

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,
Plaintiff,

NO. **08-2-05930-1SEA**

v.

CAREERMAKER, INC., a Washington Corporation, d/b/a CM TRAVEL;
RUSSELL B. DAWE, in his capacity as Chief Executive Officer, Owner, and Manager of Careermaker, Inc., individually and as part of his marital community;
MARIKA K. DAWE, a/k/a MARY K. DAWE and MARIKA ERLANGER, President, Owner, and Manager of Careermaker, Inc., individually and as part of her marital community,
Defendants.

COMPLAINT FOR INJUNCTIVE AND OTHER RELIEF UNDER THE CONSUMER PROTECTION ACT

The Plaintiff, State of Washington, by and through its attorneys Robert M. McKenna, Attorney General, and Shannon E. Smith, Assistant Attorney General, brings this action against the Defendants named herein. The State alleges the following on information and belief:

I. INTRODUCTION

1.1 The Plaintiff, State of Washington, brings this action pursuant to RCW 19.86, the Consumer Protection Act. Plaintiff seeks a permanent injunction, and other equitable relief, including civil penalties, and attorneys' costs and fees, based on violations of the Consumer Protection Act.

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II. PLAINTIFF

2.1 The Plaintiff is the State of Washington.

2.2 The Attorney General is authorized to commence this action pursuant to RCW 19.86.080 and RCW 19.86.140.

III. DEFENDANTS

3.1 Defendant Careermaker, Inc., is a Washington corporation and its principal place of business is 13555 SE 36th Street, Suite 130, Bellevue, Washington, 98006. Defendant Careermaker, Inc., conducts business under the name CM Travel. Defendant is a travel agency.

3.3 Defendant Russell B. Dawe is the Chief Executive Officer, owner, and manager of Defendant Careermaker, Inc., and as such, controls its policies, activities, and practices, including those alleged in this Complaint. Defendant Russell B. Dawe resides at 1119 E. Lake Sammamish Pkwy, NE, Sammamish, Washington, 98074. Defendant Russell B. Dawe is married to Marika K. Dawe, a/k/a Mary K. Dawe and Marika Erlanger, and together they constitute a marital community. All actions taken by Defendant as alleged in this Complaint are for the benefit of his marital community. Defendant resides in the state of Washington and transacts or has transacted business in the state of Washington.

3.4 Defendant Marika K. Dawe, a/k/a Mary K. Dawe and Marika Erlanger, is the President, owner, and manager of Defendant Careermaker, Inc., and as such, controls its policies, activities, and practices, including those alleged in this Complaint. Defendant Marika K. Dawe resides at 1119 E. Lake Sammamish Pkwy, NE, Sammamish, Washington, 98074. Defendant Marika K. Dawe is married to Russell B. Dawe and together they constitute a marital community. All actions taken by Defendant as alleged in this Complaint are for the benefit of his marital community. Defendant resides in the state of Washington and transacts or has transacted business in the state of Washington.

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1 **IV. JURISDICTION AND VENUE**

2 4.1 The State files this complaint and institutes these proceedings under
3 RCW 19.86.

4 4.2 The Defendants or their agents have engaged in the conduct set forth in this
5 complaint in King County and elsewhere in the state of Washington.

6 4.3 Venue is proper in King County pursuant to RCW 4.12.020.

7 **V. NATURE OF TRADE OR COMMERCE**

8 5.1 Defendants are now, and have been at all times relevant to this lawsuit, engaged
9 in trade or commerce within the meaning of RCW 19.86.020 through advertising, marketing,
10 promotion, provision, and sale of travel services.

11 5.2 Defendants have been at all times relevant to this action in competition with
12 others engaged in similar business in the state of Washington.

13 **VI. FACTS**

14 6.1 Defendant Careermaker, Inc., d/b/a CM Travel and the individual Defendants
15 (collectively "CM Travel") is a travel agency. CM Travel operates as a "host agency," which
16 means that its agents operate outside the agency's physical location—typically from their
17 homes—and use the agency's computerized booking resources to make travel bookings.

18 6.2 Most CM Travel agents are not employees of CM Travel. Rather, they are
19 independent contractors who pay fees and share commissions with CM Travel.

20 6.3 CM Travel advertises in local newspapers that it is hiring "agents." CM Travel
21 lists these advertisements in the "Employment," "Help Wanted," or similar sections of local
22 newspapers. One such advertisement in print media looks like this:

23 **Travel Agents! Will Train!**
24 **Entry Level & Experienced**
25 PT/FT, Flex Schd,
26 Awesome Travel Benefits,
Work from Home
CM Travel
425 401-1212 / 206 264-4945

1 set forth in full.

2 **7.2** In their advertisements, Defendants misrepresented, directly or by implication,
3 CM Travel was offering employment to job seekers, when in fact the Defendants would induce
4 the consumers into signing an independent agency contract that would financially obligate the
5 consumers to CM Travel.

6 **7.3** The conduct described in paragraphs 7.1 through 7.2 has the capacity to mislead
7 a substantial number of consumers and constitutes unfair or deceptive acts or practices in
8 trade or commerce, and unfair methods of competition in violation of RCW 19.86.020. The
9 Legislature has reinforced the policy against false, deceptive, or misleading advertising by
10 making such conduct unlawful pursuant to RCW 9.04.050.

11 **VIII. SECOND CAUSE OF ACTION**

12 **Failure to Disclose Nature and Material Provisions of Agent Contract**

13 **8.1** Plaintiff realleges Paragraphs 1.1 through 7.3 and incorporates them herein as if
14 set forth in full.

15 **8.2** Defendants failed to disclose to consumers the nature and material provisions of
16 the Independent Travel Agent Agreements.

17 **8.3** The conduct described in paragraph 8.2 has the capacity to mislead a substantial
18 number of consumers and constitutes an unfair or deceptive act or practice in trade or
19 commerce, and an unfair method of competition in violation of RCW 19.86.020.

20 **IX. THIRD CAUSE OF ACTION**

21 **9.1** Plaintiff realleges Paragraphs 1.1 through 8.3 and incorporates them as if set
22 forth in full.

23 **9.2** Defendants charged fees to consumers who had entered into Independent Travel
24 Agent Agreements contracts with Defendants and failed to disclose those fees to the
25 consumers.

26 **9.3** The conduct described in paragraph 9.2 has the capacity to mislead a substantial

1 number of consumers and constitutes an unfair or deceptive act or practice in trade or
2 commerce, and an unfair method of competition in violation of RCW 10.86.020.

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4 **X. PRAYER FOR RELIEF**

5 WHEREFORE, Plaintiff, State of Washington, prays for relief as follows:

6 **10.1** That the Court adjudge and decree that the Defendants have engaged in the
7 conduct complained of herein.

8 **10.2** That the Court adjudge and decree that the conduct complained of constitutes
9 unfair or deceptive acts and practices and an unfair method of competition and is unlawful in
10 violation of the Consumer Protection Act, RCW 19.86.

11 **10.3** That the Court issue a permanent injunction enjoining and restraining the
12 Defendant, and its representatives, successors, assigns, officers, agents, servants, employees,
13 and all other persons acting or claiming to act for, on behalf of, or in active concert or
14 participation with the Defendant, from continuing or engaging in the unlawful conduct
15 complained of herein.

16 **10.4** That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two
17 thousand dollars (\$2,000) per violation against the Defendants for each and every violation of
18 RCW 19.86.020 caused by the conduct complained of herein.

19 **10.5** That the Court make such orders pursuant to RCW 19.86.080 as it deems
20 appropriate to provide for restitution to consumers of money or property acquired by the
21 Defendant as a result of the conduct complained of herein.

22 **10.6** That the Court enter such orders pursuant to RCW 19.86.080 to provide that the
23 Plaintiff, State of Washington, have and recover from the Defendant the costs of this action,
24 including reasonable attorneys' fees.

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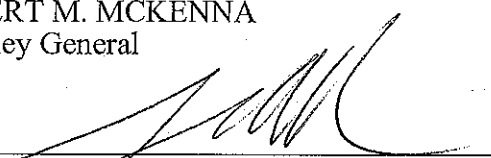
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2 **10.7** For such other relief as the Court may deem just and proper.

3 DATED this 31 day of January, 2008

4 ROBERT M. MCKENNA
5 Attorney General

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7 SHANNON E. SMITH, WSBA #19077
8 Senior Counsel
9 Attorneys for Plaintiff
10 State of Washington
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