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**STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT**

STATE OF WASHINGTON,

Plaintiff,

v.

SECURELINK NETWORKS LLC, a
California Limited Liability Company;
NJC SOFTWARES, LLC, a California
Limited Liability Company; MANUEL
CORONA, JR., CEO of SECURELINK
NETWORKS, LLC, individually and as
part of his marital community; RUDY
O. CORELLA, OFFICER OF NJC
SOFTWARES, LLC, individually and
as a part of his marital community;
FIXWINREG, LLC, a California
limited liability company; HOANVINH
V. NGUYENPHUOC, individually and
as a part of his marital community,

Defendants.

NO. 07-2-04987-8 SEA

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND
ORDER GRANTING PLAINTIFF
WASHINGTON STATE'S MOTION
FOR PARTIAL SUMMARY
JUDGMENT AGAINST RUDY O.
CORELLA AND NJC SOFTWARES,
LLC

This matter came before the Court on May 2, 2008, at 9:00 a.m. on Plaintiff, State of Washington's Motion for Partial Summary Judgment. Plaintiff appeared through Katherine M. Tassi, Assistant Attorney General. Defendant Rudy O. Corella did not appear. The Court having considered the records and files herein, specifically:

FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER GRANTING PLAINTIFF
WASHINGTON STATE'S MOTION FOR
PARTIAL SUMMARY JUDGMENT
AGAINST RUDY O. CORELLA AND NJC
SOFTWARES, LLC

- 1 ▪ Plaintiff's Motion and Memorandum of Authorities in Support of Summary
- 2 Judgment Against Rudy O. Corella and NJC Softwares, LLC, and all Exhibits
- 3 Thereeto;
- 4 ▪ Declaration of Katherine M. Tassi., in Support of Washington State's Motion
- 5 for Summary Judgment;
- 6 ▪ Declaration of Rebecca Henderson in Support of Washington State's Motion
- 7 for Summary Judgment;
- 8 ▪ Declaration of Jennifer Johanssen in Support of Washington State's Motion for
- 9 Summary Judgment;
- 10 ▪ Opposition to Plaintiff's Motion for Summary Judgment, if any; and
- 11 ▪ Reply Memorandum in Support of Plaintiff Washington State's Motion for
- 12 Summary Judgment, if any.

13 Based on the foregoing, the Court finds that Plaintiff is entitled to summary judgment
14 because no genuine issue of material fact exists and the evidence establishes as a matter of law
15 that:

16 1. Defendants violated the Computer Spyware Act, RCW 19.86.270, by
17 intentionally misrepresenting the extent to which software was necessary for security
18 purposes and inducing consumers to download, install, and purchase the software based upon
19 these misrepresentations; and

20 2. Defendants violated the Unfair Business Practices – Consumer Protection Act,
21 chapter 19.86 RCW, by misrepresenting the presence of critical errors on consumers'
22 computers; their scan had detected critical errors on consumers' computers; the software had
23 removed dangerous files; and their advertisements were internal operating system alerts.

24 Now, therefore, IT IS HEREBY ORDERED that Plaintiff's Motion for Partial
25 Summary Judgment is GRANTED.

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3 **I. JUDGMENT SUMMARY**

- 4 1.1 Judgment Creditor: State of Washington
5 1.2 Judgment Debtors: Rudy O. Corella
6 NJC Softwares, LLC
7 1.3 Principal Judgment Amount:
8 a. Costs and Fees: \$141,020.45
9 b. Restitution: See Section 4.4 below
10 c. Civil Penalties/Damages: \$ 400,000⁰⁰
11 d. Total Judgment: \$ 400,000⁰⁰
12 1.4 Post-Judgment Interest Rate: 12 percent per annum (for any amount owing
13 after the agreed upon final payment date has passed).
14 1.5 Attorney for Judgment Creditor: Katherine M. Tassi, Assistant Attorney General
15 1.6 Attorney for Defendants: N/A (pro se)

16 The Court having determined there is no just reason for delay in the entry of final
17 judgment against Defendants, and being fully advised, the Court hereby makes and enters the
18 following:

19 **II. FINDINGS OF FACT**

20 2.1. This action was commenced by the State of Washington pursuant to Chapter
21 19.270, the Computer Spyware Act, and 19.86 RCW, the Unfair Business Practices –
22 Consumer Protection Act.

23 2.2. Unless otherwise specified, the term “Defendants” as used in this document
24 shall mean RUDY O. CORELLA, and NJC SOFTWARES, LLC, a California limited liability
25 company.

1 2.3. Defendants accepted personal service of the Summons and Complaint.

2 2.4. The violations alleged in the State's Complaint, have been engaged in by
3 Defendants wholly or in part in King County, state of Washington, and elsewhere in the state
4 of Washington. Defendants transact or have transacted business in the state of Washington.

5 2.5 Defendant NJC Softwares, LLC ("NJC") is a California limited liability
6 company. Its principal place of business is 3360 Fir Circle, Lake Elsinore, California 92530.
7 At all times relevant to this action, NJC was engaged in the marketing and sale of software
8 products over the Internet, including Registry Doc, Registry Cleaner 32, Registry Rinse, and
9 Registry Cleaner Pro.

10 2.6 Defendant Rudy O. Corella ("Corella") is an officer of NJC, and, as such,
11 controlled its policies, activities, and practices, including those alleged in the Complaint
12 herein. At all times relevant to this action, Corella, both as an officer of NJC and individually,
13 was directly engaged in the marketing and sale of software products over the Internet,
14 including Registry Doc, Registry Cleaner 32, Registry Rinse, and Registry Cleaner Pro.
15 Corella resides at 3360 Fir Circle, Lake Elsinore, California 92530-2013. Defendant is
16 married to Jackie Duran, and together they constitute a marital community. All actions taken
17 by Corella as alleged in the Complaint herein are for the benefit of his marital community.

18 2.7 Since the beginning of 2005, Defendants have been directly engaged in the
19 marketing and sale of various software products over the Internet, including Registry Cleaner
20 32, Registry Rinse, Registry Sweeper Pro, and Registry Doc.

21 2.8 Defendants marketed software products on behalf of product owners through
22 affiliate networks, such as ClickBank. Defendants were paid a percentage of the sale price for
23 each sale attributed to their advertising.

24 2.9 Defendants owned, marketed, and sold Registry Doc and Registry Sweeper
25 Pro. Defendants also marketed and advertised software products belonging to the other

1 Defendants in this case directly with the co-Defendants. Defendants received a percentage of
2 the sale price for products purchased as a result of their advertising.

3 2.10 Defendants' primary form of advertising has been the Net send message, an
4 advertisement that Defendants transmitted remotely to computers running Windows
5 Messenger Service. Defendants knowingly advertised a commercial product through the
6 operating system of the user's computer so that the advertisement appeared as an internal alert
7 and Defendants represented that the alert was a "security" alert. Many of Defendants' Net
8 Send advertisements misrepresented that they were internal messages from "Security" or from
9 "Windows". Defendants knowingly misrepresented to the user that the software they were
10 promoting was necessary for security purposes; in fact, the messages were advertisements and
11 the products did not remedy security problems on a user's computer.

12 2.11 Defendants' Net send advertisements contained false, misleading, and
13 deceptive messages telling computer users that their computers were filled with registry errors
14 that compromised the data and the functioning of the computer. The messages told computer
15 users that immediate attention was required in order to avoid data loss and corruption.

16 2.12 Defendants intentionally misrepresented to computer users that their computers
17 were in dire need of the product Defendants were marketing or selling and without such
18 product, the computer was at critical security or privacy risk

19 2.13 Defendants directed users to Web sites on which consumers purchased the
20 software advertised.

21 2.14 Defendants' products included scan software that Defendants encouraged users
22 to download and install in order to test their computers for registry errors. Defendants offered
23 the scan software at no charge.

1 the provisions of Chapter 19.270 RCW, the Computer Spyware Act, and Chapter 19.86 RCW,
2 the Unfair Business Practices-Consumer Protection Act.

3 3.2 Defendants' acts and practices as described in Findings of Fact numbers 2.10
4 through 2.19 have the capacity to mislead a substantial number of consumers, are unfair and
5 deceptive, and are unfair methods of competition and therefore constitute violations of RCW
6 19.86.020, which prohibits unfair methods of competition and unfair or deceptive acts or
7 practices in the conduct of any trade or commerce. Plaintiff, State of Washington, is authorized
8 by RCW 19.86.080 to enjoin violations of the Consumer Protection Act, to obtain restitution on
9 behalf of persons harmed by such violations, and to obtain such further and other relief as the
10 court may deem appropriate, including civil penalties up to the amount of \$2,000.00 per violation
11 and attorneys' fees and costs.

12 3.3 The conduct of Defendants described in Findings of Fact numbers 2.10 through
13 2.19 violates the Computer Spyware Act, RCW 19.270.040(1), which makes it unlawful for a
14 person who is not an owner or operator of a user's computer to induce an owner or operator to
15 install a computer software component onto the computer by intentionally misrepresenting the
16 extent to which installing the software is necessary for security purposes. The conduct of
17 Defendants described in Finding of Fact numbers 2.18 and 2.19 violates the Computer
18 Spyware Act, RCW 19.270.020, which prohibits transmitting software to a user's computer to
19 modify settings that control the page that appears when a computer owner launches Internet
20 browser. Plaintiff, State of Washington, is authorized by RCW 19.270.060 to enjoin further
21 violations of the Computer Spyware Act, and to recover either actual damages or one hundred
22 thousand dollars per violation, whichever is greater, and costs and reasonable attorneys' fees.

23 3.4 Plaintiff is entitled to a Decree enjoining and restraining Defendants and any
24 and all persons in active concert or participation with Defendants from engaging in the future
25

1 in the acts or practices described in Findings of Fact 2.10 through 2.19 that violate the
2 Consumer Protection Act and the Computer Spyware Act.

3 3.5 Plaintiff is entitled to a Decree ordering Defendants to pay Plaintiff's costs
4 and fees of \$141,020.45 incurred by Plaintiff in pursuing this action. Said payment shall be
5 in addition to and exclusive of any costs or fees which may be incurred by Plaintiff in
6 enforcing the provisions of this Decree, including the costs of any collection actions.
7 Plaintiff's request for costs and fees of \$141,020.45 is reasonable, and Plaintiff is entitled to a
8 Decree ordering Defendants to pay the requested amount.

9 3.6 Plaintiff is entitled to a Decree ordering Defendants to comply with the
10 injunctive provisions described below.

11 3.7 Plaintiff is entitled to a Decree ordering Defendants to pay civil
12 penalties/damages as described below.

13 3.8 Plaintiff is entitled to a Decree ordering Defendants to pay restitution as
14 described below.

15 Based on the foregoing Findings of Fact and Conclusions of Law, the Court hereby
16 makes the following:

17 **IV. JUDGMENT AND DECREE**

18 It is hereby ADJUDGED, ORDERED, and DECREED as follows:

19 4.1 Defendants shall immediately inform all successors, assigns, transferees,
20 officers, agents, affiliates, employees, and representatives of Defendants of the terms and
21 conditions of this Judgment and Decree.

22 4.2 Defendants and all successors, assigns, transferees, officers, agents, servants,
23 employees, and representatives of Defendants are hereby enjoined and permanently
24 restrained in the State of Washington from directly or indirectly engaging in any of the
25 following conduct:

1 1. Misrepresenting, directly or by implication, urgency, exclusivity, or
2 need for products or services in the context of any advertising or marketing of
3 services or products, including, but not limited to, using any language,
4 symbols, or other visual or verbal messages that misrepresent to the user that
5 the user's computer is at a risk that necessitates purchasing the product.

6 2. Using Net Send messages to advertise, market, or promote any products
7 or services.

8 3. Using any form of advertising that simulates an alert or security
9 message originating from a user's computer, operating system, or software
10 installed on the user's computer.

11 4. Transmitting, or causing to be transmitted, to a user's computer, by any
12 means, any software, including, but not limited to, toolbars or free scan or free
13 trial software, without first (1) disclosing clearly and conspicuously all the
14 material features of the software (where "material feature" means any feature
15 that would affect a user's decision whether to download or install the software)
16 and (2) obtaining the user's affirmative consent to the download and
17 installation.

18 5. Misrepresenting the risks that any products or services are designed to
19 address, or the benefits or cost of any products or services.

20 6. Misrepresenting the utility, substance, or effect of any scan of the
21 consumer's computer.

22 7. Misrepresenting the risk level to any alleged "error" or problem
23 discovered by a scan of a user's computer.

1 8. Advertising and/or selling any software product without conducting
2 reasonable testing to determine that the product will function as represented in
3 any advertising or marketing.

4 9. Failing to maintain documentation substantiating any and all claims
5 made in advertisement regarding the utility, substance, performance, or effect
6 of any software, whether offered at no charge or for a price.

7 10. Failing to review and approve all advertisements for all products owned
8 by Defendants prior to permitting the advertisement to be used.

9 11. Failing to ensure that all advertisements reviewed and approved by
10 Defendants for use in marketing comply with the injunctive provisions of this
11 Decree.

12 12. Failing to maintain as business records copies of all advertisements
13 used by Defendants and any of their affiliates for all products owned by
14 Defendants.

15 13. Transmitting or causing to be transmitting any software onto a user's
16 computer if the user has declined the option to download such software.

17 14. Failing to provide an easy-to-use, clear and conspicuous, and
18 functioning mechanism for users to uninstall any software transmitted or
19 caused to be transmitted by Defendants, including, but not limited to, free
20 versions of software programs and software that is bundled with other
21 software.

22 4.3 Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendants shall pay
23 civil penalties/damages in the amount of \$ 400,000⁰⁰.

24 4.4 Pursuant to RCW 19.86.080, Defendants, at their own expense, shall provide
25 consumer refunds to all Washington consumers who purchased any products owned and/or

1 advertised by Defendants using Net send advertisements. Within forty-five (45) days after
2 entry of this Decree, Defendants will deliver a written report to Plaintiff's counsel detailing
3 the refunds made pursuant to this section, including the identity and contact information of
4 each consumer; the amount refunded; the method of refund, e.g., check, credit to credit card,
5 etc.; and date of refund. Where records potentially identifying Washington consumers who
6 purchased products as a result of Defendants' advertising are in the custody of third parties,
7 Defendants shall make all reasonable efforts to gain access to such records or information in
8 order to comply with this section of the Decree. Defendants shall describe all efforts made if
9 Defendants are unable to gain access to such records or information, including providing the
10 third party's name, address, telephone number, contact person, and the relationship between
11 Defendants and the third party. Defendants shall also provide to Plaintiff copies of all
12 documents, electronic or paper, reflecting correspondence between Defendants and the
13 consumers receiving refunds and between Defendants and the third parties from whom
14 Defendants sought records or information. Defendants shall also promptly refund any
15 Washington consumers who submit refund requests to the Washington Attorney General's
16 Office.

17 4.4 Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendants shall pay
18 costs and attorneys' fees incurred in pursuing this matter in the amount of \$141,020.45.
19 Interest on any unpaid balance of this amount shall accrue in the amount of 12% per annum.

20 4.5 Defendants shall bear Plaintiff's reasonable costs, including reasonable
21 attorneys' fees, for enforcing this Judgment and Decree in any successful action to enforce
22 any of its provisions.

23 4.6 All payments shall be made by cashier's check, made payable to the Attorney
24 General—State of Washington, and shall be delivered to the Office of the Attorney General,
25

1 800 Fifth Avenue, Suite 2000, Seattle, Washington 98104, to the attention of Cynthia
2 Lockridge.

3 **V. ENFORCEMENT**

4 5.1 Pursuant to RCW 19.86.140, any violation of the terms of this Decree may
5 form the basis for further enforcement proceedings.

6 5.2 The violation of any of the terms of this Decree shall constitute a violation of
7 the Consumer Protection Act, RCW 19.86 et seq.

8 5.3 Jurisdiction is retained for the purpose of enabling any party to this Decree,
9 with or without the prior consent or approval of the other party, to apply to the Court at any
10 time for the enforcement of compliance therewith, the punishment of violations thereof, or
11 the modification or clarification thereof.

12 5.4 Nothing in this Judgment shall be construed as to limit or to bar any other
13 governmental entity or any other consumer in the pursuit of additional remedies against
14 Defendants.

15 5.5 For purposes of monitoring compliance with this Judgment, for three (3) years
16 after the date of entry of this Decree, Defendants shall compile and maintain records, to be made
17 available at the request of the Attorney General, of (a) all advertisements used by Defendants or
18 any of Defendants' affiliates (where an affiliate is any person or entity that receives a percentage
19 of the sale price for any of Defendants' products for advertising such products) for any of
20 Defendants' products; (b) contact information for all Washington customers of Defendants'
21 products; (c) complaints relating to Washington consumers; (d) refunds to Washington
22 consumers; and (e) gross amounts processed and billed to Washington consumers.

23 5.6 Representatives of the Office of Attorney General shall be permitted, upon 10
24 days' notice to Defendants, to access, inspect, and/or copy all business records or documents
25

1 under the control of Defendants, in order to monitor compliance with the injunctive
2 provisions of this Stipulated Judgment.

3 5.7 Representatives of the Office of the Attorney General may be permitted to
4 question Defendants, or any officer, director, agent, or employee of any business organization
5 affiliated with Defendants, in the form of a deposition, pursuant to the provisions and notice
6 requirements of CR 30, and to issue interrogatories and requests for production of documents,
7 pursuant to the provisions and notice requirements of CR 33 and CR 34, in order to monitor
8 compliance with the injunctive provisions of this Judgment.

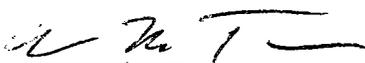
9 5.8 Under no circumstances shall this Judgment or the names of the State of
10 Washington or the Office of the Attorney General, Consumer Protection Division, or any of
11 its employees or representatives be used by Defendants' agents or employees in connection
12 with the promotion of any product or service or an endorsement or approval of Defendants'
13 practices.

14 SO ORDERED this 22 day of May, 2008.

15
16 
17 HONORABLE GLENNA HALL
Superior Court Judge

18 Presented by:

19 ROBERT M. MCKENNA
20 Attorney General

21 
22 KATHERINE M. TASSI, WSBA #32908
23 Assistant Attorney General
Attorneys for Plaintiff, State of Washington