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STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

Machol & Johannes, LLC, a Colorado
limited liability company; Machol &
Johannes, PLLC, d/b/a Machol & Johannes,
LLC, a Washington limited liability
company; JACQUES A. MACHOL III, an
individual; and RANDALL D. JOHANNES,
an individual,

Defendants.

NO. 20-2-07950-2 SEA

CONSENT DECREE

[CLERK'S ACTION REQUIRED]

I. JUDGMENT SUMMARY

- 1.1 Judgment Creditor: State of Washington
- 1.2 Judgment Debtors: Machol & Johannes, LLC;
Machol & Johannes, PLLC,
d/b/a Machol & Johannes, LLC;
Jacques A. Machol III; and
Randall D. Johannes
- 1.3 Principal Judgment Amount: \$414,000 and
Restitution pursuant to Section IV
- 1.4 Post Judgment Interest Rate: 12 percent per annum
- 1.5 Attorneys for Judgment Creditor: Matthew Geyman
Amy C. Teng
Assistant Attorneys General

1 1.6 Attorneys for Judgment Debtor: Bradley P. Thoreson and John B. Crosetto
2 Buchalter

3 1.7 Plaintiff State of Washington conducted an investigation and commenced this
4 action pursuant to the Consumer Protection Act (CPA), RCW 19.86, and the Collection Agency
5 Act (CAA), RCW 19.16.

6 1.8 Defendant Machol & Johannes, LLC, is a Colorado limited liability company
7 headquartered at 700 17th Street, Suite 200, Denver, Colorado 80202.

8 1.9 Defendant Machol & Johannes, PLLC, d/b/a Machol & Johannes, LLC, is a
9 Washington limited liability company, located at 2800 156th Avenue SE, Suite 105, Bellevue,
10 Washington 98007.

11 1.10 Defendant Jacques A. Machol III is a principal and owner of Defendant Machol
12 & Johannes, LLC, and Defendant Machol & Johannes, PLLC, d/b/a Machol & Johannes, LLC,
13 and a resident of Denver, Colorado.

14 1.11 Defendant Randall D. Johannes is a former principal and owner of Defendant
15 Machol & Johannes, LLC, and Defendant Machol & Johannes, PLLC, d/b/a Machol & Johannes,
16 LLC, and a resident of Superior, Colorado.

17 1.12 Defendants were each served or waived service and appear by and through their
18 attorneys, Brad P. Thoreson and John B. Crosetto of Buchalter in Seattle, Washington.

19 1.13 The State of Washington appears by and through its attorneys, Robert W.
20 Ferguson, Attorney General, and Matthew Geyman and Amy C. Teng, Assistant Attorneys
21 General.

22 1.14 The State and Defendants have agreed on a basis for settlement of the matters
23 alleged in the State's Fifth Amended Complaint (Complaint) and to entry of this Consent Decree
24 against Defendants without the need for trial or adjudication of any issue of law or fact.

25 1.15 Defendants recognize and agree that this Consent Decree is entered into
26 voluntarily and that no promises, representations, or threats have been made by the Attorney

1 General's Office (AGO) or any member, officer, agent, or representative thereof to induce
2 Defendants to enter into this Consent Decree, except the provisions and representations herein.

3 1.16 Defendants waive any right they may have to appeal from this Consent Decree or
4 to otherwise contest the validity of this Consent Decree.

5 1.17 Defendants further agree this Court has and shall retain jurisdiction of this action
6 and jurisdiction over Defendants for the purpose of implementing and enforcing the terms and
7 conditions of this Consent Decree.

8 The Court finds no just reason for delay.

9 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, AND DECREED as
10 follows:

11 II. GENERAL

12 2.1 This Court has jurisdiction over the subject matter of this action and over the
13 parties. The State's Complaint in this matter states claims upon which relief may be granted
14 under the provisions of the CPA, RCW 19.86, and the CAA, RCW 19.16.

15 2.2 This Consent Decree or the fact of its entry does not constitute evidence or an
16 admission by any party regarding the existence or non-existence of any issue, fact, or violation
17 of any law alleged by the State.

18 2.3 This Consent Decree resolves with prejudice all claims raised and which could
19 have been raised by the State against Defendants in this action arising out of or relating to the
20 acts and omissions described in the Complaint, except that Defendants' material failure to
21 comply with this Consent Decree shall permit the Attorney General of Washington to take such
22 further action against Defendants as may be necessary and appropriate as provided herein.

23 III. INJUNCTIONS

24 3.1 Application of Injunctions. The injunctive provisions of this Consent Decree shall
25 apply to Defendants and their successors, assigns, employees, contractors, representatives, and
26 all others acting in concert or active participation with Defendants.

1 3.2 Notice. Within thirty (30) days following entry of this Consent Decree,
2 Defendants shall inform all successors, assigns, employees, contractors, representatives, and all
3 others acting in concert or active participation with Defendants of the terms and conditions of
4 this Consent Decree and shall direct those persons and entities to comply with this Consent
5 Decree.

6 3.3 Injunctive Relief. Defendants and their successors, assigns, employees,
7 contractors, representatives and all others acting in concert or active participation with
8 Defendants shall permanently engage in or refrain from engaging in the following acts and
9 practices when operating in the State of Washington:

10 3.3.1 Defendants shall develop and maintain debt collection policies and
11 procedures consistent with the requirements of Washington's garnishment laws, RCW 6.27, and
12 all applicable laws;

13 3.3.2 Defendants shall ensure that statutorily-compliant garnishment
14 exemption claim forms are provided to Washington consumers in all future garnishments, as
15 provided in RCW 6.27.140;

16 3.3.3 Defendants shall release all ongoing garnishments in which Washington
17 consumers were sent exemption claim forms that did not comply with RCW 6.27.140, and if
18 Defendants seek to conduct garnishments to collect from those consumers in the future, they
19 shall use correct exemption forms;

20 3.3.4 Defendants shall ensure that garnishment fees and costs are not assessed
21 against Washington consumers when garnishments do not capture funds from the garnishee bank
22 or employer, in compliance with RCW 6.27.250(3); and

23 3.3.5 Defendants shall ensure that all future applications for judgments on
24 answers to writs of garnishment include underlying service documents attached to the affidavits
25 regarding service on Washington consumers, as provided in RCW 6.27.130.
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IV. RESTITUTION

4.1 Defendants shall take the following steps to provide restitution to Washington consumers. For purposes of restitution pursuant to Section IV of this Consent Decree a "Washington consumer" includes any consumer who resided in Washington State during the time periods indicated in paragraphs 4.2 through 4.6, even if the consumer has since moved out of state.

4.2 For each garnishment exemption claim form Defendants sent to a Washington consumer from June 7, 2018 to May 31, 2019, in a bank garnishment that did not involve private student loan debt, Defendants shall refund to the consumer all funds recovered in the garnishment if the amount recovered was less than \$500, or \$500 if the amount recovered was equal to or greater than \$500.

4.3 For each garnishment exemption claim form Defendants sent to a Washington consumer from June 7, 2018 to May 31, 2019, in a bank garnishment involving private student loan debt, including all garnishments on behalf of Vocational Training Institutes, Inc. d/b/a PIMA Medical Institute, Defendants shall refund to the consumer all funds recovered in the garnishment if the amount recovered was less than \$2,500, or \$2,500 if the amount recovered was equal to or greater than \$2,500.

4.4 For each Washington consumer against whom Defendants obtained a judgment for, and subsequently recovered, garnishment fees or costs from October 15, 2012 to the present; when no funds were captured in the garnishment, Defendants shall refund to the consumer the fees and costs paid. Defendants shall also make a total payment of \$32,000 in interest, to be divided among the consumers identified as receiving payments pursuant to this paragraph pro rata in proportion to the respective amounts of fees or costs refunded to each consumer.

4.5 For each Washington consumer against whom Defendants obtained a judgment for garnishment fees or costs from October 15, 2012 to the present, when no funds were captured in the garnishment, and from whom Defendants did not subsequently recover the fees or costs,

1 Defendants shall forgive and write off all such garnishment fees and costs from any
2 corresponding judgment account balances for the consumer.

3 4.6 Defendants shall refund a total amount of \$238,000 to be divided among
4 Washington consumers from whom Defendants collected funds through original collection
5 efforts and collection actions newly filed from August 1, 2011 to October 14, 2012, pro rata in
6 proportion to the respective amounts Defendants recovered from each consumer during that
7 period. For purposes of this paragraph, "original collection efforts and collection actions newly
8 filed" excludes accounts previously collected and debt collection actions previously filed by
9 others before August 1, 2011.

10 4.7 For Washington consumer Melanie Shelton, Defendants shall vacate the
11 garnishment judgment that was entered in Thurston County Superior Court on January 6, 2021,
12 in the amount of \$1,457.36 (including \$1,258.68 garnishment judgment plus \$198.68 costs), and
13 either release the garnishment and restore \$1,457.36 to her bank account if the funds have not
14 been received by Defendants, or refund \$1,457.36 to her if the funds were received by
15 Defendants.

16 4.8 To the extent that an individual consumer is eligible for more than one category
17 of relief set forth in paragraphs 4.2 through 4.7, or is eligible for multiple recoveries within a
18 single category of relief, he or she shall be entitled to all of the relief set forth in the applicable
19 paragraphs.

20 4.9 By the time of the filing of this Consent Decree for review and entry by the Court,
21 Defendants shall have provided written confirmation to the Attorney General's Office (AGO)
22 that they have transferred \$477,457 into a blocked trust account controlled by Defendants'
23 attorneys to fund Defendants' restitution obligations as set forth above. The funds transferred to
24 the blocked account shall only be used (a) to fund payments to consumers as set forth in
25 paragraphs 4.2 through 4.8; (b) to transfer any residual funds to the AGO that were designated
26 for distribution but remain undistributed because issued checks mailed to consumers were

1 uncashed, undeliverable, or returned, as set forth in paragraph 4.12; and (c) to return funds to
2 Defendants to the extent that the estimated restitution amounts under paragraphs 4.2, 4.3 and 4.4
3 prove to be greater than the amount necessary to fully fund Defendants' payment obligations
4 under those paragraphs, as set forth in paragraph 4.10.

5 4.10 Defendants shall provide the AGO with an accounting identifying the consumers
6 who qualified for each category of relief and the amount of relief provided as set forth in
7 paragraph 4.11. The Parties understand and agree that Defendants' restitution obligations under
8 paragraphs 4.2, 4.3 and 4.4 may be more or less than the amounts estimated above. If the
9 estimated amounts are insufficient to cover Defendants' obligations under those paragraphs,
10 Defendants shall transfer additional funds to the blocked trust account sufficient to fully fund
11 their payment obligations under those paragraphs within fourteen (14) days of notice of
12 insufficiency. If the estimated amounts are greater than required to provide full restitution under
13 those paragraphs, the difference shall be returned to Defendants within fourteen (14) days of the
14 mailing of checks to consumers.

15 4.11 Within ninety (90) days following entry of this Consent Decree, Defendants shall
16 use its best efforts to (a) identify the consumers eligible for relief under paragraphs 4.2 through
17 4.8; (b) issue checks to those consumers in amounts identified in paragraphs 4.2, 4.3, 4.4, 4.6
18 and 4.7; (c) provide the issued checks to the AGO so that the AGO can mail the checks to
19 consumers with a cover letter from the AGO; and (d) provide the AGO with an accounting
20 identifying the consumers who were eligible for each category of relief and the amount of relief
21 provided to each consumer. Defendants should send the issued checks to the Office of the
22 Attorney General, Consumer Protection Division, Attention: Margaret Farmer, Litigation
23 Support Manager, 800 Fifth Avenue, Suite 2000, Seattle, WA 98104. Defendants should send
24 the accounting as an Excel spreadsheet via e-mail to Matt Geyman at matt.geyman@atg.wa.gov
25 and Amy Teng at amy.teng@atg.wa.gov.

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1 4.12 Unless the Parties later stipulate in writing to another time frame, one hundred
2 eighty (180) days from the date the AGO mails the checks to eligible consumers, any remaining
3 amounts that were designated for distribution but remain undistributed because issued checks
4 mailed to consumers were uncashed, undeliverable, or returned, shall be paid by Defendants to
5 the AGO to the address set forth in paragraph 5.2. The AGO may apply the funds to a *cy pres*
6 fund for debt counseling or similar services offered to Washington consumers or for any other
7 use, including further efforts by the AGO to provide restitution to eligible consumers whose
8 checks were not cashed, at its discretion.

9 V. OTHER MONETARY RELIEF

10 5.1 Defendants shall pay the State the amount of \$414,000 for its costs and attorneys'
11 fees in investigating this matter, future monitoring and enforcement of this Consent Decree, future
12 enforcement of the CPA, RCW 19.86, or for any lawful purpose in the discharge of the Attorney
13 General's duties at the sole discretion of the Attorney General.

14 5.2 The payment referenced in paragraph 5.1 shall be made upon entry of this
15 Consent Decree to the Office of the Attorney General, Consumer Protection Division, Attention:
16 Margaret Farmer, Litigation Support Manager, 800 Fifth Avenue, Suite 2000, Seattle, WA
17 98104. Defendants' failure to timely make payment as required by this Consent Decree shall
18 constitute a material breach of this Consent Decree.

19 VI. ENFORCEMENT

20 6.1 Violation of any of the material terms of this Consent Decree, as determined by
21 the Court, shall constitute a violation of the Consumer Protection Act, 19.86.020. The
22 Defendants shall use best efforts to identify consumers required by this Consent Decree.

23 6.2 Violation of any of the injunctions contained in this Consent Decree, as
24 determined by the Court, shall subject Defendants to a civil penalty pursuant to RCW 19.86.140,
25 restitution, injunctive relief, attorneys' fees, costs, and such other remedies as the Court may
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1 deem appropriate. In any successful action to enforce this Consent Decree against Defendants,
2 Defendants shall bear the AGO's costs, including reasonable attorneys' fees.

3 6.3 Jurisdiction is retained for the purpose of enabling any party to this Consent
4 Decree to apply to the Court for enforcement of compliance with this Consent Decree, to punish
5 violations thereof; or to modify or clarify this Consent Decree.

6 6.4 Representatives of the AGO shall be permitted, upon advance written notice of
7 twenty (20) days to Defendants, to access, inspect, and/or copy non-privileged business records
8 or documents in possession, custody, or under control of Defendants to monitor compliance with
9 this Consent Decree; provided that the inspection and copying shall avoid unreasonable
10 disruption of Defendants' business activities.

11 6.5 This Consent Decree in no way limits the AGO, or any other state agency, from
12 conducting any lawful non-public investigation to monitor Defendants' compliance with this
13 Consent Decree or to investigate other alleged violations of state or federal law.

14 6.6 Nothing in this Consent Decree shall grant any third-party beneficiary or other
15 rights to any person who is not a party to this Consent Decree.

16 6.7 Nothing in this Consent Decree shall be construed to limit or bar any other
17 governmental entity or person from pursuing other available remedies against Defendants or any
18 other person.

19 6.8 Under no circumstances shall this Consent Decree, or the name of the State of
20 Washington, the AGO, the Consumer Protection Division, or any of their employees or
21 representatives, be used by Defendants or any of their successors, assigns, employees,
22 contractors, representatives, or any others acting in concert or active participation with
23 Defendants, in connection with any selling, advertising, or promotion of products or services, or
24 as an endorsement or approval of Defendants' acts, practices, or conduct of business, including
25 in filings in court proceedings.

26 6.9 This Consent Decree shall be binding upon Defendants' successors and assigns.

1 6.10 Any notice or other communication required or permitted under this Consent
2 Decree shall be in writing and delivered to the following persons or any person subsequently
3 designated by the parties:

4 For Plaintiff:
5 Office of the Attorney General
6 Consumer Protection Division
7 Attention: Matthew Geyman, AAG
8 800 Fifth Avenue, Suite 2000
9 Seattle, WA 98104

For Defendants:
Buchalter
Attention: Brad P. Thoreson
1420 Fifth Avenue, Suite 3100
Seattle, WA 98101

8 VII. OTHER PROVISIONS

9 7.1 This Consent Decree is a voluntary agreement and it shall not be construed in any
10 way as an admission of law, fact, liability, or misconduct, including, without limitation, as a
11 violation of the CPA or the CAA. Defendants expressly deny the claims, allegations, or causes
12 of action that were or could have been asserted by the State.

13 7.2 This Consent Decree represents the full and complete terms of the settlement
14 entered into by the Parties hereto. In any action undertaken by the Parties, no prior versions of
15 this Consent Decree and no prior versions of any of its terms that were not entered by the Court
16 in this Consent Decree, may be introduced for any purpose whatsoever.

17 7.3 The Parties agree and affirm that each of them has the authority to execute and
18 perform the terms of this Consent Decree.

19 7.4 This Consent Decree may be executed in counterparts, and a facsimile or .pdf
20 signature shall be deemed to be, and shall have the same force and effect as, an original signature.

21 7.5 This Consent Decree releases and resolves with prejudice the claims alleged by
22 the State in the Complaint. The Consent Decree releases Defendants (and their respective agents,
23 owners, employees, officers, trustees, members, related business entities, business affiliates,
24 clients, lawyers and accountants), with respect to all claims or counterclaims that were or could
25 have been brought by the State related to any acts or omissions by Defendants alleged in the
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1 Complaint that predate entry of this Consent Decree, including any claim under common law or
2 under any federal, state, or local statute or ordinance.

3 VIII. DISMISSAL OF ACTION

4 8.1 Upon entry of this Consent Decree, and with continuing jurisdiction for
5 enforcement as provided above, this action, and any and all claims asserted against the
6 Defendants herein, are dismissed with prejudice and without costs to any Party other than as
7 expressly provided in this Consent Decree.

8 The Clerk of the Court is ordered to immediately enter the foregoing Judgment and
9 Consent Decree.

10 DONE IN OPEN COURT this ^{7th} day of ^{June} May, 2021.

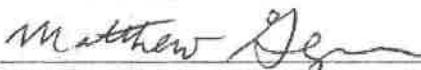
11 
12 THE HONORABLE SANDRA E. WIDLAN
13


14 Presented by:

Notice of Presentment Waived and
Approved as to Form by:

15 ROBERT W. FERGUSON
16 Attorney General

BUCHALTER

17 
18 MATTHEW GEYMAN, WSBA #17544
19 AMY C. TENG, WSBA #50003
Assistant Attorneys General
Attorneys for Plaintiff State of Washington
20 800 Fifth Avenue, Suite 2000
21 Seattle, WA 98104
22


23 BRAD P. THORESON, WSBA #18190
24 JOHN B. CROSETTO, WSBA #36667
Attorneys for Defendants
25 1420 Fifth Avenue, Suite 3100
26 Seattle, WA 98101