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DAVID T. LEWIS III

STATE OF WASHINGTON
KITSAP COUNTY SUPERIOR COURT

In the matter of:

BETHEL GARAGE, INC. d/b/a
BETHEL TOWING,

Respondent.

NO. 21-2-01887-18

ASSURANCE OF
DISCONTINUANCE

The State of Washington, by and through its attorneys, Robert W. Ferguson, Attorney General, and John A. Nelson, Assistant Attorney General, files this Assurance of Discontinuance pursuant to RCW 38.42 and RCW 19.86.100. Bethel Garage, Inc. d/b/a Bethel Towing is a Washington for-profit corporation that provides towing and impound services in Pierce and Kitsap Counties. Its principal place of business is at 6750 Bethel Rd. SE, Port Orchard, WA 98367. Bethel Garage, Inc. is hereinafter referred to as Respondent.

I. DEFINITIONS

1.1 "Service Member" or "servicemember" shall mean a member of the national guard, a military reserve component, or an active component of one of the "uniformed services" as that term is defined in section 101(a)(5) of title 10, United States Code.

1.2 "SCRA" shall mean the collective rights and protections extended to Service Members under state law (The Service Members' Civil Relief Act, RCW 38.42) and federal law (The Servicemembers' Civil Relief Act, 50 U.S.C. §§3901 – 4043).

1.3 "Active duty" shall include any of the following:

- a. In the case of a servicemember who is a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, active duty, as defined in section 10 U.S.C. § 101(d)(1).
- b. In the case of a member of the National Guard, service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under section 32 U.S.C. § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds.
- c. In the case of a servicemember who is a commissioned officer of the Public Health Service or the National Oceanic and Atmospheric Administration, active service.
- d. Any period during which a servicemember is absent from duty on account of sickness, wounds, leave, or other lawful cause.

II. ASSURANCE OF DISCONTINUANCE

2.1 The Attorney General deems, and Respondent acknowledges the following would constitute violations of the Washington Service Members' Civil Relief Act (RCW 38.42):

- a) Prior to selling motor vehicles at auction under RCW 46.55, failing to obtain at least a provisional certificate from the Department of Defense's Servicemembers Civil Relief Act Website (<https://scra.dmdc.osd.mil/scra/#/home>) verifying that a registered owner is not an active duty servicemember.
- b) Requiring or otherwise inducing a servicemember to sign a waiver of any rights afforded under the SCRA using a waiver or other form that is not in compliance with 50 U.S.C. § 3918.
- c) Absent a properly executed waiver under 50 U.S.C. § 3918, selling a motor vehicle at auction without first obtaining a court order in accordance with 50 U.S.C. § 3958.

1 2.2 The Attorney General deems, and Respondent acknowledges the following would
2 constitute unfair acts or practices under the Washington Consumer Protection Act (CPA) (RCW
3 19.86):

4 a) Failing to create, maintain, and update as necessary, policies and procedures to
5 comply with the SCRA, including training employees and contractors on how to run
6 searches on the Department of Defense's Servicemembers Civil Relief Act Website
7 (<https://scra.dmdc.osd.mil/scra/#/home>) before selling motor vehicles at auction.

8 b) Selling a motor vehicle registered to an active duty servicemember at auction
9 without first obtaining a court order in accordance with 50 U.S.C. § 3958.

10 2.3 Respondent does not admit that it has violated the SCRA or the CPA and does not
11 admit that it has engaged in the practices above. Respondent has agreed to enter this Assurance
12 of Discontinuance and settlement of contested matters to avoid further controversy and expense.
13 Respondent agrees not to engage in the practices identified above. Respondent also agrees to fully
14 comply with all requirements of RCW 19.86 and RCW 38.42.

15 III. RELEASE OF CLAIMS

16 3.1 By its execution of this Assurance of Discontinuance, the State releases Respondent
17 from all civil claims, causes of action, damages, restitution, fines, costs, and penalties under RCW
18 38.42 and RCW 19.86, arising from or related to the conduct and/or practices referenced in this
19 Assurance of Discontinuance

20 3.2 In the event that Respondent violates this Assurance of Discontinuance, this release of
21 claims becomes void, and nothing shall prevent the State from enforcing RCW 38.42 and/or RCW
22 19.86 and seeking permanent injunctive relief and recovery of costs, restitution, and civil penalties
23 against Respondent for any conduct covered by this Assurance of Discontinuance prior to and after
24 its execution by the parties.

25 3.3 This Assurance of Discontinuance is not, and may not, be considered an admission of
26 violation for any purposes; but proof of failure to comply with this Assurance of Discontinuance

1 shall be *prima facie* evidence of violations of RCW 38.42 (and may be enforced by the
2 Washington Attorney General in the same manner it uses to enforce violations of assurances of
3 discontinuance entered pursuant to RCW 19.86.020), thereby placing upon the violator the
4 burden of defending against the Court's imposition of injunctions, restitution, civil penalties, and
5 other relief that the Attorney General may seek.

6 IV. MONETARY PAYMENTS

7 4.1 Pursuant to RCW 19.86.080 and RCW 38.42.140, no later than **November 30, 2021**,
8 Respondent shall pay restitution to Vincent Rowell in the amount of **\$5,983.75**. This amount
9 includes **\$3,983.75** for all payments made by Mr. Rowell to his lender after the date on which
10 Respondent sold his vehicle at auction (January 9, 2019) until such time as he paid off the
11 outstanding amount due on the vehicle loan, as well as **\$2,000.00** to compensate Mr. Rowell for
12 the loss of use of his vehicle for approximately 12 months. Respondent shall provide the State
13 with verification that Mr. Rowell received restitution no later than **December 15, 2021**.

14 4.2 Pursuant to 38.42.140, Respondent shall pay Washington the amount of **\$4,500.00**
15 for costs and reasonable attorney's fees incurred by Washington in pursuing this matter, for
16 monitoring and potential enforcement of this Assurance of Discontinuance, for future
17 enforcement of RCW 38.42 and RCW 19.86, or for any lawful purpose in the discharge of the
18 Attorney General's duties at the sole discretion of the Attorney General. Respondent must mail
19 or deliver the payment referenced herein on or before **November 30, 2021**, in the form of a check
20 payable to "Attorney General – State of Washington," to the following address: Office of the
21 Attorney General, Consumer Protection Division, Attention Cynthia Lockridge, 800 Fifth
22 Avenue, Suite 2000, Seattle, Washington, 98104-3188.

23 V. OTHER PROVISIONS

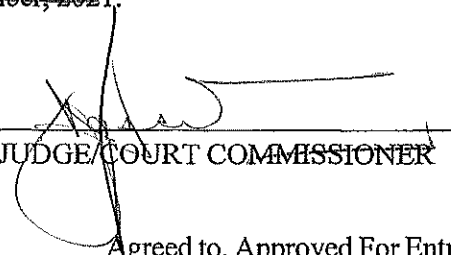
24 5.1 Under no circumstances shall this Assurance of Discontinuance or the name of the
25 State of Washington or the Office of the Attorney General, or any of its employees or
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1 representatives be used by Respondent or by its officers, employees, representatives, or agents in
2 conjunction with any business activity of Respondent.

3 5.2 This Assurance of Discontinuance is binding on Respondent and its owners,
4 directors, successors, assigns, transferees, officers, agents, partners, servants, employees,
5 representatives, and all other persons acting in concert or participating with Respondent in the
6 context of conducting Respondent's businesses.

7 5.3 Nothing in this Assurance of Discontinuance shall be construed so as to limit or bar
8 any other person or entity from pursuing available legal claims or remedies against Respondent.

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10 Approved on this JAN 10 2022 day of ~~November~~, 2021.

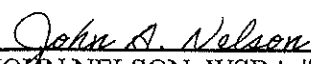
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13 JUDGE/COURT COMMISSIONER

14 Presented By:

15 Agreed to, Approved For Entry, and Notice
of Presentation Waived:

16 ROBERT W. FERGUSON
17 Attorney General

BETHEL GARAGE, INC. d/b/a
BETHEL TOWING

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19 
20 JOHN NELSON, WSBA #45724
21 Assistant Attorney General
Attorneys for State of Washington


22 PETER LUKEVICH, WSBA #13608
23 Lake City Consulting
24 Attorney for Bethel Garage, Inc.

25 
26 BETHEL GARAGE, INC. d/b/a
BETHEL TOWING