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2019 SEP 24 AM 9:29

KING COUNTY
SUPERIOR COURT CLERK
SEATTLE, WA

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
Plaintiff,

NO. 19-2-24757-6

~~PROPOSED~~ ORDER GRANTING
THE STATE OF WASHINGTON'S
MOTION FOR TEMPORARY
RESTRAINING ORDER

v.

US AIR DUCTS & SKY BUILDERS,
INC. dba US AIR DUCTS &
BUILDERS, a Washington State
Corporation; RAMI MORNEL,
individually and on behalf of his marital
community; DLM SERVICES, INC., a
Washington State Corporation; US AIR
DUCTS & HVAC LLC, a Washington
limited liability company; DAVID
MOSHE, individually; and SUSANNA
MORNEL, individually and on behalf of
her marital community,

Defendants.

THIS MATTER comes before the Court on the State of Washington's Motion for
Temporary Restraining Order. Having heard the arguments, if any, of the parties, and
considered the foregoing motion, accompanying declarations, and responses, if any, it is now
therefore ORDERED that the State of Washington's Motion for Temporary Restraining Order
is GRANTED. This Temporary Restraining Order is issued on September 24, 2019 at 9:23 a.m.
a.m.

1 The Court **FINDS** that:

- 2 1. Counsel for the State of Washington provided written notice of the State's intention
3 to seek this order to all Defendants on September 24, 2019;
- 4 2. It appears from the evidence presented that Defendants have violated and are
5 currently in violation of the Washington Consumer Protection Act (CPA), RCW
6 19.86.20, by:
- 7 a. Using an automatic dialing device to send unsolicited pre-recorded
8 commercial solicitations to Washington consumers, in violation of the
9 Washington Automatic Dialing and Answering Device Statute (WADAD),
10 RCW 80.36.400(2)—a *per se* violation of the CPA. RCW 80.36.400(3);
 - 11 b. Misrepresenting the caller ID number that appears on a call recipient's caller
12 ID when calling Washington consumers for the purpose of commercial
13 solicitation;
 - 14 c. Misrepresenting the caller ID name that appears on a call recipient's caller
15 ID when calling Washington consumers for the purpose of commercial
16 solicitation;
 - 17 d. Misrepresenting the reference "regular" price of the promotional offer in
18 direct mail advertisements to Washington consumers;
 - 19 e. Misrepresenting the duration of the promotional offer in direct mail
20 advertisements to Washington consumers;
 - 21 f. Misleading Washington consumers that the images used in the direct mail
22 advertisement are indicative of the outcome that can be expected from the
23 service in the advertised offer;
 - 24 g. Misrepresenting the value of the locked-in price for basic air duct cleaning
25 included with the VIP Membership;
- 26

1 h. Misrepresenting that a VIP Membership can be transferred without
2 additional cost; and

3 i. Creating, or participating in the creation, of fictitious Google reviews.

4 3. The Court holds that the State need not establish that immediate and irreparable
5 injury will occur when it seeks a temporary restraining order pursuant to the
6 Attorney General's statutory authority to restrain unfair and deceptive acts pursuant
7 to RCW 19.86.080(1). However, even if such a showing were legally necessary, the
8 State has met it here.

9 4. Based upon the declarations and exhibits presented, absent this temporary
10 restraining order, immediate and irreparable injury will be incurred by Washington
11 consumers who receive unsolicited pre-recorded commercial solicitation calls from
12 Defendants, receive direct mail advertisements from Defendants, purchase a VIP
13 Membership from Defendants, and/or view fictitious Google reviews created by
14 Defendants. In addition, absent this temporary restraining order, Washington
15 consumers who owe payment(s) for a VIP Membership may be subject to debt
16 collection actions by Defendants.

17 5. Based upon the declarations and exhibits presented, good cause exists pursuant to
18 the Court's equitable powers to require Defendants to maintain the status quo with
19 respect to all business organizations, financial accounts, including without limitation
20 accounts receivable and financial accounts, and real property, as further detailed
21 herein below.

22 The Court **CONCLUDES** that:

- 23 1. Washington consumers have a clear legal and equitable right to be free of unfair or
24 deceptive acts or practices. RCW 19.86.020;
- 25 2. Based on the declarations and exhibits presented, the State of Washington has a
26 well-grounded fear of immediate invasion of consumers' legal rights, and the right

1 to bring an action on those consumers' behalf to restrain unfair and deceptive acts
2 or practices. RCW 19.86.080(1); and

3 3. This Court has the authority to restrain Defendants from engaging in unfair or
4 deceptive acts pursuant to RCW 19.86.080 and CR 65.

5 4. Pursuant to CR 65(c) and RCW 4.92.080 there shall be no bond prior to the issuance
6 of the restraining order.

7 The Court therefore **ORDERS** that Defendants and their officers, agents, representatives,
8 employees, attorneys, and other persons in active concert or participation with them who receive
9 actual notice of this order by personal service or otherwise, are temporarily enjoined from:

10 1. Using an automatic dialing device that plays a pre-recorded message to call
11 Washington consumers for the purpose of commercial solicitation;

12 2. Using any caller ID name other than the defendants' actual business name;

13 3. Using any caller ID number that is not registered to a defendant or otherwise a
14 number that the recipient can use to contact defendants;

15 4. Mailing, or causing to be mailed, any print advertisement that makes any
16 misrepresentations regarding the reference price;

17 5. Mailing or causing to be mailed, any print advertisement that misrepresents the
18 duration of a promotional offer;

19 6. Mailing, or causing to be mailed, any print advertisement that contains any images
20 that misrepresent the services offered in the advertisement;

21 7. Engaging or causing any third-party to engage in the sale of VIP Memberships;

22 8. Engaging or causing any third-party to engage in any collection action for consumers
23 who purchased a VIP Membership;

24 9. Creating or participating in the creation of fake Google Reviews;

25 10. Amending and/or dissolving any existing business entities until final judgment is
26 rendered in this case or further order of the court;

1 11. Forming new business entities, whether formal or informal until final judgment is
2 rendered in this case or further order of the court;

3 12. Transferring, encumbering, diminishing, or otherwise divesting real property until
4 final judgment is rendered in this case or further order of the court;

5 13. Transferring money to or from any other Defendant, except as may be necessary for
6 ordinary business as approved by the court in the form of a budget or otherwise,
7 absent prior order of this court;

8 14. Transferring money to or from third parties, except as may be necessary for ordinary
9 business as approved by the court in the form of a budget or otherwise, absent prior
10 order of this court; and

11 15. Diverting, directing, and/or billing accounts receivable to a third party entity, or
12 using a third party to invoice consumers, absent prior order of this court.

13 It is further ORDERED that the parties shall attend the preliminary injunction hearing
14 scheduled for October, 1, 2019 at 3:00 pm before Judge Steve Rosen in courtroom W-728.

15 This Temporary Restraining Order shall expire 14 days after its issuance, unless it is
16 extended for good cause shown. *Resting of a bond is not required present*

17 DATED this 24 day of September, 2019. *to CR 8500 ✓
Rd 4.92 DBD*

18 **HENRY H. JUDSON**

19 SEP 24 2019

20 **COURT COMMISSIONER**

21 *[Signature]*
22 King County Superior Court Judge/Commissioner

1 Presented by:

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