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7 **STATE OF WASHINGTON**
8 **KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12
13 JULEP BEAUTY, INC., a
14 Washington for-profit corporation;
15 and JANE PARK, individually and
16 on behalf of her marital community
as President of JULEP BEAUTY,
INC. ,

17 Defendants.

NO. 16-2-21311-1 SEA

COMPLAINT FOR INJUNCTIVE
AND ADDITIONAL RELIEF UNDER
THE WASHINGTON CONSUMER
PROTECTION ACT

18 COMES NOW PLAINTIFF, State of Washington, by and through its attorneys
19 Robert W. Ferguson, Attorney General, and Todd Bowers and Joel J. Delman, Assistant
20 Attorneys General, and brings this action against Defendants named herein, alleging as follows
21 on information and belief:

22 **I. JURISDICTION AND VENUE**

23 **1.1** This Complaint is filed and these proceedings are instituted under the provisions
24 of the Consumer Protection Act, RCW 19.86. This Court has subject matter jurisdiction
25 pursuant to this Act.

1 1.2 This Court has personal jurisdiction over Defendants, insofar as their principal
2 place of business is in this forum; they purposely avail themselves of the privilege of
3 conducting activities in this forum; the claims asserted in the Complaint herein arise from those
4 activities and occurred in whole or in part in King County and the State of Washington; and the
5 Court's exercise of jurisdiction over Defendants is reasonable.

6 1.3 The violations alleged in this Complaint are injurious to the public interest.

7 1.4 Authority of the Attorney General to commence this action under the Consumer
8 Protection Act is conferred by RCW 19.86.080 and RCW 19.86.140.

9 II. PARTIES

10 2.1 The State is authorized by RCW 19.86.080 to enjoin violations of the Consumer
11 Protection Act, obtain restitution on behalf of persons harmed by such violations, and obtain
12 further and other relief as the Court may deem appropriate, including civil penalties and
13 attorneys' fees.

14 2.2 Defendant Julep Beauty, Inc. is a Washington for-profit corporation, with its
15 principal place of business located at 111 Queen Anne Ave. North, Suite 200, Seattle,
16 Washington 98109.

17 2.3 Defendant Jane Park is the President of Julep Beauty, Inc., and as such, controls its
18 policies, activities, and practices, including those alleged in the Complaint herein. Defendant
19 Park resides in the City of Seattle. Defendant Park is married to L.B. Davis, and together they
20 constitute a marital community. All actions taken by Defendant Park as alleged in the
21 Complaint herein are for the benefit of her marital community.

22 III. FACTS

23 3.1 Defendants Julep Beauty, Inc. and Jane Park (hereinafter referred to as "Julep" or
24 "Defendants") sell nail polish and other beauty products through their website www.julep.com.
25 Defendants advertise their products on the Internet. Some of Defendants' ads have offered
26 consumers "FREE" gifts. Other ads have offered consumers a free "Welcome Box."

1 **3.2** Clicking on these ads resulted in consumers being taken to a series of web
2 checkout pages. In order to receive the “FREE” gift or free Welcome Box, consumers were
3 required to sign up for Defendants’ Maven Plan, a negative option subscription program in
4 which consumers were charged a recurring fee (usually \$24.99 per month) until a consumer
5 cancels the subscription.

6 **3.3** Defendants’ ads and marketing that directed consumers to its web checkout
7 page progression associated with the Maven Plan did not contain any information indicating to
8 consumers that the “FREE” gift or Welcome Box were part of a negative option subscription
9 program and that this would result in consumers having their credit or debit cards
10 automatically charged on a regular basis until the consumer canceled the subscription.

11 **3.4** Defendants’ have used several iterations of a webpage checkout progression to
12 enroll consumers in its Maven Plan. Many of these called for consumers to enter their credit or
13 debit card information to pay only for shipping and handling for the “FREE” gift or Welcome
14 Box. Most of the progressions did not themselves contain any statements that paying for
15 shipping and handling of the “FREE” gift or Welcome Box constituted enrollment in the
16 negative option Maven Plan or that this would result in consumers having their credit or debit
17 cards automatically charged on a regular basis until the consumer canceled the subscription.

18 **3.5** While Defendants did have information about the negative option nature of the
19 Maven Plan in its terms and conditions on the web, this could only be accessed via a hyperlink
20 and the hyperlink on the webpage checkout progression was not prominent nor in proximity to
21 the fields and buttons consumers would pay attention to or use to checkout. In addition, the
22 negative option nature of the Maven Plan was buried in the terms and conditions in such a
23 manner that it did not draw consumers’ attention.

24 **3.6** As a result of Defendants’ inadequate disclosures, many consumers who ordered
25 “FREE” gifts or Welcome Boxes from Defendants did not know they had signed up for a
26 continuing subscription when they provided their credit or debit cards to pay for shipping and

1 handling for the “FREE” gift or Welcome Box. They only realized they were obligated to pay for
2 monthly Maven Boxes when they discovered a charge for a Maven Box from Defendants on their
3 account statements or when a Maven Box was delivered to them for the first time.

4 **3.7** Defendants have typically only permitted consumers to cancel by contacting
5 Julep by telephone. Defendants have at times employed an insufficient number of customer
6 service representatives; a number that was woefully inadequate to handle the very high volume
7 of consumers calling Julep to cancel their subscriptions and for other reasons. In some
8 instances, Defendants’ failed to answer consumers’ calls. In other instances, consumers were
9 put on hold for exceedingly long periods of time. On yet other occasions, consumers left
10 voicemails indicating a desire to cancel their subscriptions but Defendants failed to do so in a
11 timely fashion (causing consumers to be charged for additional Maven Plan boxes). At times,
12 the voicemail system was too full for consumers to even leave a message.

13 **3.8** Defendants did allow consumers for a period of time to cancel their Maven Plan
14 subscription by email. However, Defendants subsequently removed this as a cancellation
15 method because Defendants believed it made it too easy for consumers to cancel; Defendants
16 were losing too many subscribers by allowing email cancellation.

17 **IV. FIRST CAUSE OF ACTION—WASHINGTON CONSUMER PROTECTION**
18 **ACT--FAILURE TO ADEQUATELY DISCLOSE MATERIAL TERMS**

19 **4.1** Plaintiff realleges paragraphs 1.1 through 3.8 and incorporates them as if fully
20 set forth herein.

21 **4.2** In the context of the sale and marketing of Defendants’ Maven Programs, Defendants
22 failed to adequately disclose numerous material terms, including but not limited to the following:

23 **a.** Defendants failed to adequately disclose that by obtaining the “FREE”
24 gift or Welcome Box, the consumer was automatically enrolled into a continuing negative
25 option plan that obligated him or her to affirmatively cancel membership in the Maven Plan in
26 order to avoid being charged for monthly Maven Boxes of beauty products.

1 b. Defendants failed to adequately disclose that they would automatically
2 charge the credit or debit card consumers used to pay for shipping and taxes for the Welcome
3 Box for future Maven Box shipments that comprise Defendants' negative option plan.

4 **4.3** Defendants' practices, as described herein constitute unfair and deceptive acts and
5 practices in trade or commerce in violation of RCW 19.86.020, the Consumer Protection Act.

6 **V. SECOND CAUSE OF ACTION— WASHINGTON CONSUMER
7 PROTECTION ACT-- UNFAIR BARRIERS TO CANCELLATION**

8 **5.1** Plaintiff realleges paragraphs 1.1 through 4.3 and incorporates them as if fully
9 set forth herein.

10 **5.2** Defendants created various unfair barriers to consumers who canceled and
11 attempted to cancel their Maven Plan subscription, including but not limited to:

12 a. Defendants failed to employ sufficient customer service staff to answer
13 the large number of consumers calling Defendants to cancel their subscription.

14 b. Defendants removed email as a cancellation method because it made it
15 too easy for consumers to cancel.

16 **5.3** Defendants' practices, as described herein, constitute unfair and deceptive acts and
17 practices in trade or commerce in violation of RCW 19.86.020, the Consumer Protection Act.

18 **VI. PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiff, STATE OF WASHINGTON, prays that this Court grant the
20 following relief:

21 **6.1** Adjudge and decree that Defendants have engaged in the conduct complained
22 of herein;

23 **6.2** Adjudge and decree that the conduct complained of in the Complaint
24 constitutes unfair or deceptive acts or practices in trade or commerce that affect the public
25 interest in violation of the Consumer Protection Act, Chapter 19.86 RCW;

1 **6.3** Permanently enjoin Defendants and their representatives, successors, assigns,
2 officers, agents, servants, employees, and all other persons acting or claiming to act for, on
3 behalf of, or in active concert or participation with Defendants from continuing or engaging in
4 the unlawful conduct complained of herein;

5 **6.4** Assess civil penalties, pursuant to RCW 19.86.140, of up to two thousand
6 dollars (\$2,000.00) per violation against Defendants for each and every violation of RCW
7 19.86.020 caused by the conduct complained of herein;

8 **6.5** Make such orders pursuant to RCW 19.86.080 as it deems appropriate to
9 provide for restitution to consumers of money or property acquired by Defendants as a result
10 of the conduct complained of herein;

11 **6.6** Award Plaintiff the attorneys' fees and costs of bringing this action, pursuant to
12 RCW 19.86.080 as well as such other and additional relief as the Court may determine to be
13 just and proper.

14 DATED this 10th day of September, 2016.

15 Presented by:
16 ROBERT W. FERGUSON
17 Attorney General

18 By: 
19 TODD R. BOWERS, WSBA No. 25274
20 Senior Counsel

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CONFIRMATION RECEIPT

Case Number: 16-2-21311-1 SEA
Case Title: STATE OF WASHINGTON vs JULEP BEAUTY, INC., et al.
Submitted By: Shannon Smith
Bar Number: 19077
User ID: ShannonS
Submitted Date/Time: 9/6/2016 11:00:13 AM
Received Date/Time: 9/6/2016 11:00:13 AM
Total Cost: \$240.00

DOCUMENTS

Document Type: COMPLAINT

File Name: ComplaintJulep.pdf

Cost: \$0.00

Document Type: ORDER SETTING CASE SCHEDULE

File Name: schedule.pdf

Cost: \$0.00

Document Type: CASE INFORMATION COVER SHEET

File Name: cics.pdf

Cost: \$0.00

Document Type: DECLARATION OF MAILING

File Name: DeclOfService.pdf

Cost: \$0.00

Document Type: OTHER (DO NOT FILE UNSIGNED ORDERS) RE CIVIL CASE
INFORMATION COVER SHEET

File Name: Civil-CICS-Julep.pdf

Cost: \$0.00

Document Type: INVOICE VOUCHER

File Name: FilingFee52583.pdf

Cost: \$0.00

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