

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

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.

NO. 19-2-24757-6 SEA

~~[PROPOSED]~~ ORDER GRANTING
THE STATE OF WASHINGTON'S
MOTION FOR PARTIAL SUMMARY
JUDGMENT ON LIABILITY AS TO
PRINT AND ONLINE MARKETING

THIS MATTER, having come before the Court on Plaintiff's Motion for Partial Summary Judgment on Liability as to Print and Online Marketing, and the Court having heard the arguments, if any, of the parties, and considered the following material:

1. State of Washington's Motion for Partial Summary Judgment on Liability as to Print and Online Marketing;
2. Declaration of Mina Shahin and exhibits thereto;
3. Declaration of Eric M. Peters and exhibits thereto;

~~[PROPOSED]~~ ORDER GRANTING THE
STATE OF WASHINGTON'S MOTION FOR
PARTIAL SUMMARY JUDGMENT ON
LIABILITY AS TO PRINT AND ONLINE
MARKETING - 1

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- 1 4. Declaration of Anton Forbes and exhibits thereto;
- 2 5. Declaration of Mary Meyerhoff;
- 3 6. Declaration of Susan Vonrosner;
- 4 7. Defendants' Opposition and supporting declarations, if any;
- 5 8. State of Washington's Reply and supporting declarations, if any;
- 6 9. Any other papers or pleadings on file related to the State's Motion for Partial
- 7 Summary Judgment on Liability as to Print and Online Marketing;
- 8 10. The arguments made by the parties at the hearing on the State's Motion for Partial
- 9 Summary Judgment on Liability as to Print and Online Marketing;
- 10 11. _____; and
- 11 12. _____.

12 The Court thereby enters the following FINDINGS and CONCLUSIONS:

- 13 1. Defendants Rami Mornel, US Air Ducts & Sky Builders, Inc. (US Air Ducts),
- 14 and DLM Services, Inc. (DLM) (collectively, Defendants), reside or are located
- 15 in the State of Washington.
- 16 2. At all times relevant to the State's claims in this matter, Rami Mornel was the
- 17 owner or operator of Defendants US Air Ducts and DLM (collectively, Corporate
- 18 Defendants).
- 19 3. At all times relevant to the State's claims in this matter, Corporate Defendants
- 20 were engaged in the solicitation and sale of air duct cleaning services to
- 21 Washington consumers and consumers in other states.
- 22 4. To prevail under the Consumer Protection Act (CPA), RCW 19.86, the State must
- 23 prove three elements: (1) an unfair or deceptive act or practice; (2) occurring in
- 24 trade or commerce; (3) that affects the public interest. *State v. Kaiser*, 161 Wn.
- 25 App. 705, 719, 254 P.3d 850 (2001); *see also Hangman Ridge Training Stables*
- 26 *v. Safeco Title Ins. Co.*, 105 Wn.2d 778, 719 P.2d 531 (1985). Whether a

1 particular act is unfair or deceptive is a question of law. *Panag v. Farmers Inc.*
2 *Co. of Washington*, 166 Wn.2d 27, 47, 204 P.3d 885 (2009).

3 5. The Attorney General may bring suit against “any person” to enforce the CPA.
4 RCW 19.86.080. Individuals, including corporate officers, may be personally
5 liable for conduct that violates the CPA if he or she “participate[d] in” or “with
6 knowledge approve[d] of” the practice that violates the CPA. *State v. Ralph*

7 *Williams’ N.W. Chrysler Plymouth, Inc.*, 87 Wn.2d 298, 322, 553 P.2d 423
8 (1976). *This does not mean that in every case the corporate veil may be*

9 6. The “regular price” listed in Defendants’ advertisements was always fictitious
10 because Defendants never openly and actively offered the service package for
11 sale, for a reasonably substantial period of time, in the recent, regular course of
12 business at the “regular price.”

13 7. Defendants violated the CPA by engaging in unfair and deceptive acts or
14 practices within the meaning of RCW 19.86.020 when they circulated print
15 advertisements in Washington containing fictitious former price comparisons
16 between the “special” price and the “regular price” of the service package.

17 8. Defendants violated the CPA by engaging in unfair and deceptive acts or
18 practices within the meaning of RCW 19.86.020 when they circulated print
19 advertisements in Washington containing misrepresentations about the scope of
20 service and omissions of material limitations to the “special price” service
21 package. These misrepresentations and omissions are as follows: (i) “unlimited
22 vents to a single furnace”; (ii) “whole house”; (iii) “free dryer vent cleaning,”
23 without disclosing the limitation that Corporate Defendants charge a \$35 fee for
24 this cleaning if the dryer vent is not accessible from outside; and (iv) an image
25 depicting a dirty air duct “before” a cleaning and a clean air duct “after” a
26

Personal liability for corporate officers depends on their participation in the deception. Good faith and/or lack of intent is not a defense.

1 cleaning that does not accurately depict the outcome that can be expected from
2 the service package in the advertised offer.

3 9. Defendants US Air Ducts and Rami Mornel violated the CPA by engaging in
4 unfair and deceptive acts or practices within the meaning of RCW 19.86.020
5 when they circulated print advertisements in Washington containing the
6 misrepresentation that US Air Ducts had been “Serving the American
7 Neighborhood Since 2002.”

8 10. Defendants violated the CPA by engaging in unfair and deceptive acts or
9 practices within the meaning of RCW 19.86.020 when they caused to be
10 published on www.usairductsandbuilders.com or www.dlmairservices.com
11 fictitious former price comparisons between the “special” price and the “regular
12 price” of the service package, and misrepresentations about the scope of service
13 and omissions of material limitations to the service package. These
14 misrepresentations and omissions are as follows: (i) “unlimited vents”; (ii)
15 “complete air duct cleaning”; and (iii) “free dryer vent cleaning,” without
16 disclosing the limitation that Corporate Defendants charge a \$35 fee for this
17 cleaning if the dryer vent is not accessible from outside.

18 11. Defendant DLM violated the CPA by engaging in unfair and deceptive acts or
19 practices within the meaning of RCW 19.86.020 when it facilitated or fabricated
20 online reviews that misrepresent the actual customer experience or fail to disclose
21 the material connection between DLM and employee-generated reviews.

22 12. Rami Mornel personally participated in or with knowledge approved of the
23 following violations of the CPA: (i) print advertisements containing fictitious
24 former price comparisons; (ii) print advertisements containing the
25 aforementioned misrepresentations about the scope of service and omissions of
26 material limitations to the “special price” service package; (iii) print

1 advertisements containing the misrepresentation that US Air Ducts had been
2 “Serving the American Neighborhood Since 2002”; (iv) causing to be published
3 on www.usairductsandbuilders.com or www.dlmairservices.com fictitious
4 former price comparisons between the “special” price and the “regular price” of
5 the service package, and the aforementioned misrepresentations about the scope
6 of service and omissions of material limitations to the service package.

7 13. Defendants’ acts or practices affected the public interest. Defendants directed the
8 mailing of millions of print advertisements to Washington consumers’ homes.
9 Countless Washington consumers may have accessed the Corporate Defendants’
10 websites. DLM’s facilitation or creation of fictitious customer reviews had the
11 potential to reach any Washington consumer who conducted a Google search for
12 the business.

13 14. Defendants, at all times relevant to this action, were engaged in trade or
14 commerce within the meaning of RCW 19.86.020 by soliciting and selling air
15 duct cleaning services.

16 15. Pursuant to RCW 19.86.080, the Court is authorized to enter injunctive relief to
17 prevent Defendants from engaging in the unfair and deceptive acts or practices
18 that this Court has found violate the CPA.

19 Having made the foregoing findings and conclusions, the Court ORDERS the following:

- 20 1. The State’s Motion for Partial Summary Judgment on Liability as to Print and Online
21 Marketing is GRANTED.
- 22 2. Defendants Rami Mornel, US Air Ducts & Sky Builders, Inc., and DLM Services,
23 Inc., as well as their successors, assigns, officers, agents, employees, representatives,
24 and all other persons in active concert or participation with them, are hereby
25 PERMANENTLY ENJOINED from:
- 26 a. Creating, or participating in the creation of, fictitious business reviews online;

- 1 b. Making or directing another entity or individual to make, in any form of
2 marketing, any reference to a “regular” price that is not the bona fide regular
3 price for the service advertised;
- 4 c. Making or directing another entity or individual to make, in any form of
5 marketing, any misrepresentation regarding the duration of a promotional
6 offer;
- 7 d. Making or directing another entity or individual to make, in any form of
8 marketing, any misrepresentation regarding how long the company had been
9 operating; and
- 10 e. Using or directing another entity or individual to use, in any form of
11 marketing, images that are not indicative of the outcome that can be expected
12 from the service in the advertised offer.

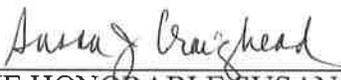
13 3. Defendants Rami Mornel, US Air Ducts & Sky Builders, Inc., and DLM Services,
14 Inc., as well as their successors, assigns, officers, agents, employees, representatives,
15 and all other persons in active concert or participation with them, are hereby required
16 to take the following measures:

- 17 a. Conspicuously disclose all offer limitations in print and online
18 advertisements;
- 19 b. Conspicuously disclose any material connection between Defendants and any
20 online endorser or reviewer of the Corporate Defendants and their services;
21 and
- 22 c. Conspicuously disclose any employment relationship between Defendants
23 and any online endorser or reviewer of the Corporate Defendants and their
24 services.

25 4. The Court reserves determination of the civil penalties to be forfeited and paid by
26 Defendants pursuant to RCW 19.86.140 for subsequent proceedings in this matter.

- 1 5. The Court reserves determination of the equitable relief to be granted to Washington
2 consumers pursuant to RCW 19.86.080(2) for subsequent proceedings in this matter.
3 6. The Court reserves determination of an award of costs and reasonable attorneys' fees
4 pursuant to RCW 19.86.080(1) for subsequent proceedings in this matter.
5

6 DATED this 29th day of May, 2020.

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8 
9 THE HONORABLE SUSAN J. CRAIGHEAD

10
11 Presented by:
12 ROBERT W. FERGUSON
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13 s/ Kate Barach

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