Pierce County Clerk

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7	STATE OF WASHINGTON PIERCE COUNTY SUPERIOR COURT		
8	STATE OF WASHINGTON,	NO. 20-2-06237-1	
9	Plaintiff, A	ASSURANCE OF DISCONTINUANCE	
10	v. [0	CLERK'S ACTION REQUIRED]	
11 12	FITNESS 101 TEAM PUYALLUP		
13	L.L.C. D/B/A NORTHWEST FITNESS CO. D/B/A NWFITCO; MICHAEL		
14	JASON BAKER; AND SHANE DAVID COWHIG		
15	Defendants.		
16	I. INTRODUCTION		
17	1.1 The State of Washington (State), by and through its attorneys, Robert W. Ferguson,		
18	Attorney General, and Daniel L. Allen, Breena M. Roos, and Ben Brysacz, Assistant Attorneys		
19 20	General, files this Assurance of Discontinuance pursuant to the Consumer Protection Act (CPA),		
20	RCW 19.86.100.		
21	1.2 Defendant Fitness 101 Team Puyallup L.L.C. d/b/a Northwest Fitness Co. d/b/a		
23	NWFITCO (Northwest Fitness Co.) is a for profit corporation organized under the laws of		
24	Washington with its principal place of business at 4301 South Meridian, Suite H, Puyallup,		
25	Washington 98373.		
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- 1.3 Defendant Shane David Cowhig is a co-owner of Northwest Fitness Co., and a resident of Pierce County, Washington.
- 1.4 Defendant Michael Jason Baker is a co-owner of Northwest Fitness Co., and a resident of Pierce County, Washington.
- 1.4 This Assurance of Discontinuance, entered into between the State of Washington, Northwest Fitness Co., Michael Jason Baker, and Shane David Cowhig, (the "Parties") resolves the State's concerns that Northwest Fitness Co., Michael Jason Baker, and Shane David Cowhig, engaged in unfair acts or practices and unfair methods of competition under RCW 19.86.020, based on Northwest Fitness Co., Michael Jason Baker, and Shane David Cowhig's, operation of a fitness gym in violation of Governor Jay Inslee's Stay Home Stay Healthy Proclamations (defined below).
- 1.5 As resolution to a pending lawsuit, *State of Washington v. Fitness 101 Team Puyallup L.L.C d/b/a Northwest Fitness Co. d/b/a NWFITCO; Michael Jason Baker; and Shane David Cowhig*, Superior Court of Pierce County, Case No. 20-2-06237-1, Northwest Fitness Co., Shane David Cowhig, and Michael Jason Baker agree to this Assurance of Discontinuance.

II. INVESTIGATION

2.1 On March 23, 2020, Governor Jay Inslee, pursuant to his emergency authority under RCW 43.06.220, issued Proclamation 20-25 which prohibited and limited, subject to enumerated exceptions, all people in Washington from leaving their homes except to conduct essential activities and essential employment, all people from participating in social gatherings, and all non-essential businesses in the state from conducting business. The Governor extended and/or amended Proclamation 20-25 in Proclamations 20-25.1, 20-25.2, and 20-25.3 (herein, Proclamations 20-25, 20-25.1, 20-25.2, and 20-25.3, and all references, bulletins, guidance, appendixes, attachments, and amendments to the same will be jointly referred to as the "Stay Home – Stay Healthy Proclamations").

- 2.2 Most recently, on May 4, 2020, Governor Inslee issued Proclamation 20-25.3 further amending and extending to May 31, 2020 many of the prohibitions of Proclamation 20-25 because, among other things, COVID-19 continues to threaten lives and the State's economy. However, and as detailed and incorporated into Proclamation 20-25.3, the Governor also determined that epidemiological data and modeling supported a phased-in "Safe Start" approach to re-opening Washington. Under the phased-in approach, gyms and fitness centers can now reopen and resume operations with restrictions in Phases 2 and 3. Currently, most counties in Washington, including Pierce County, remain in Phase 1.
- 2.3 Defendants own and operate a fitness gym, Northwest Fitness Co., in Puyallup, Washington. While Defendants temporarily closed their fitness gym on or around March 16, 2020, Defendants reopened their gym on May 5, 2020. Under the Governor's Stay Home Stay Healthy Proclamations, gyms and fitness centers in Pierce County are not permitted to be open and operating at this time. Defendants' decision to reopen the Northwest Fitness Co. gym resulted in numerous complaints from citizens. Various governmental entities, including the Puyallup Police Department on May 5, 2020, the Governor's Coronavirus Emergency Response Team on May 5, 2020, and the Washington Attorney General's Office on May 15, 2020, responded to Defendants' actions by informing them that their conduct was in violation of the Stay Home Stay Heathy Proclamations and could result in further action. By reopening and operating their fitness gym, Defendants were in violation of the Stay Home Stay Healthy Proclamations, to which the State of Washington also alleged violated the Washington Consumer Protection Act (CPA), RCW 19.86.

III. ASSURANCE OF DISCONTINUANCE

3.1 The State deems that the following constitute unfair methods of competition and unfair or deceptive acts or practices in trade or commerce that violate the Washington Consumer Protection Act, RCW 19.86.020: Opening and operating a business in Washington in violation

of Governor Inslee's COVID-19-related Stay Home – Stay Healthy Proclamations, as amended, including any attachments, references, bulletins, guidance, and appendixes to the same.

3.2 In the future, Northwest Fitness Co., Michael Jason Baker, and Shane David Cowhig agree to open and operate the Northwest Fitness Co. gym in full compliance with the Governor's COVID-19-related Stay Home – Stay Healthy Proclamations, including any existing or future amendments, attachments, references, bulletins, guidance, and appendixes to the same.

IV. ADDITIONAL PROVISIONS

- 4.1 The parties acknowledge and agree that no other promises, representations, or agreements of any nature have been made or entered into by the parties. The parties further acknowledge that this Assurance of Discontinuance constitutes a single and entire agreement that is not severable or divisible, except that if any provisions herein are found to be legally insufficient or unenforceable, the remaining provisions shall continue in full force and effect.
- 4.2 Under no circumstances may this Assurance of Discontinuance or the name of the State of Washington, the Office of the Attorney General, the Consumer Protection Division, or any of their employees or representatives be used by Defendants to express any endorsement of any business activity of Defendants.
- 4.3 This Assurance of Discontinuance is binding on Defendants and their respective owners, successors, assigns, officers, directors, principals, members, agents, employees, representatives, and all other persons or entities in active concert or participation with Defendants. This Assurance of Discontinuance resolves all issues raised in this lawsuit. Upon the Court's approval of this Assurance of Discontinuance, the State will file a voluntary dismissal without prejudice of the above-captioned action.

(Approval and Signature on Next Page)

1	APPROVED on this day of, 2020).
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3	JUD	GE/COURT COMISSIONER
4		
5	Presented by:	
6	ROBERT W. FERGUSON	
7	Attorney General	
8	Daniel allen	
9	Daniel L. Allen, WSBA #45036 Breena M. Roos, WSBA #34501	
10		
11	Attorneys for State of Washington	
12	800 Fifth Avenue, Suite 2000	
13	-	
14	Daniel.Allen@atg.wa.gov (206) 464-7744	
15		
16		
17	Fitness 101 Team Puyallup L.L.C., Shane David Cowhig, and Michael Jason Baker agree to the Assurance of Discontinuance, and with binding authority granted to counsel to sign and assent	
18	Assurance of Discontinuance, and with officing authority	granted to counsel to sign and assent on
19		
2 0	STELLIEN LIDGEON, WSBA#25205	
21	1523 – 132 nd Street SE	
22	Suite C-350 Everett, Washington 98208 Stephen.Pidgeon@comcast.net (425) 347-7513	
23		
24	Counsel for Defendants Fitness 101 Team Puyallup L.L. Jason Baker	C., Shane David Cowhig, and Michael
25		
26		

Case: STATE OF WASHINGTON VS. FITNESS 101 TEAM PUYALLUP LLC

Cause Number: 20-2-06237-1 **Filing ID:** 54740351

Signed: June 02 2020 09:37 AM

This order has been reviewed, approved, and electronically signed.



Grain S. Adorra Biorra Sound

Craig S Adams, Pierce County Commissioners