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KING COUNTY
SUPERIOR COURT

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

CompuVest Corporation, a
Washington for-profit corporation,

Defendant.

NO. **06-2-29172-7SEA**
COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER
THE CONSUMER PROTECTION
ACT, CHAPTER 19.86 RCW

COMES NOW PLAINTIFF, State of Washington, by and through its attorneys Rob McKenna, Attorney General, and Katherine M. Tassi, Assistant Attorney General, and brings this action against Defendant named herein, alleging as follows:

I. JURISDICTION AND VENUE

1.1 This Complaint is filed and these proceedings are instituted under the provisions of the Unfair Business Practices – Consumer Protection Act, Chapter 19.86 RCW.

1.2 The violations alleged in this Complaint have been and are being committed in whole or in part in King County, Washington, by Defendant named herein.

1.3 Authority of the Attorney General to commence this action is conferred by RCW 19.86.080 and RCW 19.86.140.

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1 **II. DEFENDANT**

2 2.1 Defendant CompuVest Corporation (“Defendant” or “CompuVest”) is a
3 Washington for-profit corporation. Its principal place of business is located at 3600 Lind Ave.
4 SW, Suite 130, Renton, Washington 98055. Defendant CompuVest Corporation does business
5 under the name CompuVest. At all times relevant to this action, CompuVest was engaged in
6 the marketing and sale of new, used, and refurbished computer hardware, computer software,
7 and consumer electronics over the Internet through its Web site www.compuvest.com.
8

9 **III. NATURE OF TRADE OR COMMERCE**

10 3.1 At all times material to this action, CompuVest, has offered new, used, and
11 refurbished computer hardware, software, and consumer electronics for sale over the Internet.
12 Defendant sells its products to consumers in Washington and across the United States.
13 Defendant is in competition with others engaged in the sale and marketing of these products in
14 and from Washington.

15 **IV. FIRST CAUSE OF ACTION – MISREPRESENTATION OF WARRANTY AND**
16 **FAILURE TO DISCLOSE MATERIAL TERMS**

17 4.1 Plaintiff realleges paragraphs 1.1 through 3.1 above and incorporates them as
18 though fully set forth herein.

19 4.2 Defendant: a. misrepresents its warranty, directly or by implication, and b. fails
20 to disclose numerous material terms and limitations in its stated return and refund policies,
21 including, but not limited to, the following:

22 4.3 Defendant’s return and refund policy represents that Defendant charges a 15%
23 restocking fee to consumers for returned non-defective merchandise. However, one iteration
24 of the policy claims that “separate rules apply” for defective items.
25 <<http://www.compuvest.com/info>Returns.jsp#t3>, last visited on May 18, 2006.> Defendant
26

1 fails to disclose clearly and conspicuously and in close proximity to that statement, or
2 anywhere in their policy, the material terms and limitations of the “separate rules” for
3 defective items. Defendant fails to disclose in a readable and understandable manner that
4 Defendant will test items that are returned as defective and, if considered to be non-defective
5 by Defendant, the consumer may be refunded the purchase price minus a 15% restocking fee
6 and shipping charges or may be offered to have the item returned to them at the consumer’s
7 expense. Instead, Defendant’s policies regarding defective items are spread out among three
8 separate paragraphs, two of which are noncontiguous and fail even to mention the word
9 “defective.” An earlier iteration of Defendant’s policy, in effect on or about October of 2005,
10 failed to disclose the material terms of their defective items return policy, namely, that
11 consumers would be charged a restocking fee if Defendant unilaterally decided that the
12 returned item “tested good.” The policy instead only stated: “After two weeks defective items
13 will be replaced, and not refunded.” Numerous consumers who have returned defective items
14 have been charged the 15% restocking fee and shipping fees.

15 **4.4** Defendant fails to disclose the material term that Defendant’s test results will
16 be made unilaterally and will not be contestable.

17 **4.5** Defendant represents on its Web site that refurbished, bulk, and used products
18 come with warranties (of varying periods). Defendant fails to disclose, however, the material
19 terms and limitations of the warranties. For example, Defendant does not disclose that it is
20 Defendant’s practice to charge shipping and restocking fees for refunds on defective items
21 that are still under warranty if the item “tested as good” by Defendant.

22 **4.6** Defendant fails to disclose the material term of their return and refund policy
23 that consumers will be responsible for a 15% restocking fee and shipping charges for
24 returning an item that they did not order.

1 **4.7** The conduct described above constitutes unfair or deceptive acts or practices in
2 trade or commerce, and unfair methods of competition in violation of RCW 19.86.020.

3 **V. SECOND CAUSE OF ACTION – FAILURE TO REFUND**

4 **5.1** Plaintiff realleges paragraphs 1.1 through 4.7 above and incorporates them as
5 though fully set forth herein.

6 **5.2** In numerous instances, Defendant refuses to timely honor their own refund and
7 return policies or accept the return of damaged or unordered merchandise and/or fails to issue
8 full refunds for such items.

9 **5.3** In numerous instances, Defendant refuses to fully refund consumers for
10 defective products.

11 **5.4** The conduct described above constitutes unfair or deceptive acts or practices in
12 trade or commerce, and unfair methods of competition in violation of RCW 19.86.020.

13 **VI. THIRD CAUSE OF ACTION – MISREPRESENTATIONS**

14 **6.1** Plaintiff realleges paragraphs 1.1 through 5.4 above and incorporates them as
15 though fully set forth herein.

16 **6.2** Defendant, in the regular course of business, makes numerous
17 misrepresentations, directly or by implication, including, but not limited to, the following:

18 **6.3.1** On its Web site and through its customer service telephone operators,
19 Defendant represents to consumers product descriptions and product compatibility
20 information. Consumers have relied on such representations when purchasing items
21 from Defendant. In fact, in some instances, product descriptions or compatibility
22 information have been inaccurate.

23 **6.3.2** Defendant misrepresents, directly or by implication, the quality or
24 condition of their goods. In some instances, Defendant misrepresents to consumers
25 that returned products are not defective and therefore charge restocking and shipping
26

1 fees or refuse to refund the purchase price fully. In fact, consumers have received and
2 returned products in defective, non-working condition.

3 6.3.3 In some instances, Defendant misrepresents an item as new, when, in
4 fact, the item is used or refurbished.

5 6.4 The conduct described above constitutes unfair or deceptive acts or practices in
6 trade or commerce, and unfair methods of competition in violation of RCW 19.86.020.

7 **VII. FOURTH CAUSE OF ACTION – FAILURE TO DELIVER**

8 7.1 Plaintiff realleges paragraphs 1.1 through 6.4 and incorporates them as though
9 fully set forth herein.

10 7.2 Defendant has failed, on numerous occasions, to deliver items to consumers as
11 promised or to make timely refunds for non-delivered items.

12 7.3 The conduct described above constitutes unfair and deceptive acts and practices
13 in trade of commerce and unfair methods of competition in violation of RCW 19.86.020.

14 **VIII. FIFTH CAUSE OF ACTION – UNREASONABLE FEES**

15 8.1 Plaintiff realleges paragraphs 1.1 through 7.3 and incorporates them as though
16 fully set forth herein.

17 8.2 In numerous instances, Defendant charges consumers a previously undisclosed
18 15% restocking fee and shipping costs for returned defective and/or unordered items.

19 8.3 The conduct described above constitutes unfair and deceptive acts and
20 practices in trade of commerce and unfair methods of competition in violation of RCW
21 19.86.020.
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23 **IX. PRAYER FOR RELIEF**

24 WHEREFORE, Plaintiff, State of Washington, prays for relief as follows:
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1 **9.1** That the Court adjudge and decree that Defendant has engaged in the conduct
2 complained of herein.

3 **9.2** That the Court adjudge and decree that the conduct complained of herein
4 constitutes unfair or deceptive acts and practices and unfair methods of competition in
5 violation of the Consumer Protection Act, Chapter 19.86 RCW.

6 **9.3** That the Court issue a permanent injunction enjoining and restraining
7 Defendant, and its representatives, successors and assigns, officers, agents, servants,
8 employees and all other persons acting or claiming to act for, or on behalf of, or in active
9 concert or participation with Defendant, from continuing or engaging in unlawful conduct
10 complained of herein.

11 **8.4** That the Court assess a civil penalty, pursuant to RCW 19.86.140, of up to
12 \$2,000 per violation against Defendant for each violation of RCW 19.86.020 caused by the
13 conduct complained of herein.

14 **9.5** That the Court make such orders pursuant to RCW 19.86.020 as it deems
15 appropriate to provide for restitution to consumers for money or property acquired by
16 Defendant as a result of the conduct complained of herein.

17 **9.6** That the Court make such orders pursuant to RCW 19.86.020 to provide that
18 Plaintiff, State of Washington, have and recover from Defendant the costs of this action,
19 including reasonable attorneys' fees.

20 **9.7** That the Court order such other relief as it may deem just and proper to fully
21 and effectively dissipate the effects of the conduct complained of herein, or which may
22 otherwise seem proper to the Court.

1 DATED this 1st day of September, 2006.

2 ROB MCKENNA
3 Attorney General

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