

**IN THE CIRCUIT COURT OF THE SEVENTEENTH JUDICIAL CIRCUIT
IN AND FOR BROWARD COUNTY, FLORIDA
- CIVIL DIVISION -**

**OFFICE OF THE ATTORNEY GENERAL,
STATE OF FLORIDA,
DEPARTMENT OF LEGAL AFFAIRS,**

**CASE NO.:
DIVISION:**

Petitioner,

vs.

**AshBritt, Inc.,
a Florida Corporation,**

Respondent.

**ATTORNEY GENERAL'S PETITION FOR AN ORDER COMPELLING
COMPLIANCE WITH AN INVESTIGATIVE SUBPOENA DUCES TECUM**

Petitioner, Office of the Attorney General, State of Florida, Department of Legal Affairs (the "Attorney General"), by and through the undersigned counsel, hereby petitions this Court pursuant to Section 501.206(3), Florida Statutes, for an order compelling respondent, AshBritt, Inc. ("Respondent" or "AshBritt"), to comply with the Attorney General's *Investigative Subpoena Duces Tecum* ("Investigative Subpoena") issued to Respondent on October 2, 2017. In support of this Petition, the Attorney General states:

1. Chapter 501, Part II of the Florida Statutes is the Florida Deceptive and Unfair Trade Practices Act (“FDUTPA”). Pursuant to Section 501.203(2), Florida Statutes, the Attorney General is an “enforcing authority” under FDUTPA. Furthermore, according to Section 501.206(1), Florida Statutes, “[i]f, by his or her own inquiry or as a result of complaints, the enforcing authority has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates this part, he or she may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence.”

2. AshBritt was under contract with various municipalities to remove debris that accumulated throughout the State of Florida in the wake of Hurricane Irma. Yet, after Hurricane Irma made landfall in Florida on September 10, 2017, debris from the hurricane remained in locations throughout Florida, threatening public safety. Numerous concerns were raised regarding AshBritt’s failure to perform under the fixed price contracts. The Attorney General received reports that AshBritt attempted to revise contracts by withholding performance until and unless governments paid increased rates. AshBritt’s actions imposed an unfair Hobson’s choice on local governments seeking to address the health and safety concerns of its residents.

3. Based upon the foregoing and other information received, the Attorney General has reason to believe that Respondent has engaged in, and may

continue to be engaged in, acts or practices which violate FDUTPA. *See* §501.204, Fla. Stat. The Attorney General also has reason to believe that, during a declared state of emergency, Respondent engaged in acts or practices that violated FDUPTA. *See* §501.160, Fla. Stat.

4. The Attorney General may use its investigative powers to subpoena records that will aid it in determining whether further action is required. *State, Dept. of Legal Affairs v. Jackson*, 576 So. 2d 864, 865 (Fla. 3d DCA 1991). Here, the Attorney General is entitled to perform an investigation and is “well within its right to issue the subpoenas to further this purpose.” *Id.*

5. Accordingly, on October 2, 2017, the Attorney General served the Investigative Subpoena on Respondent, a true and correct copy of which is attached hereto as **Exhibit A**.

6. Respondent failed to timely respond to the Investigative Subpoena and should be compelled to immediately produce the information and documents requested.¹

¹ The Attorney General is aware that AshBritt has filed a Petition to Quash the Investigative Duces Tecum Issued by the Office of the Florida Attorney General or, Alternatively, Modifying the Subpoena (“AshBritt’s Petition”). However, AshBritt has deliberately failed to effectively serve AshBritt’s Petition on the Attorney General, apparently for the purposes of delay, which unfairly prejudices the Attorney General’s ability to timely proceed with its investigation. The Attorney General is therefore filing this Petition to compel AshBritt to comply with the Investigative Subpoena, while preserving all arguments and defenses related to AshBritt’s failure to effect service. Notably, all other disaster debris removal contractors to whom the Attorney General issued investigative subpoenas have timely responded and are, as of the date of this filing, cooperating with the Attorney General in the course of its investigation.

7. At all times material hereto, Respondent, whose business is located in Deerfield Beach, Broward County, Florida, has been engaged in “trade or commerce,” as defined in Section 501.203(8), Florida Statutes, by, including, but not limited to, offering or providing various debris removal and related services and employing subcontractors to offer or provide various debris removal and related services.

8. The possible FDUTPA violations under investigation affect more than one judicial circuit in the State of Florida.

9. This Court has jurisdiction over this Petition pursuant to Section 501.206(3), Florida Statutes, which states: “Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the enforcing authority may apply to the circuit court for an order compelling compliance.”

WHEREFORE, the Attorney General respectfully requests this Court to enter an Order compelling compliance by AshBritt, Inc. with the Attorney General’s Investigative Subpoena Duces Tecum, and the entry of a civil penalty and reasonable attorney’s fees and costs against AshBritt, Inc. in favor of the Attorney General, and for such other relief that is just and proper.

Dated this 25th day of October, 2017.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Sasha Funk Granai

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