

IN THE CIRCUIT COURT FOR KNOX COUNTY, TENNESSEE

ATLANTIC COAST CARRIERS, INC.,	)	
individually and on behalf of others similarly	)	
situated,	)	
	)	
Plaintiffs,	)	
	)	CIVIL ACTION NO.
v.	)	_____
	)	
PILOT CORPORATION, and PILOT TRAVEL	)	
CENTERS, LLC, d/b/a PILOT FLYING J,	)	JURY TRIAL DEMANDED
	)	
Defendants.	)	

---

**COMPLAINT FOR DAMAGES**

ATLANTIC COAST CARRIERS, INC., individually and on behalf of others similarly situated alleges as its complaint and demand for jury trial the following:

**I. NATURE OF THE ACTION**

1. Plaintiff Atlantic Coast Carriers, Inc. (hereafter "Atlantic Coast") brings this class action for a Class defined as: "All persons or entities who have sustained economic losses as a result of Defendants' wrongful withholding of rebate funds."
2. Defendants Pilot Corporation, and Pilot Travel Centers, LLC, d/b/a PilotFlying J (hereafter, collectively "Pilot") have adopted, promulgated, represented and benefitted from inaccurate rebate procedures for certain clients including Atlantic Coast and several other clients.
3. Pilot regularly understated the amount owed to Atlantic Coast and other similar companies, promised by Pilot sales representatives as a rebate for purchase of their diesel fuel.
4. Atlantic Coast received numerous rebate checks in varying amounts from Pilot for several years.

5. Pilot executives, directors, principals, sales agents and administrative staff conspired to manually reduce the amount of rebate payments due to Atlantic Coast, and numerous other customers, in order to increase Pilot profits and increase sales commissions of its sales agents, without the consent or knowledge of affected customers.

6. On April 18, 2013, the affidavit of FBI Special Agent Robert Root, filed in support of his search warrant application, was unsealed by the U.S. District Court for the Eastern District of Tennessee at Knoxville. (See Case No. 3:13-MJ-2028, Doc. 4, attached hereto as Exhibit "A.")

7. On information and belief, Pilot represented to Atlantic Coast and numerous other Pilot customers, that Pilot would provide them with a rebate on diesel fuel purchased at their truck care facilities and travel centers operating throughout the country, pursuant to terms of the diesel price discount deal and agreement between Pilot and the customer.

8. Customers would receive the rebate amount either via check on a monthly or quarterly basis, or via a direct discount on the invoice for "direct bill" customers to whom Pilot had extended credit for the purchase of diesel fuel.

9. Beginning in May, 2011, the Federal Bureau of Investigation entered into an agreement with confidential sources to obtain information about Pilot's rebate fraud scheme.

10. Over the course of the investigation, it was determined that Pilot employees had been intentionally defrauding some of its customers by deliberately charging a higher price than the contractually agreed upon price, and then concealing the fact and nature of this increased price from victimized customers.

11. The federal investigation included use of concealed recording devices carried with the consent of confidential informants to records conversations the informant had with Pilot

employees concerning the rebate fraud scheme.

12. These recordings reveal that Pilot maintained at its corporate offices in Knoxville, Tennessee, spreadsheets showing the amount owed to customers under their rebate agreements versus the amount actually paid.

13. These informants also recorded information shared at sales seminars in which sales representatives were advised to commit rebate fraud by sending its customers less than they were owed, and training sales representatives on how to determine which customers would have difficulty discovering the price discrepancies.

14. Pilot employees targeted customers like Atlantic Coast who utilized non-party credit lines such as Tcheck, who were referred to as "low hanging fruit." (See Ex. A at p. 87).

15. Pilot staff intentionally withheld relevant pricing information from its customers who made inquiries about the rebate amounts they received.

16. If a customer caught the discrepancy, Pilot blamed it on a computer glitch.

17. The recorded conversations between the FBI informant, a Pilot sales representative, and his co-workers revealed that these actions were taken with the awareness and consent of Pilot executives, including Chief Executive Officer James A. "Jimmy" Haslam, III, President Mark Hazelwood, and Chief Financial Officer Mitch Steenrod.

18. These conversations also reveal that Pilot took active steps to conceal their activities from its customers and from law enforcement officials.

19. Plaintiff Atlantic Coast and the Class have been damaged by Pilot's misrepresentations, concealment, and non-disclosure of correct rebate amounts because they were induced to purchase diesel fuel at a rate different than what was promised, and paid substantially more than

the agreed-upon rate.

## II. PARTIES, JURISDICTION, AND VENUE

20. Plaintiff Atlantic Coast Carriers, Inc., is a for-profit corporation with its principal place of business located at 243 Alma Hwy, Hazelhurst, Georgia 31539.

21. Defendant Pilot Corporation, f/k/a Pilot Oil Corporation, is a Tennessee corporation with its principal place of business located at 5508 Lonas Dr., Knoxville, Tennessee, 37909, and may be served via its registered agent: C T Corporation System, 800 S. Gay St., Ste 2021, Knoxville, Tennessee, 37929.

22. Defendant Pilot Travel Centers, LLC, d/b/a Pilot Flying J, is a Delaware corporation with its principal place of business located at 5508 Lonas Dr., Knoxville, Tennessee, 37909, and may be served via its registered agent: C T Corporation System, 800 S. Gay St., Ste 2021, Knoxville, Tennessee, 37929.

23. Venue and jurisdiction are proper in this Court.

## III. CAUSES OF ACTION

### **COUNT I**

#### *Conversion*

24. Plaintiffs reiterate all foregoing paragraphs as if fully incorporated herein.

25. Pilot wrongfully converted consumer rebate funds to its own use. Facts in support of the allegations against Pilot are set out with great specificity in Exhibit "A," which is included and incorporated herein.

26. Atlantic Coast and other similar consumers are entitled to the rebate funds withheld by Pilot pursuant to Pilot's agreements and promises to fully and faithfully pay rebate funds to its

consumers.

27. Plaintiffs are entitled to return of these rebate funds.

## COUNT II

### *Racketeering Influenced Corrupt Organizations*

28. Plaintiffs reiterate all foregoing paragraphs as if fully incorporated herein.

29. Defendants received funds derived from a pattern of racketeering activity.

30. Defendants committed a pattern of racketeering activity consisting of at least two predicate acts, wrongful conversion of rebate funds, utilizing the same or similar results, accomplices and victims, as described in Exhibit "A," and incorporated herein.

31. Defendants' pattern of racketeering activity caused Plaintiffs' economic losses and Plaintiffs are entitled to a return of all rebate funds.

## COUNT III

### *Breach of Contract*

32. Plaintiffs reiterate all foregoing paragraphs as if fully incorporated herein.

33. Pilot entered an agreement with Atlantic Coast and other consumers to provide rebates for purchase of diesel fuel at a set amount.

34. Atlantic Coast and other consumers purchased diesel fuel from Pilot travel centers rather than from Pilot's competitors in the diesel fuel market, in reliance on this agreement.

35. Pilot partially performed its portion of the agreement by sending rebates.

36. Pilot breached its duties under the contract by willfully failing to provide the full amount of the agreed upon rebate to Atlantic Coast and other consumers.

37. Atlantic Coast and other consumers who have suffered economic losses as a result of

Pilot's willful conduct are entitled to recovery of the amounts owed under the contract.

38. Atlantic Coast and other consumers who have suffered economic losses as a result of Pilot's willful conduct are entitled to a recovery of reasonable expenses incident to Pilot's breach.

#### COUNT IV

##### *Punitive Damages*

39. Plaintiffs reiterate all foregoing paragraphs as if fully incorporated herein.

40. At all times relevant herein, Defendants acted willfully and with reckless disregard of Plaintiffs' rights, as described in Exhibit "A," and incorporated herein.

41. Plaintiffs are entitled to punitive damages for damages sustained as a result of Defendants' actions.

#### COUNT V

##### *Attorneys' Fees*

42. Plaintiffs reiterate all foregoing paragraphs as if fully incorporated herein.

43. Defendants have acted in bad faith warranting an award of attorneys' fees to Plaintiffs, in an amount to be determined by the Court.

**WHEREFORE**, premises considered, Plaintiffs pray for the following relief:

(1) For a Certification of the Class as described herein;

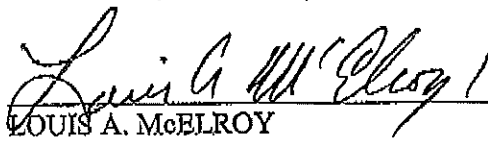
(2) For a trial by jury of twelve persons;

(3) For an award of actual damages due to conversion and breach of contract in an amount to be proven at trial;

- (4) For an award of punitive damages as determined by an impartial jury;
- (5) For an award of attorney's fees in an amount determined by this Court; and
- (6) For all other relief this Court deems equitable and just.

Respectfully submitted, this 20<sup>th</sup> day of April, 2013.

**BUNSTINE, WATSON, McELROY & BECKER**



LOUIS A. McELROY  
Tennessee Bar No. 011054

West Knoxville Office  
1348 Dowell Springs Blvd.  
Knoxville, Tennessee, 37909  
(865) 357-7171

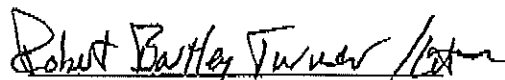
**TATE LAW GROUP, LLC**



MARK A. TATE  
Georgia Bar No.: 698820  
SHERRI N. WATTS  
Georgia Bar No.: 176858

2 East Bryan Street, Suite 600  
Savannah, Georgia 31401  
(912) 234-3030

**SAVAGE, TURNER, PINCKNEY & MADISON**



ROBERT BARTLEY TURNER  
Georgia Bar No. 006440

304 East Bay Street  
Savannah, Georgia 31412  
(912) 231-1140

COST BOND

WE HEREBY ACKNOWLEDGE OURSELVES AS SURETIES FOR THE COSTS OF THIS CAUSE FOR ALL COURT COSTS AND TAXES IN ACCORDANCE WITH TCA SECTION 20-12-120.

ATLANTIC COAST CARRIERS, INC.

By: Louis A. McElroy  
Louis A. McElroy  
Attorney for Atlantic Coast Carriers, Inc.  
Principal

BUNSTINE, WATSON, McELROY & BECKER

By: Louis A. McElroy  
Louis A. McElroy  
Attorney for Atlantic Coast Carriers, Inc.  
Surety