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KING COUNTY
SUPERIOR COURT

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AUG 11 2004

Cashier Section
Superior Court Clerk

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

INTERNET ADVANCEMENT, INC.,
d/b/a 4GREATBUYS.COM, a
Washington for-profit corporation, et
al.,

Defendants.

NO. 04.2.20187.0 SEA
STIPULATED JUDGMENT

I. JUDGMENT SUMMARY

- 1.1 Judgment Creditor: State of Washington
- 1.2 Judgment Debtors: Internet Advancement, Inc., d/b/a
4Greatbuys.com; Todd Wickham, individually,
and on behalf of his marital community; Ken
Committee, individually, and on behalf of his
marital community; and Ernesto Villamor,
individually, and on behalf of his marital
community
- 1.3 Principal Judgment Amount: To be determined within 45 days of signing.
 - a. Restitution: To be determined within 45 days of signing.

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II. FINDINGS OF FACT

1
2 **2.1** This action was commenced by the State of Washington pursuant to Chapter
3 19.86 RCW, the Unfair Business – Consumer Protection Act, and RCW 19.190, the
4 Unsolicited Commercial Electronic Mail Act on August 11, 2004.

5 **2.2** Defendants Internet Advancement, Inc., d/b/a 4Greatbuys.com, Todd
6 Wickham, Ken Committee, and Ernesto Villamor were duly served with a Summons and
7 Complaint.

8 **2.3** Internet Advancement, Inc. advertises and sells a variety of marketing services
9 to Internet-based businesses across the United States. They advertised their services on their
10 website, www.internetadvancements.com, and also by sending emails and telemarketing.

11 **2.4** Businesses which market and sell their products over the Internet often rely on
12 search engines to lead potential customers to their websites. Internet Advancement, Inc. offers
13 a “search engine optimization” service which purports to guarantee top 10-to-20 rankings on
14 major search engines such as Yahoo, Google, and AOL. Internet Advancement, Inc. claims
15 that “90% of all Internet users never view sites listed under #20 on the search engine rankings,”
16 and “the higher (a) search engine ranking, the more traffic (a business) will generate.”
17 <http://www.internetadvancements.com/index.shtml>, March 4, 2004. In return for payments
18 varying from \$980.00 to \$1,500.00 in “set-up” fees, in addition to monthly fees varying from
19 \$79.80 to \$89.95, they offer a variety of search engine optimization packages for their clients.
20 These packages include but are not limited to the following services: researching changes in
21 search engine submission requirements; researching clients’ products, markets, and
22 competition; researching and advising clients about the use and relevance of keywords;
23 providing ranking reports to clients; and offering multiple “directory information pages” to
24 direct Internet traffic to clients’ websites.

25 **2.5** Internet Advancement, Inc. is in competition with others in the State of
26 Washington engaged in similar business.

1 **2.6** In the context of defendant Internet Advancement, Inc.'s marketing and sale of
2 search engine optimization services, its telesales staff has made misrepresentations, including,
3 but not limited to, its ability to provide top search engine rankings, its ability to increase traffic
4 to customers' websites, its success rate and its number of repeat customers.

5 **2.7** The procedure by which Internet Advancement contracts with customers has led
6 to confusion regarding the terms offered to those customers.

7 **2.8** Internet Advancement, Inc. offers a "written money-back guarantee" to
8 purchasers of their search engine optimization services.

9 www.internetadvancements.com/seo/services.shtml, April 6, 2004. According to the terms of
10 their contract with purchasers, Internet Advancement, Inc. guarantees that its clients will
11 "obtain at least a top 10 placement on one or more of (the client's) 'key words' or key word
12 phrases' ...on at least 6 of the major search engines" for the 6 month term of the contract. The
13 contract goes on to state that if Internet Advancement, Inc. fails to fulfill the terms of its
14 "Warranty and Guarantee," the client is entitled to a refund.

15 **2.9** In some instances, consumers who have contracted and paid for Internet
16 Advancement, Inc.'s services have failed to obtain top placement on major search engines. In
17 some instances, these consumers have contacted Internet Advancement, Inc. and requested a
18 refund.

19 **2.10** When contacted for a refund, in some instances, Internet Advancement, Inc. has
20 failed to provide the refund or failed to refund all charges.

21 1. Some consumers who have attempted to contact Internet Advancement,
22 Inc. to cancel their contracts and request refunds have been unable to obtain a response
23 even after leaving repeated emails and voicemails. In such cases, the consumers have
24 continued to be billed.

25 2. Some consumers who have attempted to contact Internet Advancement,
26 Inc. to cancel within 30 days prior to the end of the 6-month term of the contract are

1 told that cancellation must be made “prior to” the 30-day period before the end of the
2 contract, in contravention of the plain terms of the contract itself. In such cases,
3 Internet Advancement, Inc. refuses to make refunds.

4 3. Internet Advancement, Inc. sometimes claims that consumers are not
5 entitled to refunds because they violate a provision of their contract which states,
6 “Client shall not perform or allow any changes to Company’s optimized source code
7 once it has been inserted into Client’s web page specified herein.” In fact, some
8 consumers who have been refused refunds on this basis have not personally changed
9 their source codes, nor do they have the technical skills or knowledge to do so.

10 4. Internet Advancement, Inc. on occasion promises refunds to consumers
11 who cancel. In some instances, it fails to make refunds despite such promises.

12 5. Some consumers have attempted to cancel based on Internet
13 Advancement, Inc.’s failure to obtain top 10 search engine placement using keywords
14 or search terms specified by the consumers. Disputes have arisen regarding whether
15 Internet Advancement, Inc. has failed to obtain such placement and refunds have
16 sometimes been refused.

17 **2.11** Internet Advancement’s payment program provides for automatic monthly
18 charges to customers’ credit cards for the duration of their contracts. Internet Advancement
19 has made unauthorized charges to these credit cards in a number of contexts, including but not
20 limited to the following:

21 1. When consumers contact Internet Advancement, Inc. and attempt to
22 cancel, some indicate that they explicitly they no longer wish to pay for or receive its
23 services. Despite conveying their intent to cancel, either directly to Internet
24 Advancement, Inc. representatives, or through an email address specifically designated
25 by Internet Advancement to receive cancellation requests, the consumers continue to
26 receive charges on their credit cards. For example, in at least one instance, a consumer

1 emailed his cancellation to Internet Advancement, Inc. and received an automated
2 response indicating that he would hear back from them within seven days. He received
3 no further response, but continued to be charged for additional monthly fees.

4 2. In one instance, a consumer continued to be charged on his credit card
5 when monthly fees had supposedly been “waived” by Internet Advancement, Inc.

6 3. In one instance, a consumer was charged when she had been told she
7 would not be charged until she had first obtained agreement from her business partner
8 to enter into a contract with Internet Advancement, Inc..

9 4. One consumer was charged after he was told he could get his money
10 back if his website wasn’t highly ranked “by the holidays.” Despite attempting to
11 obtain a refund because of Internet Advancement, Inc.’s failure to perform, his credit
12 card continued to be charged.

13 5. One consumer was charged during the first six months even though he
14 was explicitly told he would be charged monthly fees only at the seven-month point of
15 his contract with Internet Advancement, Inc.

16 **2.12** In some instances where consumers have disputed Internet Advancement, Inc.’s
17 unauthorized charges or refused to pay them, Internet Advancement, Inc. has continued to
18 place charges on consumer’ credit cards or submitted the alleged debts to collection agencies
19 which continued to bill the consumers.

20 **2.13** As part of the search engine optimization services provided by Internet
21 Advancement, Inc., its service agreement promises “quarterly reports listing the six major
22 search engines on which the clients’ web page domain or URL...is ranked the highest.” In
23 fact, in some instances Internet Advancement, Inc. fails to provide the reports, either on a
24 quarterly basis, or at all.

25 **2.14** Internet Advancement’s contract with consumers specifies that it “will remain
26 in effect for six months,” and continue on a month-to-month basis until terminated. The

1 **4.5** Defendants and their successors, assigns, transferees, officers, agents, servants,
2 directors, employees, and all other person or entities in active concert or participation with
3 defendants shall be informed of the terms and conditions of this Order.

4 **4.6** Defendants and their successors, assigns, transferees, officers, agents, servants,
5 directors, employees, and all other persons or entities in active concert or participation with
6 defendants are hereby enjoined and restrained from engaging in the following acts and
7 practices:

8 **a.** Making any misrepresentations in the context of their sale, advertising or
9 delivery of services including, but not limited to misrepresentations regarding their
10 ability to provide top search engine rankings, their ability to increase traffic to
11 customers' websites, their success rate and their number of repeat customers.

12 **b.** Misrepresenting the contractual obligations of customers or prospective
13 customers.

14 **c.** Failing to disclose, clearly and conspicuously, all material contract terms
15 before prospective customers have agreed to be charged for any of defendants'
16 services.

17 **d.** Making any money-back offers, provided that defendants may make an offer to
18 refund one half of set-up and administration fees under the following circumstances:

19 i. If defendants' offer promises top search engine placement, defendants
20 must identify the specific search engines which are included in the offer; and

21 ii. If defendants limit refunds to one-half of set-up and administration fees,
22 then defendants must place in language of the same size, type and prominence
23 as the language in any advertising regarding the availability of the refund, in
24 direct proximity to such language, the fact that the refund is limited to half of
25 the set-up and administration fees. Defendants must also, in any oral sales
26 communication to customers or prospective customers which references the

1 availability of a refund, clearly disclose the fact that the refund is limited to half
2 of the set-up fee and administrative fees, and must do so immediately after the
3 refund is orally referenced. Additionally, defendants' contract must state
4 clearly and conspicuously, in language of the same size, type and prominence as
5 the offer of the refund, in direct proximity to any language referencing the
6 availability of the refund, the fact that the refund is limited to half of the set-up
7 and administrative fees; and

8 iii. Defendants do not charge monthly maintenance, or other monthly fees
9 until the promised rankings are achieved; or the customer affirms in writing
10 that:

- 11 1. the promised results have not been completely achieved; and
- 12 2. defendants' partial performance is sufficient to fulfill the terms
13 of the contract to the customer's satisfaction; and
- 14 3. the customer agrees to incur the monthly maintenance charge or
15 other monthly fees and is not entitled to a refund; and

16 iv. Defendants inform customers within 108 days of their initial contract
17 that the promised results have not been achieved, if such is the case, that the
18 customer is entitled to a refund of half of set-up and administration fees, and
19 that the refund may be obtained by contacting defendants by the means
20 described in Paragraph 4.6 (l) herein; and

21 v. Defendants make a reasonable effort to provide services to their
22 customers and maintain a record of all efforts made to provide services on
23 behalf of the customers who are entitled to refunds, which record shall be
24 provided to plaintiff upon request; and

25 vi. Defendants provide a refund of half of set-up and administration fees to
26 customers for whom the promised results have not been achieved after 108 days

1 of their initial contract, if such request is made prior to termination of the
2 contract;

3 provided that defendants shall not be required to make refunds during the 108
4 day period following the date of their initial contracts with customers; and
5 further provided that defendants shall clearly and conspicuously disclose the
6 terms of any money-back guarantee as provided for herein in their advertising
7 and their contracts with customers.

8 e. Failing to respond promptly to consumers' requests for fulfillment of any
9 guarantees, refund provisions in defendants' contracts, complaints, or other requests
10 for service or information. For purposes of this injunction, defendants will be deemed
11 to promptly respond if:

- 12 i. consumer requests, complaints, and inquiries are addressed in a
13 professional manner within three business days of the consumers' initial
14 contact; and
- 15 ii. if the consumer is dissatisfied with defendants' action, defendants refer
16 the consumer to a customer service supervisor for further explanation, action,
17 or resolution. Such referral shall take place within three business days of the
18 consumer's request for further explanation, action, or resolution; and
- 19 iii. if the consumer is dissatisfied with defendants' resolution through the
20 customer service supervisor, defendants refer the consumer to the senior
21 management for further explanation, action, or resolution. Such referral shall
22 take place within three business days of the consumers' request for further
23 explanation, action, or resolution; and
- 24 iv. defendants maintain a record of consumer complaints and resolutions;
25 and
26

1 v. defendants train and supervise their customer service representatives to
2 assure they maintain a professional relationship with consumers and do not
3 abuse, harass, or intimidate them.

4 **f.** Failing to cancel consumer' accounts after representing they will do so.

5 **g.** Placing charges on consumers' credit cards or debit cards without authorization
6 to do so, or exceeding consumers' contractually agreed limitations on authorized
7 charges. Internet Advancement shall clearly and conspicuously notify customers on
8 the contract itself that the terms of their written contract are the exclusive terms to
9 which the parties are bound, and provide the customer the option of either checking a
10 box indicating that no further promises were made or checking a box indicating that
11 additional promises were made and explicitly stating what those promises were. In the
12 latter event, Internet Advancement management may choose to accept such additional
13 terms by charging the customer's credit card or to reject such additional terms by not
14 charging the customer's credit card and shall inform the customer as to its intended
15 action and the reason therefor.

16 **h.** Billing consumers after they have cancelled their contracts pursuant to the
17 terms of their contracts with defendants.

18 **i.** Failing to clearly, conspicuously, and unambiguously disclose all material
19 terms in their contract.

20 **j.** Failing to toll any time limitations on the giving of refunds during the period of
21 time defendants are attempting to address a consumer's complaint. If such a period of
22 time extends beyond the term of defendants' contract with the consumer, the refund
23 must be provided even after termination of the contract.

24 **k.** Representing that a consumer is not entitled to a refund because he or she has
25 purportedly performed changes or allowed changes to the source code of the
26

1 consumer's web page, unless defendants can prove that such changes were made
2 through a sworn statement of a third party technical expert unrelated to defendants.

3 **l.** If a consumer is contractually entitled to cancellation, failing to promptly
4 cancel service to said consumer when requested to do so through any of the following
5 means:

- 6 1. telephone;
- 7 2. United States mail;
- 8 3. email; or
- 9 4. facsimile.

10 **m.** Failing to disclose clearly and conspicuously defendants' cancellation policy in
11 the terms and conditions posted on their website and in any written terms and
12 conditions provided to the consumer.

13 **n.** Failing to provide ranking reports or other services that are contractually
14 agreed to.

15 **o.** Violating the Unsolicited Commercial Electronic Mail Act, RCW 19.86.190, in
16 any manner, including but not limited to:

- 17 1. using false or misleading information in subject line; or
- 18 2. misrepresenting the transmission path or point of origin in an email.

19 **p.** Misrepresenting the terms of their written contract in oral statements,
20 advertising, or through any other means.

21 **q.** Violating the Consumer Protection Act, RCW 19.86.

22 **V. RESTITUTION**

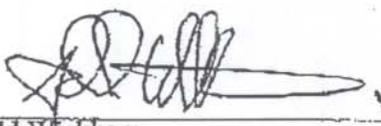
23 **5.1** Pursuant to RCW 19.86.080, defendants hereby agree to provide payment for
24 consumer restitution. Such consumer restitution shall be paid to the individuals listed on
25 Exhibit A provided that the following process is followed:
26

1 a. Within one week of the signing of this Decree, defendants shall contact the
2 persons listed on Exhibit A via email stating that because of an agreed-upon settlement
3 of a lawsuit between defendants and the state of Washington, the recipient may be
4 eligible to receive a refund of money paid to defendants for services. The email
5 should include a request that the recipient indicate the amount he or she believes is
6 owed as a refund, and if a refund has already been paid, the recipient should indicate
7 whether it covers the full amount the recipient believes he or she is owed. The email
8 should notify the recipient that he or she must reply within 30 days to be eligible for
9 the refund, and that in order to reply, the recipient should click on "reply all" in order
10 for the Attorney General's Office to be informed of the reply. All emails sent by
11 defendants pursuant to this paragraph must be copied to the Attorney General's Office.
12 Plaintiff shall review the text of the emails before they are sent and shall retain
13 approval rights over the language of such emails. The emails shall not include any
14 advertising, or information other than what is required herein. Plaintiff shall retain the
15 right to make further contact with the consumers listed on Exhibit A.

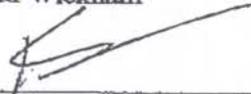
16 b. At the conclusion of the 30 day period following the sending of the emails,
17 defendants shall provide all restitution owing directly to the Attorney General's Office
18 which shall distribute the amounts actually owed to those consumers listed on Exhibit
19 A. Defendants shall be permitted to pay the restitution to the Attorney General's
20 Office in three equal payments as described in Paragraph 7.1 below.

21 **5.2** Consumers who have been billed by defendants as a result of the practices
22 outlined in the First through Sixth Causes of Action described in plaintiff's Complaint herein
23 prior to the date of entry of this Judgment and who have complained, or complain in the
24 future to defendants, the Attorney General's Office, a collection agency or a credit reporting
25 agency, and have continued to be billed by Internet Advancement, Inc., or had their accounts
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Todd Wickham



Ken Committee



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