hit a point (depending on the location the balloon takes off at) where there will be an optimal opportunity to ask the important question. During your 60 minute flight this is typically around 1/2 way through, but can vary as we said depending on the wind speed and direction we are heading. On an exclusive ride you, your loved one and the pilot will be the only ones in the craft and you will have the opportunity to look into the glowing face of your beloved and ask the four words that will change your life forever. "Will you marry me?"

We will celebrate the journey with a champagne toast or if you would like to implement a banner we

**GIFT CERTIFICATE SPECIALS!**

**Buy Now!**

Click "Buy Now" to purchase your loved one a Ballooning gift certificate, today!

For current specials on Chicago Balloon Ride Gift Certificates, call us at 312-702-1917 right now!

No matter the event, if you are proposing or if you would just like a special time with a friend, we have the gloriously colorful vessel to take you to the Chicago skies!

Chicago Balloon Rides | Balloon Rides | Gift Certificates | Photo Gallery | Contact Us  
 Joliet Balloon Rides | Naperville Balloon Rides | Elgin Balloon Rides  
 Arlington Balloon Rides | Gary Balloon Rides | Aurora Balloon Rides | Google+

19.

Many of Marvelay’s websites contain representations that the fictitious business is a member of an established network, has an association with a number of affiliates, or has a network of locations. For example, Marvelay represents that “Atlanta Balloon Rides” and “Chicago Balloon Rides” are members of the “American Ballooning Network”. However, the “American Ballooning Network” is nothing more than a “network” of fictitious businesses depicted in Marvelay’s various websites.

**Atlanta Balloon Rides**  
 Ride a Hot Air Balloon high above Atlanta, Georgia!

Welcome to Atlanta Balloon Rides! We are a member of the American Ballooning Network who caters to customers all over the country, offering more balloon options and flight locations than any other network in Georgia. Atlanta Balloon Rides offers professional customer service from Atlanta.

**Chicago Balloon Rides**  
 Hop in a hot air balloon and soar through the skies!

Glad to see you've reached our site! We're a member of the American Ballooning Network, which provides incredible airfare to people all over the country. Within Illinois, the American Ballooning Network offers airfare to more people than any other ballooning network within the state. If you have

20.

Another variation of the same practices involves Marvelay's website, [www.soaringsports.com](http://www.soaringsports.com), on which it holds itself out as "SoaringSports" and represents that it provides hot air balloon rides and that it is part of a large ballooning network.



21.


On the [www.soaringsports.com](http://www.soaringsports.com) website, consumers can click a link by the state and then various locations appear. For example, if one clicks the Georgia link, three (3) locations appear, including locations in Augusta and Savannah, Georgia.



HOME RIDES OCCASIONS INFORMATION GIFTS BLOG CONTACT US


**FOR A COMPLETE LIST OF LOCATIONS  
CALL US AT 1-855-266-7627!**

We want to make sure that any person looking to take a hot air balloon ride can do so, within a reasonable distance from their home or destination. Our network is constantly growing to make this a reality. If you want to take a hot air balloon ride at one of the locations listed below, or you're curious to see if there is a location near you, give us a call!




HOME RIDES OCCASIONS INFORMATION GIFTS BLOG CONTACT US

✕ Georgia (3)




**ATLANTA**  
At Soaringsports.com Atlanta, our staff of certified, professional balloon pilots are here to make your adventure in the sky a memorable one. We have a wide range of hot air ballooning services suitable for all of your needs. No matter what the occasion is, celebrate by taking a breathtaking tour of Atlanta in one of our hot air balloons! You will never forget this experience!

[Soaringsports.com Atlanta](#)



**AUGUSTA**  
Balloon rides over Augusta, GA represent the quintessential experience you've been looking for! No other sport offers the exhilaration and once-in-a-lifetime excitement of gently drifting above the gorgeous landscape of Augusta. Safety is always first, and our decades of experience in hot air balloons will ensure the safest and most enjoyable balloon rides possible!

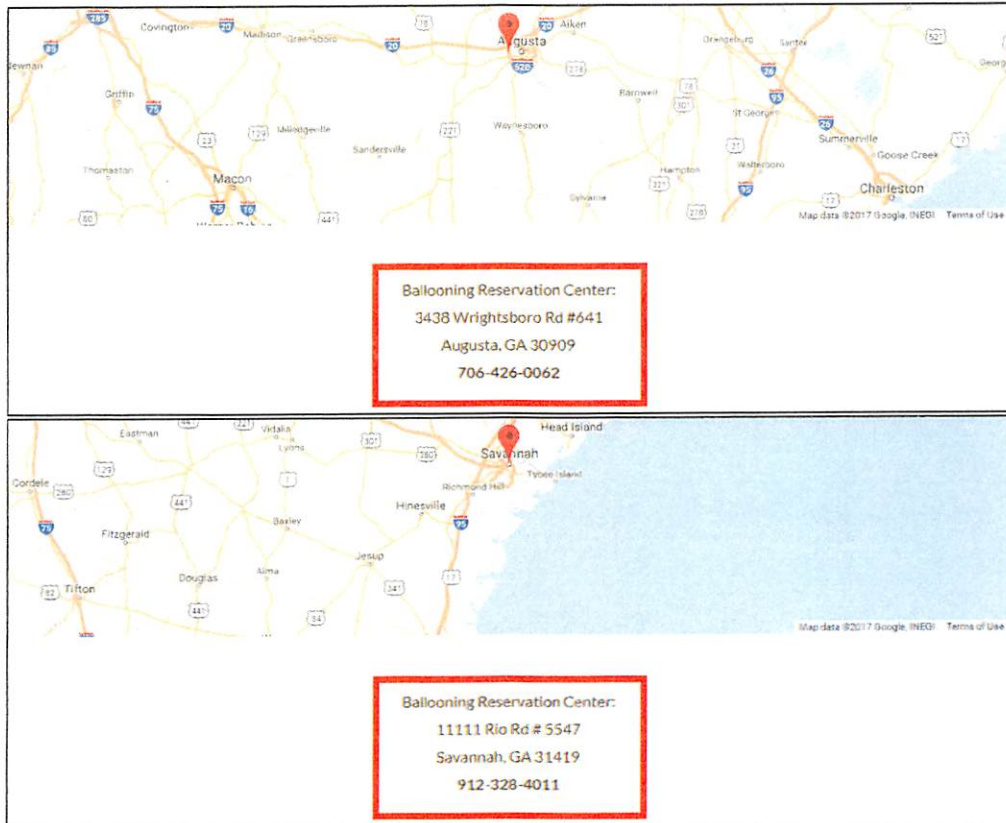
[Soaringsports.com Augusta](#)



**SAVANNAH**  
Hot air ballooning is a magnificent and unique way to spend time with your friends and family while elevating your expectations. We would love to give you the chance to create exciting new memories that will last forever. At Soaringsports.com Savannah, we know that nothing compares to the transcendence of floating through the sky in a hot air balloon.

[Soaringsports.com Savannah](#)

The links for the Augusta and Savannah locations contain phone numbers with a local telephone area code and a physical location at the end of the web page:



22.

Marvelay does not operate or provide goods or services at either address listed on the webpages for the Augusta and Savannah locations linked to [www.soaringsports.com](http://www.soaringsports.com).

23.

Webpages for locations in other states that are linked to [www.soaringsports.com](http://www.soaringsports.com) likewise contain physical addresses. Marvelay does not operate or provide goods or services at any of the physical addresses contained on those webpages.

24.

Similar representations are made on Marvelay's website, [www.skydiving.com](http://www.skydiving.com), as well as the webpages for each location linked to this website.

Open 24hr to 48hr per EST. Call 678-400-4851 now



HOME SKYDIVING NEWS 678-400-4851

SKYDIVING LOCATIONS

Skydiving.com has the largest network of skydiving centers in the United States.





HOME SKYDIVING NEWS 678-400-4851



Google

Open 24hr to 48hr per EST. Call 478-254-9816 now



HOME SKYDIVING NEWS 478-254-9816

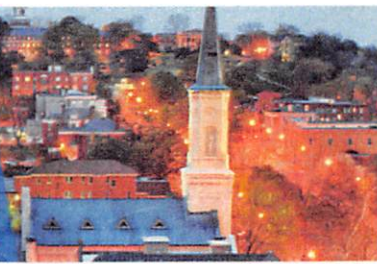

MACON SKYDIVING LOCATIONS

Skydiving.com Macon offers the most thrilling extreme sport in Georgia!

Our highly trained team of skydiving instructors will take you on the ride of your life! Whether you are a beginner or have been jumping for years, we've got the right options for you. We offer tandem, solo, and advanced formation skydiving. Get the best view from 14,000 feet above Macon! What are you waiting for? Give us a call today!

Best in Macon, GA!

Get in touch with us today at 478-254-9816 to learn more!

HOME SKYDIVING NEWS 478-254-9816



Users & Administration Center  
2701 Wilshire Rd Nw  
Macon, GA 31211  
478-254-9816

Marvelay does not provide the skydiving activities that are advertised and does not conduct any business operations in Macon, Georgia.

25.

Marvelay's websites direct consumers to call the local phone number listed on the website. The consumer's call is then automatically forwarded to Marvelay's place of business in Kennesaw, Georgia.

26.

Once the call connects, typically an automated recording begins, "[t]hank you for calling the number one adventure sports provider in the county. For more information on one of our exciting experiences please press one now."

27.

Marvelay's employees answer the phone but do not reveal to the consumer that the person answering the phone is a representative of Marvelay or "Spot Reservation" or "Rushcube". An employee may state "[h]ello, hot air balloons, how can I help you?" or "[s]kydiving, how can I help you?"

28.

Upon receiving a request from a consumer, Marvelay purportedly locates a third-party vendor willing to provide the service requested by the consumer, arranges for the service to be provided, and confirms the reservation with the consumer.

29.

Consumers are not aware that they have purchased a service from Marvelay until after they have provided payment information and payment has been processed. Consumers receive

an invoice revealing that one of Marvelay's "doing business as" entities, "Spot Reservation" or "Rushcube", processed the payment.

30.

Marvelay misrepresents and/or fails to inform consumers of material terms and conditions of the purchase of services and gift cards prior to processing payment, including but not limited to refund and cancellation policies.

31.

Marvelay has failed on occasion to secure reservations for consumers after processing consumers' payments and the activity that consumers paid for is then not provided by a third-party vendor.

32.

Marvelay sells gift certificates for activities advertised in specific geographical locations for which there are no vendors available in the advertised location. Instead of offering refunds when requested, Marvelay attempts to make reservations for consumers in locations that are a considerable distance away from the advertised location.

33.

Marvelay takes payment for a confirmed reservation at a specified location and then later informs the consumer that the reservation location has changed considerably.

34.

Marvelay takes payment for a confirmed reservation at a specified time when the vendor does not offer services at the time represented.

35.

When third-party vendors cancel reservations due to weather, Marvelay is unresponsive or unable to provide service when consumers attempt to reschedule their reservation.



COUNT I – VIOLATIONS OF O.C.G.A. §§ 10-1-393(b)(2) and 10-1-393(b)(3)

36.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

37.

Defendants created numerous websites for the purpose of advertising goods and services on the internet while disguising the true identity of Marvelay. Defendants represent on their websites that the fictitious businesses are part of a network of activity specific providers that does not exist.

38.

Defendants makes representations in their websites having the tendency or capacity to mislead or confuse consumers into believing that consumers can contact a local business that will provide the activity sought by the consumer when in fact the consumer is dealing with a business located in Georgia that does not provide any of the advertised activities.

39.

Defendants' acts and practices violate O.C.G.A. § 10-1-393(b)(2) which declares the causing of actual confusion or actual misunderstanding as to the source, sponsorship, approval, or certification of goods or services to be unlawful.

40.

Defendants' acts and practices violate O.C.G.A. § 10-3-393(b)(3) which declares the causing of actual confusion or actual misunderstanding as to affiliation, connection, or association with or certification by another to be unlawful.

COUNT II – VIOLATIONS OF O.C.G.A § 10-1-393(b)(4)

41.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

42.

Defendants created numerous websites containing representations intended to deceive consumers into believing that Marvelay (through use of a fictitious business name) is a business located in a geographic area where the advertised activities will take place, and that it is the provider of the advertised services.

43.

Defendants' representations violate O.C.G.A. § 10-1-393(b)(4) which declares the use of deceptive representations or designations of geographic origin in connection with goods or services as unlawful.

COUNT III – VIOLATIONS OF O.C.G.A. § 10-1-393(b)(9)

44.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

45.

Marvelay, using fictitious business names, advertised on its websites that consumers could participate in activities within specified cities when in fact the advertised activity could not be provided within those cities or within a reasonable distance from those cities.

46.

Marvelay, using fictitious business names, advertised on its websites that it was providing the activities when in fact it was only acting as a reservation service.

47.

Marvelay's advertisements violate O.C.G.A. § 10-1-393(b)(9) which declares the advertising goods or services with intent not to sell them as advertised as unlawful.

COUNT IV – VIOLATIONS OF O.C.G.A. § 10-1-393(b)(5)

48.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

49.

Marvelay, through the use of fictitious business entities, has made numerous misrepresentations to consumers for the purpose of inducing consumers to purchase goods and services including but not limited to:

(a) that it had verified the dates and times consumers requested for their purchased activities, prior to processing payments from consumers;

(b) that consumers could participate in activities within specified cities when in fact the advertised activity could not be provided within those cities or within a reasonable distance from those cities;

(c) providing consumers with false information regarding activity descriptions, activity lengths, and arrival times;

(d) that it was the vendor that would provide the activities offered to consumers;

(e) that it was part of a network or association of activity specific providers; and

(f) that gift certificates could be redeemed for activities in advertised locations when the activities were not available in the advertised locations.

50.

Marvelay's representations violate O.C.G.A. § 10-1-393(b)(5) which declares representations that goods or services have sponsorships, approval, characteristics, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that he or she does not have as unlawful.

COUNT V – VIOLATIONS OF O.C.G.A. § 10-1-393(a)

51.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

52.

Marvelay has engaged in systematic unfair and deceptive acts or practices as described above, including but not limited to disguising its true identity and geographic location, misrepresenting the services it actually provides, providing false information to consumers to induce consumers to pay for activities, failing to inform consumers of material terms and conditions related to activities, and failing to take the action necessary to ensure that consumers are able to participate in the activities consumers purchased or to provide refunds if the activity will not or cannot be provided as represented.

53.

Defendants' acts or practices are unfair and deceptive and violate the provisions of O.C.G.A. §10-1-393(a).

COUNT VI – VIOLATIONS OF O.C.G.A. § 10-1-393.5(b)(2)

54.

Plaintiff incorporates the preceding paragraphs as if specifically stated herein.

55.

By falsely advertising through numerous websites, Defendants have engaged in activities involving or using a computer or computer network that operated as a fraud or deceit upon a person, organization, or entity in violation of O.C.G.A. § 10-1-393.5(b)(2).

JURY DEMAND

56.

Plaintiff requests a trial by jury for all counts herein.

PRAAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Court enter an Order:


- (a) Permanently enjoining Defendants from engaging in the unfair or deceptive acts or practices as alleged in Counts I through VI above;
- (b) Permanently enjoining Defendants from violating the Fair Business Practice Act;
- (c) Requiring Defendants to pay restitution to consumers who were adversely affected by the acts and practices of Defendants that violated that Fair Business Practice Act;
- (d) Assessing a civil penalty against Defendants in the amount of \$5,000.00 per violation of the FBPA;
- (e) Assessing attorney's fees and costs against Defendants; and
- (f) Granting such other and further relief as the Court deems just and appropriate.



This 18<sup>th</sup> day of July, 2017.

CHRISTOPHER M. CARR  
Attorney General 112505

Anne S. Infinger 382918  
Deputy Attorney General  
Consumer Protection

  
Jacquelyn L. Kneidel 644727  
Assistant Attorney General  
Austin M. Hall 310751  
Assistant Attorney General  
Andrew D. Chesser 417888  
Assistant Attorney General

PLEASE DIRECT ALL  
COMMUNICATIONS TO:

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Assistant Attorney General  
Consumer Protection Unit  
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Atlanta, Georgia 30334  
(404) 656-3959  
jkneidel@law.ga.gov

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ASTA QUATTROCCHI, Individually, )  
 )  
Defendants. )

*DeLucca Heaton*  
COBB SUPERIOR COURT CLERK

CIVIL ACTION

FILE NO. \_\_\_\_\_

**AFFIDAVIT OF DAWN BAE**

Before me, the undersigned authority, this day personally appeared Dawn Bae, who is known to me, and on her oath deposed and said:

1.

My name is Dawn Bae. I am over eighteen (18) years of age and a citizen of the United States. The statements in this affidavit are based upon my personal knowledge of the facts set forth herein. I freely and voluntarily give this testimony for use in support of the Complaint for Injunctive Relief, Civil Penalties, Restitution, and Other Relief in this matter.

2.

I am employed as an investigator for the Office of the Attorney General, Consumer Protection Unit (“CPU”), which investigates alleged violations of Georgia law pursuant to the Fair Business Practices Act (“FBPA”) and related statutes. I have been an Investigator with this office for ten years.<sup>1</sup>

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<sup>1</sup> The powers and responsibilities of the Georgia Governor’s Office of Consumer Protection (“OCP”) were transferred to the Office of the Attorney General in 2015. Act 187, 2015 Ga. Laws 187, effective July 1, 2015. At that time, OCP became CPU.

3.

As an Investigator with CPU, my primary duties include, but are not limited to, the following: reviewing consumer complaints, identifying patterns of unfair and deceptive trade practices; conducting computer research using a variety of Internet search engines, public record and law enforcement databases, and computer software-based investigative tools; observing and reviewing internet websites; requesting, receiving and examining information provided by third parties, including information provided by state regulatory authorities and other regulatory organizations; and analyzing data related to possible violations of the Georgia Fair Business Practices Act and other laws enforced by CPU.

4.

As part of my duties, in 2017, I was assigned to assist with CPU's investigation into the business practices of Marvelay, LLC d/b/a Spot Reservation and d/b/a Rushcube ("Marvelay"). My investigation was focused on, but not limited to, preserving a sample of Marvelay's websites.

5.

On June 29, 2017, I visited the website of Atlanta Balloon Rides at [www.atlantaballoonrides.net](http://www.atlantaballoonrides.net) and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.atlantaballoonrides.net](http://www.atlantaballoonrides.net) as preserved on June 29, 2017, are included in the Complaint.

6.

On June 26, 2017, I visited the website of Chicago Balloon Rides at [www.balloonrideschicago.com](http://www.balloonrideschicago.com) and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.balloonrideschicago.com](http://www.balloonrideschicago.com) as preserved on June 26, 2017 are included in the Complaint.

7.

On June 26, 2017, I visited the website of Soaring Sports at [www.soaringsports.com](http://www.soaringsports.com) and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.soaringsports.com](http://www.soaringsports.com) as preserved on June 26, 2017 are included in the Complaint.

8.

On June 29, 2017, I visited the website of Soaring Sports Augusta at [www.soaringsports.com/balloon-rides/augusta/](http://www.soaringsports.com/balloon-rides/augusta/) and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.soaringsports.com/balloon-rides/augusta/](http://www.soaringsports.com/balloon-rides/augusta/) as preserved on June 29, 2017 are included in the Complaint.

9.

On June 29, 2017, I visited the website of Soaring Sports Savannah at [www.soaringsports.com/balloon-rides/savannah/](http://www.soaringsports.com/balloon-rides/savannah/) and used the SnagIt screen capture software to preserve the website. True and correct copies of portions the website [www.soaringsports.com/balloon-rides/savannah/](http://www.soaringsports.com/balloon-rides/savannah/) as preserved on June 29, 2017 are included in the Complaint.

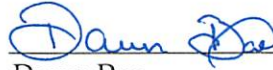
10.

On June 26, 2017, I visited the website of Skydiving at [www.skydiving.com](http://www.skydiving.com) and used the SnagIt screen capture software to preserve the website. Later, on June 27, 2017, I visited the website again and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.skydiving.com](http://www.skydiving.com) as preserved on June 26, 2017 and June 27, 2017 are included in the Complaint.

11.

On June 29, 2017, I visited the website of Skydiving Macon at [www.skydiving.com/macon/](http://www.skydiving.com/macon/) and used the SnagIt screen capture software to preserve the website. Later, on June 30, 2017, I visited the website again and used the SnagIt screen capture software to preserve the website. True and correct copies of portions of the website [www.skydiving.com/macon/](http://www.skydiving.com/macon/) as preserved on June 29, 2017 and June 30, 2017 are included in the Complaint.

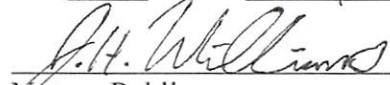
FURTHER AFFIANT SAYETH NOT.



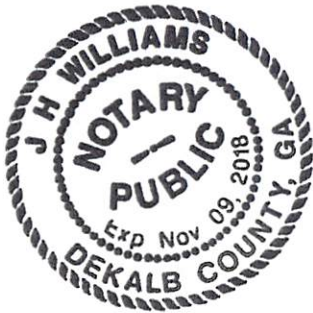
\_\_\_\_\_  
Dawn Bae  
Investigator, Consumer Protection Unit  
Georgia Department of Law

Sworn to and subscribed before me

this 14<sup>TH</sup> day of July, 2017.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11/9/2018





IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

FILED AND RECORDED

2017 JUL 18 AM 9:58

STATE OF GEORGIA *ex rel.* )  
CHRISTOPHER M. CARR, )  
Attorney General State of Georgia, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
MARVELAY, LLC d/b/a Spot Reservation, )  
and d/b/a Rushcube, )  
ERRAN YEARTY, Individually, and )  
ASTA QUATTROCCHI, Individually, )  
 )  
Defendants. )

*Rebecca Keaton*  
COBB SUPERIOR COURT CLERK

CIVIL ACTION

FILE NO. \_\_\_\_\_

**AFFIDAVIT OF DOMINIC DICECCO**

I, Dominic DiCecco, personally appeared before the undersigned attesting officer, duly authorized by law to administer oaths in the State of Georgia, who having been duly sworn, deposes and states as follows:

1.

My name is Dominic DiCecco. I am over eighteen (18) years of age and a citizen of the United States. The statements in this affidavit are based upon my personal knowledge of the facts set forth herein. I freely and voluntarily give this testimony for use in support of the Complaint for Injunctive Relief, Civil Penalties, Restitution, and Other Relief in this matter.

2.

I am employed as an investigator for the Office of the Attorney General, Consumer Protection Unit ("CPU"), which investigates alleged violations of Georgia law pursuant to the

Fair Business Practices Act (“FBPA”) and related statutes. I have been an Investigator with this office for seven years.<sup>1</sup>

3.

As an Investigator with CPU, my primary duties include, but are not limited to, the following: reviewing consumer complaints, identifying patterns of unfair and deceptive trade practices; conducting computer research using a variety of Internet search engines, public record and law enforcement databases, and computer software-based investigative tools; observing and reviewing internet websites; requesting, receiving and examining information provided by third parties, including information provided by state regulatory authorities and other regulatory organizations; conducting undercover calls to businesses; and analyzing data related to possible violations of the Georgia Fair Business Practices Act and other laws enforced by CPU.

4.

As part of my duties, in 2014, I was assigned to assist with CPU’s investigation into the business practices of Marvelay, LLC d/b/a Spot Reservation and d/b/a Rushcube (“Marvelay”). My investigation included but was not limited to reviewing consumer complaints, observing and reviewing internet websites, and obtaining documents and other information from consumers and third parties.

5.

Consumers have filed over 100 complaints against Marvelay since 2013 with CPU, the Better Business Bureau (“BBB”), and other governmental agencies. As of the date of this Affidavit, the most recent complaint was filed with the BBB on July 7, 2017.

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<sup>1</sup> The powers and responsibilities of the Georgia Governor’s Office of Consumer Protection (“OCP”) were transferred to the Office of the Attorney General in 2015. Act 187, 2015 Ga. Laws 187, effective July 1, 2015. At that time, OCP became CPU.

6.

In the complaints I reviewed, consumers regularly state that Marvelay's representations lead them to believe that they are purchasing recreational activities from the actual provider of the activities. Only after Marvelay sends email confirmation of the purchase after receiving payment, do consumers realize that Marvelay is a third-party reservation company who simply makes reservations with the actual local service provider on the consumer's behalf. Attached as Exhibit "A" is an example of a confirmation email I received from a consumer who purchased an activity after calling Marvelay.

7.

Consumer complaints indicate that Marvelay misrepresents and/or fails to inform consumers of material terms and conditions of the purchase of services and gift cards prior to processing payment, including but not limited to refund and cancellation policies.

8.

In their complaints, consumers often state that Marvelay represents that they have confirmed reservations for specified locations and times when, in fact, the actual vendor does not offer services at that specified location or time. For example, a Georgia consumer complained that Marvelay represented, at the time he purchased a 6:00 PM hot air balloon ride, that the air balloon ride had been confirmed. The consumer later learned that the reservation could not be honored because the vendor only provided morning hot air balloon rides.

9.

Consumers also complained that, when third-party vendors cancel reservations due to weather, Marvelay was unresponsive or unable to provide service when consumers attempt to reschedule their reservation.

10.

Consumer complaints reveal that Marvelay sells gift certificates for activities advertised in specific geographical locations for which there are no vendors available in the advertised location. Instead of offering refunds when requested, Marvelay attempts to make reservations for consumers in locations that are a considerable distance away from the advertised location.

11.

On September 13, 2016, I placed an undercover call to a phone number listed on one of Marvelay's websites which advertises skydiving in Nashville, Tennessee. The number contained a telephone area code local to Tennessee. The automated greeting stated "[t]hank you for calling the number one adventure sports provider in the county. For more information on one of our exciting experiences please press one now". After I pressed "one", a representative answered and stated "[s]kydiving, how can I help you". Neither the automated greeting nor the Marvelay representative who answered the call disclosed that I had reached Marvelay, or that I was speaking to a third-party reservation service. After I inquired about the actual location for the Nashville skydive, the representative stated the jump site was actually located in Tullahoma, TN, which is located over an hour from Nashville. Upon asking the Marvelay representative if he was in Tennessee, he admitted he was in Georgia.

12.

I have reviewed information and documents that CPU obtained through a subpoena to the domain registrar and web hosting company, GoDaddy. These materials demonstrate that Marvelay controls approximately 4,700 domain names. A credit card in the name of Erran Yearty was used to pay for the domain registration costs from 2014 through April 2017. Many of these domain names are associated with websites through which Marvelay offers goods and

services to consumers. I have reviewed those websites that are referenced in the Complaint and can confirm that they are Marvelay's websites.

13.

I have reviewed numerous other Marvelay websites during my investigation and have observed that numerous websites include domain names containing a description of activities and a specific geographic location, fictitious business names, telephone numbers with area codes specific to geographic locations where activities were represented to take place, and physical addresses implying that Marvelay operated at specific locations in those geographic areas.

FURTHER AFFIANT SAYETH NOT.




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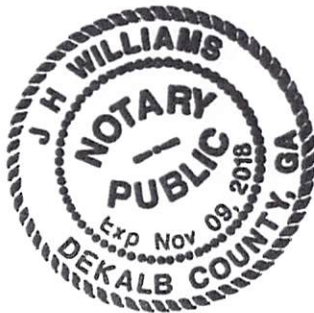
Dominic DiCecco  
Investigator, Consumer Protection Unit  
Georgia Department of Law

Sworn to and subscribed before me

this 14<sup>TH</sup> day of JULY, 2017.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11/9/2018



# EXHIBIT A

**From:** "noreply@cloud1point.com" <noreply@cloud1point.com>

**To:** [REDACTED]

**Sent:** Monday, September 26, 2016 [REDACTED]

**Subject:** RushCube Receipt for Order # [REDACTED]

# CONGRATULATIONS!

Your transaction # [REDACTED] has been processed.

## YOUR ORDER SUMMARY:

CUSTOMER # [REDACTED] | ORDER # [REDACTED]

ITEM ORDERED	QTY	PRICE PER	TOTAL
Shared Sunset Balloon Ride for One	2	\$290.00	\$580.00
Total Amount			\$580.00

## PARTICIPANT DETAILS:

PARTICIPENT NAME	WEIGHT(S)	HEIGHT	AGE
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]



The credit card you have provided us has been charged **\$580.00** and will appear as **RushCube** on your credit card statement.

If you have any questions about this transaction, please call our Customer Service Center at **1-860-581-4466** or email us at **csteam@rushcube.com**

## **ORDERING DETAILS**

Thank you for choosing RushCube. Our client service specialist provided the details of your order as listed within this receipt. For a full copy of our terms and conditions, visit [//RushCube.com/Terms](http://RushCube.com/Terms). If there is any inclement weather or unforeseen circumstances on your scheduled date, you will have two years to reschedule. We do require a 72-hour notification prior to your scheduled appointment to avoid any fees that would impair your ability to reschedule. Please give us a call at 1-860-581-4466 to make changes to your reservation. All date and location changes will be subject to availability.

Best regards,

**Chantell**

RushCube Client Service Manager

IN THE SUPERIOR COURT OF COBB COUNTY  
STATE OF GEORGIA

FILED AND RECORDED

2017 JUL 18 AM 9:59

*Debecca Keaton*  
COBB SUPERIOR COURT CLERK

STATE OF GEORGIA *ex rel.* )  
CHRISTOPHER M. CARR, )  
Attorney General State of Georgia, )  
)  
Plaintiff, )  
)  
vs. )  
)  
MARVELAY, LLC d/b/a Spot Reservation, )  
and d/b/a Rushcube, )  
ERRAN YEARTY, Individually, and )  
ASTA QUATTROCCHI, Individually, )  
)  
Defendants. )

CIVIL ACTION

FILE NO. \_\_\_\_\_

**AFFIDAVIT OF ANDREA ZVIKAS**

I, Andrea Zvikas, personally appeared before the undersigned attesting officer, duly authorized by law to administer oaths in the State of Georgia, who having been duly sworn, deposes and states as follows:

1.

My name is Andrea Zvikas. I am over eighteen (18) years of age and a citizen of the United States. The statements in this affidavit are based upon my personal knowledge of the facts set forth herein. I freely and voluntarily give this testimony for use in support of the Complaint for Injunctive Relief, Civil Penalties, Restitution, and Other Relief in this matter.

2.

I am employed as an investigator for the Office of the Attorney General, Consumer Protection Unit ("CPU"), which investigates alleged violations of Georgia law pursuant to the Fair Business Practices Act ("FBPA") and related statutes. I have been an Investigator with this office for one year and eight months.

3.

As an Investigator with CPU, my primary duties include, but are not limited to, the following: reviewing consumer complaints, identifying patterns of unfair and deceptive trade practices; conducting computer research using a variety of Internet search engines, public record and law enforcement databases, and computer software-based investigative tools; observing and reviewing internet websites; requesting, receiving and examining information provided by third parties, including information provided by state regulatory authorities and other regulatory organizations; conducting undercover calls to businesses; and analyzing data related to possible violations of the Georgia Fair Business Practices Act and other laws enforced by CPU.

4.

As part of my duties, in 2016, I was assigned to assist in investigating the business practices of Marvelay, LLC d/b/a Spot Reservation and d/b/a Rushcube (“Marvelay”). My investigation included but was not limited to reviewing consumer complaints, observing and reviewing internet websites, obtaining documents and other information from consumers and third parties, and conducting undercover calls to businesses.

5.

On September 14, 2016, I placed an undercover call to a phone number listed on one of Marvelay’s websites which advertises hot air balloon rides in Los Angeles. The phone number contained a telephone area code local to Los Angeles. The automated greeting stated “[t]hank you for calling the number one adventure sports provider in the county. For more information on one of our exciting experiences please press one now”. The automated greeting did not disclose that I had reached Marvelay, or that I was speaking to a third-party reservation service.

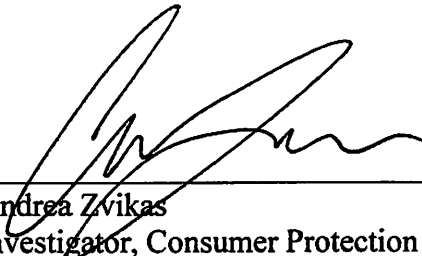
6.

After I pressed “one”, a representative answered and stated “[h]ello, hot air balloons, how can I help you?”. When she answered the phone, the representative did not initially disclose that I had reached Marvelay, or that I was speaking to a third party reservation service.


7.

Only after I inquired as to whether “Los Angeles Balloon Rides” was the actual company that would provide the activity, the representative admitted it was not and explained that the provider of the activity could be any one of a multitude of companies and that “Los Angeles Balloon Rides” just “does their reservations”. Finally, when I asked the representative where she was located, she admitted she was located in Georgia.

FURTHER AFFIANT SAYETH NOT.

  
\_\_\_\_\_  
Andrea Zvikas  
Investigator, Consumer Protection Unit  
Georgia Department of Law

Sworn to and subscribed before me  
this 14<sup>TH</sup> day of July, 2017.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 11/9/18

