IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

FEDERAL TRADE COMMISSION and STATE OF GEORGIA, Plaintiffs, v. STEVEN D. PEYROUX, individually and as an owner and officer of REGENERATIVE MEDICINE INSTITUTE OF AMERICA, LLC, also d/b/a Stem Cell Institute of America, LLC, PHYSICIANS BUSINESS SOLUTIONS, LLC, and SUPERIOR HEALTHCARE, LLC, BRENT J. DETELICH, individually and as an officer of REGENERATIVE MEDICINE INSTITUTE OF AMERICA, LLC, also d/b/a Stem Cell Institute of America, LLC, REGENERATIVE MEDICINE INSTITUTE OF AMERICA, LLC, a limited liability company, also d/b/a Stem Cell Institute of America, LLC, PHYSICIANS BUSINESS SOLUTIONS, LLC, a limited liability company, and SUPERIOR HEALTHCARE, LLC, a limited liability company, Defendants.	CIVIL ACTION NO. 1:21-cv-3329-AT

ORDER GRANTING MONETARY RELIEF

In an 82-page Opinion and Order issued on March 11, 2024, the Court granted summary judgment to Plaintiffs, the Federal Trade Commission and the State of Georgia. (Summary Judgment Order, Doc. 132). In its Opinion, the Court held that both the FTC and the State of Georgia are entitled to injunctive relief. The Court also held that the State of Georgia is entitled to monetary relief in the form of restitution and civil penalties under the Georgia Fair Business Practices Act ("GFBPA"), O.C.G.A. § 10-1-397(b)(2); § 10-1-393.5(d); and § 10-1-851. (*Id*. at 63-81). On June 17, 2025, the Court held a hearing to address the appropriate scope of relief (both monetary and injunctive). The parties were also permitted to file post-hearing evidence. Having considered the parties' arguments and evidence in light of the relevant legal authority, the Court issues this Order, providing the State of Georgia with monetary relief, as authorized under the GFBPA.[1]

I. THE PARTIES

Plaintiffs are the Federal Trade Commission ("FTC") and the State of Georgia. The FTC enforces the FTC Act, which prohibits unfair or deceptive acts or practices in or affecting commerce — including false advertising for drugs or services. 15 U.S.C. §§ 45(a) and 52. The State of Georgia, through its Attorney General, enforces the GFBPA, which also prohibits unfair or deceptive acts or practices in or affecting commerce. O.C.G.A. §§ 10-1-390—10-1-408.

[1] The Court has issued a separate decision ordering appropriate injunctive relief.

There are five Defendants: 3 corporate Defendants and two individual Defendants, as shown below:

Corporate Defendants	Individual Defendants
• Superior Healthcare, LLC ("Superior") • Physicians Business Solutions, LLC ("Physicians Business") • Regenerative Medicine Institute of America, LLC d/b/a Stem Cell Institute of America LLC ("SCIA")	• Steven Peyroux • Brent Detelich

Two of the corporate Defendants (Superior and SCIA) have been through bankruptcy proceedings. (Summary Judgment Order, Doc. 132 at 9).[2] Physicians Business remains operational. Peyroux and Detelich currently hold interests in several other healthcare companies. (*Id.*)

II. RELEVANT FINDINGS

1. This Court has jurisdiction over the subject matter of this case pursuant to 28 U.S.C. §§ 1331, 1337(a), and 1345, and has jurisdiction over all the parties hereto.

2. This Court has supplemental jurisdiction over the State of Georgia's claims for violations of the GFBPA under 28 U.S.C. § 1367(a) because those claims are so related to the claims brought under federal law that they form part of the same case or controversy, and because those claims arise out of the same

[2] The Summary Judgment Order contains significantly more detail about the Defendants and the nature of their businesses.

transactions or occurrences as the claims brought under 15 U.S.C. §§ 45(a), 52, and 53(b).

3. Venue in this district is proper under 28 U.S.C. § 1391(b)(1), (b)(2), (b)(3), (c)(1), (c)(2), and (d), and 15 U.S.C. § 53(b).

4. At all times relevant to this Complaint, Defendants have maintained a substantial course of trade in or affecting commerce, as "commerce" is defined in Section 4 of the FTC Act, 15 U.S.C. § 44 and O.C.G.A. § 10-1-392(a)(28).

5. This is an action instituted by the FTC and the State of Georgia. The Complaint charges that Defendants engaged in deceptive acts or practices in violation of Sections 5(a) and 12 of the FTC Act, 15 U.S.C. §§ 45(a), 52, and O.C.G.A. §§ 393(a), 393(b)(5), and 393.5(b) in the advertising, marketing, and sale of stem cell therapy. The Complaint seeks permanent injunctive relief, restitution, civil penalties, and other equitable relief for the Defendants' deceptive and unfair acts or practices as alleged.

As the Court found in its Summary Judgment Order (Doc. 132):

6. Defendants violated the GFBPA by making false or unsubstantiated claims that stem cell therapy (Count IV):

   a. Cures, treats, or mitigates various orthopedic conditions, including osteoarthritis, arthritis, neuropathy, plantar fasciitis, joint pain, and pain resulting from injuries or aging; and

   b. Is comparable or superior to surgery, steroid injections, and painkillers in curing, treating, or mitigating various orthopedic

conditions, including osteoarthritis, arthritis, neuropathy, plantar fasciitis, joint pain, and pain resulting from injuries or aging

7. Defendants violated the GFBPA by disseminating false or misleading representations through the use of a computer or computer network, and while engaging in these acts or practices, Defendants marketed and sold their products to a large number of elderly and disabled consumers (Count V).

8. Defendants SCIA, Superior, and Physicians Business (collectively, the "Corporate Defendants") acted and operated as a common enterprise and can thus be held liable for each other's actions.

9. At all times material to the Complaint, both Defendants Peyroux and Detelich (1) had the authority to control the Corporate Defendants' acts and (2) directly participated in the unlawful acts and practices set forth above. In addition, both Defendants Peyroux and Detelich had actual knowledge of the acts and practices set forth above, as they were the force behind the entire operation and were fully immersed in the Corporate Defendants' advertising campaigns.

10. Defendants' comprehensive campaign to develop and disseminate misleading advertisements about the efficacy and approval of stem cell therapy was the main thrust of Defendants' businesses, and Defendants profited massively from these efforts.

11. The State of Georgia has authority under the GFBPA to seek restitution on behalf of consumers as well as civil penalties, O.C.G.A. § 10-1-397(b); § 10-1-393.5(d); and § 10-1-851 (as discussed further below).

12. The State of Georgia may obtain civil penalties and restitution under the GFBPA in a federal court. (*See* Summary Judgment Order, Doc. 132 at 68).

13. The GFBPA's Civil Penalty Provision is not unconstitutionally vague. (*Id*. at 68-76).

14. The UDPTEA, O.C.G.A. § 10-1-851, providing for enhanced penalties against any person who committed a GFBPA violation against an elder or disabled person, is not unconstitutionally vague. (*Id*. at 76-77).

III. AVAILABLE RELIEF

The State of Georgia seeks monetary relief under the following statutory provisions of the GFBPA: O.C.G.A. § 10-1-397(b)(2) ("the Civil Penalty Provision"); O.C.G.A. § 10-1-393.5(d) ("Additional Computer Penalty Provision"); and O.C.G.A. § 10-1-851 ("the Unfair and Deceptive Practices Towards the Elderly Act (UDPTEA)").

The Civil Penalty Provision is the primary mechanism for the Attorney General to seek relief for violations of the GFBPA when the "proceedings would be in the public interest" and "whether or not any person has actually been misled." O.C.G.A. § 10-1-397(b). This Provision authorizes the Attorney General to seek various forms of relief for violations of the GFBPA:

> (2) . . . upon a showing by the Attorney General in any superior court[3] of competent jurisdiction that a person has violated or is about to violate [the GFBPA], or an order of the Attorney General, the court may enter or grant any or all of the following relief:
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> (A) A temporary restraining order or temporary or permanent injunction;
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> (B) **A civil penalty of up to a maximum of $5,000.00 per violation of this part**;
>
> (C) A declaratory judgment;
>
> (D) **Restitution to any person or persons adversely affected by a defendant's actions in violation of this part**;
>
> (E) The appointment of a receiver, auditor, or conservator for the defendant or the defendant's assets; or
>
> (F) Other relief as the court deems just and equitable.

§ 10-1-397(b)(2) (emphases added).

In addition, the Additional Computer Penalty Provision, *see* § 10-1-393.5(d), and the Unfair and Deceptive Practices Towards the Elderly Act ("UDPTEA"), *see* § 10-1-851, together allow the Attorney General to seek additional civil penalties against a defendant who "intentionally targets" an elderly or disabled person when using a computer or computer network to engage in

[3] Although the statute authorizes the Attorney General to seek relief "in any superior court," a provision was added to the statute in 2015 clarifying that "The Attorney General is authorized to initiate or intervene as a matter of right or otherwise appear *in any federal court* or administrative agency *to implement the provisions of this article*." O.C.G.A. § 10-1-397.1 (emphasis added).

deceptive acts. (*See* Summary Judgment Order, Doc. 132 at 65-66).[4] This additional penalty may be assessed in an amount up to $10,000 per violation, *see* § 10-1-851, and may be assessed *in addition to* any civil penalty otherwise imposed. (*See* Summary Judgment Order, Doc. 132 at 65-66).

IV. APPROPRIATE RELIEF IN THIS CASE

Under the above relief provisions, the State of Georgia seeks monetary relief from Defendants Physicians Business, Peyroux, and Detelich, jointly and severally in the form of (1) civil penalties and (2) restitution in the following amounts:

- a $5,000 civil penalty for each day false and misleading representations were available on Superior's website (for at least 1330 days), for a total of $6,650,000;
- a $10,000 civil penalty for each GFBPA violation against an elder or disabled person, including 59 online advertising campaigns, 161 brochures downloaded online, 148 seminars delivered, and 335 elderly consumer purchases of stem cell shots, for a total $7,030,000;
- a $5,000 civil penalty for each individual consumer who purchased a stem cell shot who was not elderly, for a total of $750,000; and
- restitution from Defendants Peyroux and Detelich for the 485 customers who purchased stem cell injections from Defendant Superior in the amount of $3,350,416 (the cost customers paid for shots, and the amount Defendants profited from selling the shots).

[4] Under Article 31, an "elder person" is a person 60 years of age or older. O.C.G.A. § 10-1-850(2). A "disabled person" is an individual "who has a physical or mental impairment which substantially limits one or more of such person's major life activities." *Id.* § 10-1-850(1). The statute then provides a definition for "physical or mental impairment" that includes individuals who have "orthopedic" diseases. *Id.*

In total, the State seeks $14,430,000 in civil penalties from all three remaining Defendants and $3,350,416 in restitution from Defendants Peyroux and Detelich — for a total of $17,780,416. (MSJ, Doc. 73-1 at 33–34.)

Defendants object to this amount, arguing that the Court should consider their ability (or inability) to pay; that the State has not sufficiently supported its restitution amount; that the amount sought for civil penalties is disproportionate to the number of victims affected; and that they did not intentionally target elderly victims. (*See generally* Peyroux Obj., Doc. 142-1; Detelich Obj., Doc. 144). The Court addresses the appropriate scope of relief below.

A. Restitution

To repeat, O.C.G.A. § 10-1-397(b)(2)(D) authorizes the Court to award to the Attorney General "[r]estitution to any person or persons *adversely affected* by a defendant's actions" in violation of the GFBPA, when such restitution would be in the public interest and "whether or not any person has actually been misled." O.C.G.A. § 10-1-397(b)(2)(D) (emphasis added). Restitution means "a restoration of something to its rightful owner" or "a legal action serving to cause restoration of a previous state." *See Restitution*, Merriam-Webster Dictionary. In assessing a prior version of the GFBPA, the Georgia Court of Appeals explained that restitution means "the refund of the purchase price and the return to the status quo." *Colonial Lincoln-Mercury Sales, Inc. v. Molina*, 262 S.E.2d 820, 822 (Ga. Ct. App. 1979).

Here, the State of Georgia seeks restitution for the 485 consumers who purchased stem cell injections from Defendant Superior at the total cost of $3,350,416. (*See* Bae Decl., Doc. 78-16 ¶ 16; Superior Customer List, Doc. 94-14).

The Individual Defendants present two arguments in opposition to the State's restitution request. First, the Individual Defendants argue that the State has not established that the 485 individuals for whom it seeks restitution were "adversely affected" by Defendants' false and unsubstantiated representations. (Peyroux Obj., Doc. 142-1 at 4; Detelich Obj., Doc. 144 at 4).

Under well-established rules of statutory construction, courts "afford the statutory text its plain and ordinary meaning" and read statutory text "in the most natural and reasonable way, as an ordinary speaker of the English language would." *Quattrocchi v. State*, 850 S.E.2d 432, 435 (Ga. Ct. App. 2020) (assessing GFBPA civil penalty provision). The Cambridge Dictionary definition of "adversely affected" is "influenced or changed in a negative or harmful way." *Adversely Affected*, Cambridge Dictionary.[5] The evidence discussed at length in the Summary Judgment Order establishes that the 485 customers — individuals who paid large sums of money based on false and misleading advertisements for stem cell therapies that did not provide the promised benefits — were "influenced or changed in a negative or harmful way" and were therefore "adversely affected." The record evidence establishes that these customers paid for medical products that

[5] Available at: https://dictionary.cambridge.org/us/dictionary/english/adversely-affected.

did not work as promised. These customers therefore suffered adverse economic affects, sufficient to support restitution under the statue. *Molina*, 262 S.E.2d at 822 (assessing an earlier version of the GFBPA, explaining that restitution includes "the refund of the purchase price and the return to the status quo").

The Individual Defendants' second argument concerns the number of individuals who are entitled to restitution. The Individual Defendants argue that they already provided refunds to some consumers and therefore those amounts should be deducted from the total restitution amount.[6]

In support of their contention that they have already provided some refunds, the Individual Defendants rely on a declaration from Melinda Peyroux — Defendant Peyroux's wife who performed bookkeeping functions for Defendant Superior from January 2017 through January 2019. (M. Peyroux Decl., Doc. 165-1 ¶ 5). Ms. Peyroux declares that Superior paid refunds or partial refunds to 20 of the 485 harmed consumers identified by the State of Georgia. (*Id.* ¶ 11). Yet, in support, the Individual Defendants attach documentation to establish the payment of only six or seven refunds. (*See* Refund Documentation, Doc. 165-3).[7]

[6] While Defendants raised these objections belatedly — for the first time at the June 17 hearing — the Court will consider these objections and the evidence Defendants later submitted in support. (*See* Refund Evidence, Docs. 165, 165-1, 165-2, and 165-3).

[7] As to the seventh alleged refund: Ms. Peyroux declares that consumer W. Spikes received a refund of $9,460. (Refund List, Doc. 165-2 ¶ 19). However, the documentation Defendants submit for this proposition does not include any reference to this consumer's name and only establishes that Superior made a payment of $9,460 to "Greensky LLC" on a particular date. (Doc. 165-3 at 15). This is insufficient to show that Defendants refunded Mr. Spikes.

Upon review, the Court finds that the Individual Defendants' evidence establishes that Superior paid refunds to six consumers in the total amount of $40,270. (*Id.*) Accordingly, the Court will deduct that amount from the total restitution amount. After subtracting the refund amount, the Court finds that the appropriate restitution amount is $3,310,146. The Court **ORDERS** that the Attorney General shall recover from the Individual Defendants restitution on behalf of harmed consumers in the amount of **$3,310,146 —** an amount which will make whole the 479 customers who have not already received refunds. *See Molina*, 262 S.E.2d 820, 822 (Ga. Ct. App. 1979); *Restitution*, Merriam-Webster (defining restitution as "a restoration of something to its rightful owner" and "a legal action serving to cause restoration of a previous state.").

B. Civil Penalties

To refresh: under O.C.G.A. § 10-1-397(b)(2)(B), the Court may award to the Attorney General "a civil penalty of up to a maximum of $5,000.00 per violation" of the GFBPA. The Court may award additional civil penalties — of up to $10,000 per violation — for violations against any person who "intentionally targets an elder or disabled person" by using a computer or computer network to engage in deceptive acts. *See* O.C.G.A. § 10-1-393.5(d); O.C.G.A. § 10-1-851.

Like many other state consumer protection statutes, the GFBPA does not *explicitly* define "violation."[8] That said, a careful reading of the statute makes clear

[8] In a lengthy discussion, the Court rejected Defendants' arguments that this provision was unconstitutionally vague. (Summary Judgment Order, Doc. 132 at 68-76). Numerous

that a *single* deceptive act or practice is considered a violation of the statute. *See* O.C.G.A. § 10-1-393; *Zeeman v. Black*, 273 S.E.2d 910, 916 (acknowledging that "a single instance of an unfair or deceptive act or practice" is a violation of the GFBPA). So a single misrepresentation —for example, a statement saying that a product has benefits that it does not in fact have — is a "violation" of the statute. O.C.G.A. § 10-1-393(b)(5).

Courts interpreting similar state consumer protection statutes have also consistently found that *each dissemination* of the same misleading advertisement can constitute a separate violation. *See, e.g., State ex rel. Wilson v. Ortho-McNeil-Janssen Pharm., Inc.*, 777 S.E.2d 176, 203 (S.C. 2015) (finding that each letter sent out was a separate violation, and that each sample box ad was a separate violation); *United States v. Reader's Dig. Ass'n, Inc.*, 662 F.2d 955, 959–60 (3d Cir. 1981) (upholding finding that each of 17,940,521 mailings constituted a separate violation of consent order under FTC Act); *State v. Menard, Inc.,* 358 N.W.2d 813, 815 (Wis. Ct. App. 1984) (considering "each publication of an advertisement" in each newspaper or other medium a separate violation of Wisconsin consumer protection law); *State v. LA Inv'rs, L.L.C.*, 410 P. 3d 1183 (Wash. Ct. App. 2018) (finding that each of the 256,998 mailings sent out to consumers was a separate violation); *People v. Johnson & Johnson*, 292 Cal. Rptr. 3d 424, 472-473 (Cal. Ct.

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other state consumer protection laws include similar language allowing the particular state's attorney general to recover for penalties "per violation," without explicitly defining "violation." (*See id.* at 72 & n.31).

App. 2022) (upholding finding that each separate marketing communication constituted a separate violation); *People v First Fed. Credit Corp.*, 128 Cal. Rptr.2d 542 (Cal. Ct. App. 2002) (finding that each deceptive mailer sent out was a separate violation).

Generally, appellate courts have determined that trial courts have discretion to determine the appropriate way to measure the number of "violations" of a consumer protection statute. *See, e.g., Beaumont Inv.,* 3 Cal. Rptr. 3d at 450–51 (explaining that, where the statute does not define violation, "determining what qualifies as a single violation" is "up to the courts" and depends on "the circumstances of the case"); *State v. Mandatory Poster Agency, Inc.*, 398 P.3d 1271, 1280 (Wash. Ct. App. 2017) (explaining that the trial court did not abuse its discretion since state consumer protection action "vests the trial court with the power to assess a penalty for each violation"); *State ex rel. Corbin v. United Energy Corp. of Am.*, 725 P.2d 752, 756 (Ariz. Ct. App. 1986) (emphasizing the importance of allowing courts to have flexibility in imposing civil penalties under Arizona Consumer Protection Act to "give effect to [the] legislative intent behind the statute").

Beyond assessing the total number of violations, a reviewing court must determine the appropriate penalty amount *for each violation*. The GFBPA clearly indicates that each violation may not exceed $5,000, except that a court may award enhanced penalties of up to $10,000 for violations involving the intentional targeting of elderly or disabled consumers. O.C.G.A. § 10-1-397(b)(2)(B); O.C.G.A.

§ 10-1-393.5(d); O.C.G.A. § 10-1-851. This provides the Court with discretion to order civil penalties within a confined range. *See Harris v. Mexican Specialty Foods, Inc.*, 564 F.3d 1301, 1312 (11th Cir. 2009) (addressing different statute, explaining that statutes which allow a court to issue penalties "up to" proscribed amount grant the court "some discretion . . . to act within a range").

Other courts assessing the appropriate amount of civil penalties per violation of a consumer protection statute have considered the "*Reader's Digest* factors," articulated by the Third Circuit in *United States v. Reader's Digest Ass'n, Inc.*, 662 F.2d 955, 967 (3d Cir. 1981).[9] There, the Third Circuit explained that courts should consider the following factors to determine the appropriate civil penalty in a consumer protection case: (1) the good or bad faith of the defendants; (2) the injury to the public; (3) the defendants' ability to pay; (4) the desire to eliminate the benefits derived by a violation; and (5) the necessity of vindicating the authority of the regulatory agency. *Id.*[10]

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Keeping in mind the above legal authority, the Court first determines the number of violations of the GFBPA based on the evidence in this case. After

[9] Courts that have considered these factors in assessing penalties under state consumer protection statutes include *Com. v. Fall River Motor Sales, Inc.*, 565 N.E.2d 1205, 1211 (Mass. 1991); *State v. Going Places Travel Corp.*, 864 N.W.2d 885, 897-98 (Wisc. Ct. App. 2015); *Ortho-McNeil-Janssen Pharm., Inc.*, 777 S.E.2d at 203.

[10] *Reader's Digest* involved an assessment of civil penalties for violations of the FTC Act. As the GFBPA is intended to be "interpreted and construed consistently" with the FTC Act, *see* O.C.G.A. § 10-1-391, application of the Reader's Digest factors in the context of the GFBPA is congruent with the statutory text.

determining the number of violations, the Court assesses the appropriate amount per violation. In assessing the penalty per violation, the Court is mindful that the purpose of a civil penalty is to punish a wrongdoer for his actions. *See Penalty and Civil Penalty*, Black's Law Dictionary (12th Ed. 2024). In light of this purpose, the Court imposes different civil penalty amounts based on the different conduct underlying the various violations at issue.

As noted above, each separate dissemination of a false representation is a violation of the GFBPA. *See* O.C.G.A. § 10-1-393; *Zeeman v. Black*, 273 S.E.2d 910, 916 (acknowledging that "a single instance of an unfair or deceptive act or practice" is a violation of the GFBPA).

Upon review of the full record, and with the benefit of an evidentiary hearing, the Court concludes that the State has put forth evidence to support four different types of false representations that were disseminated by Defendants in the following amounts:

- misrepresentations on Superior's websites (available online and thus disseminated to the public for 1330 days);
- misrepresentations in initial Facebook advertisements (disseminated to the public via at least 59 different Facebook ads);
- misrepresentations in an advertisement brochure (disseminated to, and downloaded by, at least 161 individuals in "drip emails"); and
- misrepresentations at seminars (disseminated to the public at 148 seminars).

Considering the above, the State has established that Defendants violated the GFBPA *at least* 1,698 times[11] through the above-listed disseminations. That said, Defendants' above-listed violations are not all equal: some violations reflect serious intent to mislead consumers, while other violations involve less intent to mislead. Some violations resulted in more harm to consumers, others less. The Court therefore assesses each category of misrepresentations separately to determine the appropriate civil penalty for each type of violation.

The Court first considers the misrepresentations made on Superior's website. Superior's website included statements that stem cell therapy "can be used to treat nearly any type of condition caused by injury or degeneration" including incredibly serious conditions — Alzheimer's Disease, Parkinson's Disease, Multiple Sclerosis, COPD, Kidney Disease, and more. (Superior Website, Doc. 126-2 at ECF 7) (also noting that Superior could provide cutting edge stem cell therapy "that can help you avoid the need for costly and painful surgery and long recovery periods"). This website was advertised, and thus disseminated, to consumers for 1330 days. (Hearing Tr., Doc. 173 p. 59; *See also* 9/29/15 Website Capture, Doc. 126-2 at 2; 4/24/19 Website Capture, Doc. 96-22). Accordingly, the Court finds that the continued posting of these deceptive statements constitutes 1330 violations of the GFBPA. Yet, as Defendants' website disseminations were somewhat passive actions, and because these statements were not directly sent to specific vulnerable

[11] 1330 disseminations on Superior websites + 59 different Facebook ads disseminated to the public + at least 161 brochures disseminated by email + 148 disseminations to the public at seminars = 1,698 violations.

consumers, the Court awards a lower civil penalty amount of $500 per violation, for a total of $665,000 in civil penalties for the violations involving the false representations posted on Superior's website.

Next, the Court considers the misrepresentations that were made in Facebook ads. The Facebook ads were the first step in Superior's targeted marketing funnel. The Facebook ads included links to a website where consumers could sign up to attend seminars (after which, consumers would purchase the expensive stem cell therapies). (Hearing Tr., Doc. 173 p. 62). One example Facebook ad stated that attendees at a particular seminar would learn how stem cell therapy "can be used to regenerate joints and restore mobility to damaged knees," further noting that the lecture would be presented by "*Dr*. Steven Peyroux"[12] and would show "how thousands of patients are living pain-free lives with help from the research, treatments and therapies of stem cell science" (Superior Facebook Ad, Doc. 75-12) (emphasis added). In another Facebook ad, Physicians Business represented that its regenerative medicine programs were both "FDA approved" and "approved by the FTC & FDA." (FDA Approved Facebook Ad, Doc. 87-3.) Defendants disseminated 59 different Facebook ads. (Hearing Tr., Doc. 173 p. 63; *see also* Grow Smart Marketing Documents, Docs. 87-14, 159-13 (describing and listing ad campaigns)). The number of viewers is unknown.

[12] Mr. Peyroux is not a licensed medical doctor; he is a licensed chiropractor.

The evidence demonstrates that these Facebook ads were the first targeted act by which Defendants drew in consumers and began convincing them to make expensive stem cell purchases. In many ways, these ads were the first step in the swindle strategy. These disseminations are therefore more serious violations of the GFBPA than the passive website posting. Accordingly, the Court awards a civil penalty of $2,000 for each of the 59 Facebook ads, for a total of $118,000.

The third category of violations involves misrepresentations made in brochures that were sent to consumers. After consumers clicked links in the Facebook ads and signed up for seminars, they would begin receiving "drip emails." (Hearing Tr., Doc. 173 p. 62). These "drip emails" included a link to a brochure advertising stem cell therapy. (*Id.*) This brochure claimed that stem cell therapy could "restore your health and help you live Pain-Free" and that it was "a revolutionary solution to heal cervical joint degeneration," among many other misleading representations. (Brochure, Doc. 95-16 at 9). The record evidence indicates that Defendants disseminated this brochure *at least* 161 times. (Hearing Tr., Doc. 173 p. 69; *see also* Brochure Download List, Doc. 159-14). These targeted emails — which linked to brochures that made misrepresentations — were intended to further push consumers towards making the ultimate, very expensive purchases. Defendants' disseminations of these emails are comparable in egregiousness to the disseminations of the Facebook ads. Both were integral aspects of Defendants' long course of deception. Accordingly, the Court awards a civil penalty of $2,000 for each of the 161 disseminations of the brochure

downloaded by consumers. As a result, the Court awards a total of $322,000 in civil penalties for this third category of violations.

The final category of violations concerns Defendants' seminars. As noted, the Facebook ads included links that allowed consumers to sign up for seminars that were presented across the state of Georgia. (Hearing Tr., Doc. 173 p. 62). The seminars were presented to consumers and also to other customer clinics. **(**PSOMF-Peyroux, Doc. 115-1 ¶ 360; Marietta Seminar Agenda, Doc. 77-25; Apex Seminar Agenda, Doc. 90-5). These seminars were intended to seal the deal and ensure that consumers committed to purchasing expensive stem cell treatments. Defendants developed materials and tactics intended to manipulate consumers and persuade them to purchase treatment by overcoming customers' objections and taking advantage of their vulnerable health circumstances. (*See, e.g.*, Handling Objections Slideshow, Doc. 76-4 (in which presentation slides show crafted responses coaching presenters on how to "overcome objections" such as needing to talk to a spouse before purchasing or financial concerns)). For example, one of Defendants' crafted responses to a consumer who wanted to speak to their spouse was to say, "I know that if you go home and tell your spouse about it they'll say no, because they weren't at the seminar and they weren't here today to fully understand your condition and the therapy." (*Id.*)

All in all, the record shows that Defendants put on 148 seminars that were attended by 3,711 individuals. (Hearing Tr., Doc. 173 pp. 33, 72-73; *see also* Docs. 159-7; 79-19 (listing seminars)). Of the 3,711 individuals attending the seminars,

2,155 were elderly individuals as defined under the GFBPA, O.C.G.A. § 10-1-850(2). (*Id.*) Put simply, these seminars were designed to manipulatively overcome consumers' objections and capitalize on their vulnerable conditions. The individual presenters passed themselves off as medical doctors when they were not. Accordingly, as the seminars involved — in the Court's view — the most egregious and misleading conduct, the Court issues a $5,000 civil penalty for each of the 148 seminars, for a total of $740,000.

To briefly summarize, the Court assesses civil penalties in the following amounts:

- $665,000 for misrepresentations on Superior's websites (available online and thus disseminated to the public for 1330 days);
- $118,000 for misrepresentations in initial Facebook advertisements (disseminated via at least 59 different Facebook ad campaigns);
- $322,000 for misrepresentations in an advertisement brochure (disseminated to and downloaded by *at least* 161 individuals via "drip emails"); and
- $740,000 for misrepresentations at seminars (disseminated at 148 seminars to at least 3,711 people).

This amounts to a total civil penalty amount of **$1,845,000.**

Having determined the above civil penalty amount, the Court briefly addresses the State's request for increased civil penalties for Defendants' alleged targeting of elderly or disabled consumers using a computer network. Under the plain text of the statute, an additional enhanced penalty *may* be assessed against

any person who "intentionally targets an elderly or disabled person" when using a computer or computer network to violate the GFBPA. *See* O.C.G.A. § 10-1-393.5.

Based on the record evidence presented, the Court cannot find that Defendants "intentionally targeted" elderly or disabled consumers using a computer or computer network sufficient to assess the higher $10,000 per violation penalties. The State of Georgia relies on two pieces of evidence to demonstrate that Defendants intentionally targeted elderly consumers. The first is a document that outlines the purpose of the seminars and states that "[g]iven that our target demographic for stem cells is more in the older age range, the quietness of the room is not only crucial to the professionalism of our practice, but also for our more elderly patients to be able to hear what is being said. . ." (Purpose of Seminar, Doc. 75-17). The second piece of evidence is an email from Defendant Peyroux in which he asks an employee to reschedule a marketing blast so that it does not fall on election day because "[e]lection day is very big and that is all old people have left in life to do." (Peyroux Election Day Email, Doc. 75-15).

No doubt these emails show some desire to target the elderly in the overall scheme. And it is true that the group of consumers involved here includes almost exclusively elderly and disabled individuals, resulting from the nature of the products at issue. But the evidence also indicates that Defendants advertised their stem cell therapies to any and all comers. The State has not pointed to enough significant evidence proving the requisite level of intent such that the Court would feel comfortable imposing these heightened penalties. The State has also not tied

the alleged broad targeting of the elderly specifically to the use of a computer network, as the statute contemplates. Beyond this, the Court is also concerned that any higher civil penalty amounts would be overly punitive under the circumstances. So even if the Court found that the evidence sufficiently demonstrated that Defendants intentionally targeted elderly individuals specifically through the use of computer networks, it would not order enhanced penalties, as it has already issued significant civil penalties as well as restitution.

In ordering the above amount in civil penalties, the Court has considered the *Reader's Digest* factors. Again, those factors are: (1) the good or bad faith of the defendants; (2) the injury to the public; (3) the defendants' ability to pay; (4) the desire to eliminate the benefits derived by a violation; and (5) the necessity of vindicating the authority of the regulatory agency. *Reader's Digest Ass'n, Inc.*, 662 F.2d at 967.

Considering the first factor, the record demonstrates that Defendants acted in bad faith. While promoting stem cell treatment, Defendants had *no medical evidence* that the stem cell therapies provided the promised benefits. Defendants sought to coerce consumers into paying for stem cell therapy at all costs. They did this through use of high-pressure tactics — including inundating vulnerable consumers with continued communications, preparing strategically crafted responses intended to overcome customers' hesitancy to purchase stem cell therapies, and misrepresenting that the individuals giving the seminars were

"doctors" with extensive medical education and expertise. All of this evidence demonstrates bad faith on the part of the Defendants.

Considering the second factor, the public was significantly injured. Georgians — and particularly vulnerable Georgians — spent over $3.5 million for stem cell therapies that did not work.[13]

On the third factor, there is little information in the record about Defendants' ability or inability to pay. Two of the Corporate Defendants have been through bankruptcy, but the two Individual Defendants continue to operate businesses, and the third Corporate Defendant remains operational. The State has provided some information about Defendants' assets but contends that Defendants have not been compliant in providing any further information. For their part, Defendants have introduced no record evidence to demonstrate an *inability* to pay. With this lack of information in the record, the third factor does not hold much weight in the analysis. That said, in assessing civil penalties in an amount far less than the States' request, the Court has considered that two of the three Corporate Defendants no longer exist, and that no evidence has been presented of overly excessive wealth on the part of the Individual Defendants.

The fourth factor is the desire to eliminate the benefits derived by a violation. Record evidence shows that Defendants' violations generated a gross profit of

[13] Of course, the Court has already ordered that Defendants pay restitution to the harmed consumers. Nevertheless, the purpose of restitution is to make victims whole, while the purpose of civil penalties is to impose punishment on a wrongdoer in the form of a fine. *See Penalty and Civil Penalty*, Black's Law Dictionary (12th Ed. 2024).

$18,403,116.14, and that the Individual Defendants jointly received at least $2,796,861.19 in profit distributions during the relevant timeframe. The Court therefore considers the large amount of money the Individual Defendants gained in pursuing this scheme.

Fifth and finally, the Court acknowledges that there is an importance in vindicating the authority of the Georgia Attorney General's Consumer Protection Division. There is both a specific and general deterrent value in vindicating the agency's authority. In addition, civil penalties here may provide the Consumer Protection Division further support and resources to pursue other consumer protection actions in efforts to protect Georgians from being injured by future violations of the GFBPA.

Having considered the *Reader's Digest* factors, the Court finds that the above total amount of **$1,845,000** is sufficient to penalize Defendants for their violations of the GFBPA but not overly punitive. The Court reaches this conclusion based on its consideration of all the record evidence presented in light of the relevant statutory provisions, governing case law, and helpful legal authority addressing other state's civil penalty provisions.

V. CONCLUSION

For the reasons above, the Court **ORDERS** that the Individual Defendants (Peyroux and Detelich, jointly and severally) must pay restitution in the amount of **$3,310,146** and that Physicians Business, Peyroux, and Detelich (jointly and

severally) must pay civil penalties in the amount of **$1,845,000**. The total amount Defendants must pay is **$5,155,146**. See below:

Basis for Payment	**Amount**
Restitution under O.C.G.A. § 10-1-397(b)(2)(D)	$3,310,146
Civil Penalties under O.C.G.A. § 10-1-397(b)(2)(B)	$1,845,000
Total	$5,155,146

As to the details of these payments: the Court **ORDERS** that the Individual Defendants shall pay the restitution amount of **$3,310,146** to the State of Georgia within 45 days of the entry of this Order. Payment shall be made by cashier's check or certified money order made payable to the Georgia Department of Law and delivered to Jacquelyn L. Kneidel, Assistant Attorney General, Consumer Protection Division, 2 Martin Luther King, Jr. Dr., Suite 356, East Tower, Atlanta, Georgia 30334.

Funds received by the State of Georgia pursuant to this section **SHALL** be set aside in an account established by the Consumer Protection Division of the Attorney General's Office ("CPD") for the purposes of disbursement to eligible consumers ("Restitution Fund"). The Attorney General shall distribute the Restitution Fund to provide consumers with full refunds for the amount spent. In the unlikely event that any funds remain in the Restitution Fund after all disbursements have been made to eligible consumers, those amounts may be retained by the Attorney General to be placed in or applied to any consumer protection law enforcement fund to be used for future consumer protection or privacy enforcement.

The Court further **ORDERS** that the Defendants shall pay the civil penalties amount of **$1,845,000** to the State of Georgia within 45 days of the entry of this Order. Payment shall be made by cashier's check or certified money order made payable to the Georgia Department of Law and delivered to Jacquelyn L. Kneidel, Assistant Attorney General, Consumer Protection Division, 2 Martin Luther King, Jr. Dr., Suite 356, East Tower, Atlanta, Georgia 30334.

All money paid to the State of Georgia pursuant to this section may be used by the Attorney General for purposes that may include, but are not limited to (1) civil penalties, attorneys' fees, and other costs of the investigation and litigation of this case or (2) being placed in or applied to any consumer protection law enforcement fund, including future consumer protection or privacy enforcement, consumer education, litigation, or local consumer aid fund or revolving fund, used to defray the costs of inquiry leading hereto.

In the event that Defendants do not have sufficient funds to satisfy this judgment, the Court **ORDERS** that the monies recovered shall *first* go towards consumer restitution. After the restitution amount is satisfied, remaining recovery shall be retained by the Attorney General as civil penalties.

It is further **ORDERED** that this Court retains jurisdiction of this matter for purposes of construction, modification, and enforcement of this Order.

All of Plaintiffs' claims having been finally resolved, the Court hereby **DIRECTS** the Clerk of Court to **ENTER FINAL JUDGMENT** against Defendants and further **DIRECTS** the Clerk to close the case.

IT IS SO ORDERED this 26th day of December 2024.

Honorable Amy Totenberg
United States District Judge