

1 EXPEDITE
2 No hearing set
3 X Hearing Set
4 Date: 12/18/15
5 Time: 9:00 a.m.
6 Judge/Calendar: Hon. Mary Sue Wilson
7

8 STATE OF WASHINGTON
9 THURSTON COUNTY SUPERIOR COURT

10 STATE OF WASHINGTON,

11 Plaintiff,

12 v.

13 LA INVESTORS, LLC, d/b/a LOCAL
14 RECORDS OFFICE; and ROBERTO
15 ROMERO, a/k/a JUAN ROBERTO
16 ROMERO ASCENCIO, individually and as
17 a Member and Manager of LA INVESTORS,
18 LLC, and on behalf of the marital community
19 comprised of Roberto Romero and Laura
Romero; and LAURA ROMERO,
individually and as a Member and Manager of
LA INVESTORS, LLC and on behalf of the
marital community comprised of Roberto
Romero and Laura Romero.

Defendants.

NO. 13-2-02286-6

ORDER GRANTING PLAINTIFF'
STATE OF WASHINGTON MOTION
FOR SUMMARY JUDGMENT

~~[PROPOSED]~~

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20 This matter, having come before the Court on the State of Washington's Motion for
21 Summary Judgment, and the Court having heard the arguments, if any, of the parties, and
22 considered the following material:

- 23 1. Declaration of John Nelson and exhibits attached thereto;
24 2. Declaration of Anthony Pratkanis and exhibits attached thereto;
25 3. Declaration of Lesli Ashley and exhibits attached thereto;
26

- 1 4. Declaration of Asta Margaryan;
- 2 5. Declaration of Jennifer Richter;
- 3 6. Declaration of Melanie Muzatko;
- 4 7. Declaration of Jason Bernstein;
- 5 8. Declaration of Daniel Bohm;
- 6 9. Declaration of Margriet Denny;
- 7 10. Declaration of Mireya Espindola;
- 8 11. Declaration of Della Hallengren;
- 9 12. Declaration of Lindri Henegar;
- 10 13. Declaration of Michael Kennedy;
- 11 14. Declaration of Erika Ludwig;
- 12 15. Declaration of Vitaliy Marchenko;
- 13 16. Declaration of Gwendelyn Marshall;
- 14 17. Declaration of Lindsey Miller;
- 15 18. Declaration of Athena Osborn;
- 16 19. Declaration of Ingrid Parker;
- 17 20. Declaration of Matthew Parker;
- 18 21. Declaration of Krista Richardson;
- 19 22. Declaration of Angela Romano;
- 20 23. Declaration of Pablo Sala;
- 21 24. Declaration of Susan Sauer;
- 22 25. Declaration of Theodore Smith;
- 23 26. Declaration of Jennifer Snowden;
- 24 27. Declaration of Howard Stambor;
- 25 28. Declaration of James Touhey;
- 26 29. Declaration of Ingrid Troy;

- 1 30. Declaration of Gerald Willits;
2 31. Declaration of Kyoko Wright;
3 32. State of Washington's Motion for Summary Judgment;
4 33. Any Opposition or Reply briefs and supporting declarations as well as any other
5 papers or pleadings on file related to the State's Motion for Summary Judgment;
6 34. Oral Argument JAN 15th 2016; and
7 35. Oral Argument FEB 12th 2016; and
8 36. _____.

9 Having found that there exist no issues of material fact, it is therefore ORDERED that
10 the State of Washington's Motion for Summary Judgment is GRANTED. The Court therefore
11 DECLARES that: *In part.*

12 1. Defendant LA Investors, LLC d/b/a Local Records Office is a California Limited
13 Liability Company principally located in Bellflower, California. Defendant is registered in
14 Washington as a foreign limited liability company and conducts business in the State of
15 Washington.

16 2. The State must prove three elements to prevail on its Consumer Protection Act
17 (CPA) claim: (1) an unfair or deceptive act or practice; (2) occurring in trade or commerce;
18 (3) that affects the public interest. *State v. Kaiser*, 161 Wn. App. 705, 719, 254 P.3d 850 (2001);
19 *see also Hangman Ridge Training Stables v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 719 P.2d 531
20 (1985). Whether a particular act is unfair or deceptive is a question of law. *See Panag v. Farmers*
21 *Ins. Co. of Washington*, 166 Wn.2d 27, 47, 204 P.3d 885 (2009).

22 3. Defendants created and mailed 215,304 solicitations to Washington consumers.
23 The Court finds that the Defendants' solicitation was unfair and deceptive and violated the CPA.
24 Defendants created the deceptive net impression that Defendants' solicitation was from a
25 governmental agency or was a bill that Washington consumers were obligated to respond to or
26

*between
July 2012
and July
2015.*

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1 pay. Defendants' solicitation had the capacity to deceive a substantial number of Washington
2 consumers.

3 4. Defendants were engaged in trade and commerce as they sent 215,304 deceptive
4 solicitations to Washington consumers and 7,985 Washington consumers were deceived into
5 purchasing the product, between July 2012 and July 2015.

6 5. Defendants' acts affected the public interest. The unfair and deceptive acts were
7 committed in the course of Defendants' business, there was there a pattern or generalized course
8 of conduct, the acts were repeated, and many consumers were affected or likely to be affected.

9 6. ~~Individuals, including corporate officers, may be personally liable for conduct that~~
10 ~~violates the CPA if he or she "participate[d] in" or "with knowledge approve[d] of" the practice~~
11 ~~that violates the CPA. State v. Ralph Williams' N.W. Chrysler Plymouth, Inc., 87 Wn.2d 298,~~
12 ~~322, 553 P.2d 423 (1976).~~

13 7. ~~The individual Defendants, Roberto Romero, a/k/a Juan Roberto Romero~~
14 ~~Ascencio and Laura Romero, are found personally liable for the conduct that violates the CPA~~
15 ~~described herein. Roberto Romero, a/k/a Juan Roberto Romero Ascencio and Laura Romero are~~
16 ~~the sole members and managers of LA Investors, LLC and have been directly involved in~~
17 ~~the day-to-day operations of the business from inception to the present. Roberto Romero,~~
18 ~~a/k/a Juan Roberto Romero Ascencio and Laura Romero participated in the design and~~
19 ~~approval of the deceptive mailing.~~

20 8. ~~In determining the appropriate amount for a civil penalty, the Court finds that~~
21 ~~Defendants repeatedly committed the same violations of the CPA through transactions with~~
22 ~~thousands of consumers in Washington. Defendants did not act in good faith. The acts and~~
23 ~~practices described herein were not isolated instances of misjudgment, but rather, an intentional~~
24 ~~and deliberate practice. Defendants' violations caused substantial injury to the public.~~

25 Consumer restitution is ordered in an amount to
26 be determined later.

MSW
of the
Consumer
Protection
Act.
(RCW 19.86)

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Reserved

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1 Defendants, as well as their successors, assigns, officers, agents, servants, employees,
2 representatives, and all other persons in active concert or participation with them, are
3 PERMANENTLY ENJOINED, pursuant to RCW 19.86.080(1) from:

4 1. Engaging in acts or practices that violate the CPA in the solicitation of or
5 transactions with Washington consumers;

6 2. Engaging in any other acts or practices that violate the CPA;

7 3. Failing to ensure that all their successors, assigns, officers, agents, servants,
8 employees, representatives, and all other persons in active concert or participation with them
9 receive a copy of this Order.

10 The Court ORDERS that Defendants shall jointly and severally pay:

11 1. An amount equal to all fees received from (and not previously refunded to) the
12 Washington consumers that responded to the Defendants' solicitation.

13 a. Defendants shall identify all fees received from (and not previously
14 refunded to) the Washington consumers that responded to the Defendants' solicitation
15 to the State and the Court on or before January __, 2016. Defendants shall also
16 provide to the State on or before January __, 2016, a list of all its past and present
17 Washington consumers, most recent contact information for those consumers, and the
18 amount of all un-refunded amounts received from each consumer, in order to facilitate
19 distribution of this restitution payment, which is ordered pursuant to RCW 19.86.080.

20 b. The State shall submit a proposed method to administer the restitution
21 payments to the Court by January __, 2016. Any objection shall be submitted by
22 January __, 2016, and any response shall be submitted by February __, 2016. The
23 Court will determine the method to administer the restitution payments without oral
24 argument unless it notifies the parties.

25 c. ~~Defendants shall bear all costs for the administration of the restitution~~
26 ~~payments.~~

Civil penalties in an amount to be determined later

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Reserved

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1 2. \$2,776,745 in civil penalties to the State of Washington pursuant
2 to RCW 19.86.140. This amount is based on a penalty of \$89 for each of Defendants' 7,895
3 deceived paying customers (\$702,695) and a penalty of \$10 per mailing for those deceptive
4 solicitations that did not result in a purchase (\$2,074,090).

5 3. The State's reasonable costs and attorney's fees. The State shall submit its costs
6 and fees to the Court by ~~January 11~~ ^{March 4th}, 2016. Any objection shall be submitted by ~~January~~ ^{March 4th},
7 2016, and any response shall be submitted by ~~February 26~~ ^{March 11}, 2016. The Court will determine
8 the award of costs and attorney's fees without oral argument unless it notifies the parties.

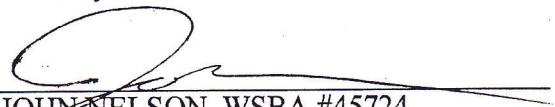
9 4. These amounts shall be paid to the State of Washington by check made payable
10 to "Attorney General-State of Washington" and sent to the Office of the Attorney General,
11 Attention: Cynthia Lockridge, Administrative Office Manager, 800 Fifth Avenue, Suite 2000,
12 Seattle, Washington 98104-3188.

13 DATED this 12th day of February, 2016
14

15 
16 THE HONORABLE JUDGE MARY SUE WILSON

17 Presented by:

18 ROBERT W. FERGUSON
19 Attorney General

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