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OCT 15 2008

THOMAS R. FALLQUIST  
SPOKANE COUNTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF SPOKANE

STATE OF WASHINGTON,

Plaintiff,

v.

UNITED HOME SAVERS, a Florida  
limited liability partnership;  
STEPHANIE DIETSCHY, an  
individual; and DARIN DIETSCHY,  
an individual,

Defendants.

NO. **08204707-0**

CONSENT DECREE

**1. JUDGMENT SUMMARY**

- |                                 |   |
|---------------------------------|---|
| 1.1. Judgment Creditor:         | State of Washington   |
| 1.2. Judgment Debtors:          | United Home Savers, a Florida limited liability partnership; Stephanie Dietschy, an individual; and Darin Dietschy, an individual |
| 1.3. Principal Judgment Amount: | \$100,000.00 (suspended)  |
| a. Restitution                  | \$ 0.00   |
| b. Civil Penalties              | \$100,000.00 (suspended)  |
| 1.4. Costs & Attorneys Fees:    | \$ 0.00   |
| a. Costs                        | \$ 0.00   |
| b. Attorneys Fees               | \$ 0.00   |
| 1.5. Total Judgment:            | \$100,000.00 (suspended)  |

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- 1.6. Post Judgment Interest Rate:** 12% per annum
- 1.7. Attorneys for Judgment Creditor:** Jack G. Zurlini, Jr.  
Assistant Attorney General
- 1.8. Attorneys for Judgment Debtors:** Dale H. Schofield,  
attorney for defendants  
United Home Savers,  
Stephanie Dietschy,  
and Darin Dietschy

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**1.9.** Plaintiff, State of Washington, having commenced this action and filed its Complaint pursuant to the Unfair Business Practices - Consumer Protection Act (CPA), RCW 19.86; the Credit Services Organization Act (CSOA), RCW 19.134, and the Commercial Telephone Solicitation Act (CTSA), RCW 19.158; and

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**1.10.** Defendants, having been served with the Summons and Complaint; and Washington, appearing by and through its attorneys, Robert M. McKenna, Attorney General; Jack G. Zurlini, Jr., Assistant Attorney General; and defendants United Home Savers, Stephanie Dietschy, and Darin Dietschy appearing by and through their attorney Dale H. Schofield, Law Offices of Dale H. (Hal) Schofield.

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**1.11.** Washington and Defendants having agreed on a basis for the settlement of the matters alleged in the Complaint and to the entry of this Consent Decree against Defendants without the need for trial or adjudication of any issue of law or fact; and

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**1.12.** Defendants, by entering into this Consent Decree, neither admit nor deny the allegations of the Complaint; and

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**1.13.** Washington and Defendants agree this Consent Decree does not constitute evidence or an admission regarding the existence or non-existence of any issue, fact, or violation of any law alleged by Washington; and

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**1.14.** Defendants recognize and state this Consent Decree is entered into voluntarily and that no promises, representations, or threats have been made by the Attorney General's Office or

1 any member, officer, agent, or representative thereof to induce them to enter into this Consent  
2 Decree, except for the promises and representations provided herein; and

3 1.15. Defendants waive any right they may have to appeal from this Consent Decree;  
4 and

5 1.16. Defendants further agree they will not oppose the entry of this Consent Decree on  
6 the ground it fails to comply with Rule 65(d) of the Rules of Civil Procedure, and hereby waive  
7 any objections based thereon; and

8 1.17. Defendants further agree this Court shall retain jurisdiction of this action and  
9 jurisdiction over Defendants and each of them for the purpose of implementing and enforcing the  
10 terms and conditions of this Consent Decree and for all other purposes related to this matter; and

11 1.18. Defendants further agree their payments made or due pursuant to this Consent  
12 Decree are not amenable to discharge in bankruptcy and they shall not seek or support their  
13 discharge in bankruptcy, nor oppose their being determined not amenable to discharge in  
14 bankruptcy; and

15 1.19. Defendants further agree their payments made or due pursuant to this Consent  
16 Decree are not preferential transfers of assets and they shall not make nor support arguments to  
17 the contrary in bankruptcy court or elsewhere; and

18 The Court, finding no just reason for delay pursuant to CR 54(b);

19 **NOW, THEREFORE,** it is hereby **ORDERED, ADJUDGED, AND DECREED** as  
20 follows:

21 **2. GENERAL**

22 2.1. This Court has jurisdiction of the subject matter of this action and of the parties.  
23 Washington's complaint in this matter states claims upon which relief may be granted under the  
24 provisions of the CPA, CSOA and CTSA.

25 2.2. For purposes of this Consent Decree, the term "Defendants" where not otherwise  
26 specified shall mean United Home Savers, a Florida limited liability partnership; Stephanie

1 Dietschy, an individual, and Darin Dietschy, an individual. Reference to "Defendants" in this  
2 Consent Decree shall reference both the singular and plural where applicable.

3 2.3. This Consent Decree or the fact of its entry does not constitute evidence or an  
4 admission by any party regarding the existence or non-existence of any issue, fact, or violation of  
5 any law alleged by Washington.

6 2.4. This Consent Decree finally resolves all CPA, CSOA, and CTSA causes of action  
7 the Office of Attorney General of Washington, Consumer Protection Division, has filed or may  
8 have alleged against Defendants arising out of the facts described in the complaint filed in this  
9 action, except that Defendants' failure to comply with this Consent Decree shall permit the  
10 Attorney General of Washington, Consumer Protection Division, to take such further action  
11 against Defendants as provided in this Consent Decree.

12 3. INJUNCTION

13 3.1. The injunctive provisions of this Consent Decree shall apply to Defendants and to  
14 each of their respective directors, successors, assigns, transferees, officers, agents, servants,  
15 employees, and representatives, and all other persons or entities in active concert or participation  
16 with any Defendant.

17 3.2. Defendants shall immediately inform their respective directors, successors,  
18 assigns, transferees, officers, agents, servants, employees, representatives, and all other persons in  
19 active concert or participation with any Defendant of the terms and conditions of this Consent  
20 Decree by providing Defendants' directors, successors, assigns, transferees, officers, agents,  
21 servants, employees, representatives, and all other persons in active concert or participation with  
22 any Defendant a copy of this Consent Decree. The Consent Decree shall be distributed to each  
23 such person on or before the third business day after this Consent Decree has been entered by the  
24 court.

25 3.3. The following definitions shall apply to this Consent Decree:  
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1           a.       “Customer” shall refer to any member (business or individual) of the  
2 public.

3           b.       “Advertise” or “Advertisement” shall refer to any direct or indirect  
4 representation or promotional device used to promote the sale of products or services  
5 and/or to educate, inform or attract customers, including but not limited to those that  
6 are telephonic, Internet-based, electronic, digital, oral, visual, aural, written, video or  
7 printed.

8       **3.4.**   Defendants and their respective directors, successors, assigns, transferees,  
9 officers, agents, servants, employees, representatives, and all other persons in active concert or  
10 participation with any Defendant are hereby enjoined, restrained, and prevented from directly  
11 or indirectly engaging in the following acts or practices in the State of Washington and from  
12 failing to comply with the provisions of the CPA, CSOA, and CTSA, as amended, including  
13 but not limited to the following:

14           a.       requiring customers to pay a fee before Defendants complete their  
15 promised services without first obtaining a surety bond in violation of RCW  
16 19.134.020(1);

17           b.       making untrue and misleading representations in the advertisement,  
18 offer, or sale of their services in violation of RCW 19.134.020(4);

19           c.       failing to maintain “information statement” files in violation of RCW  
20 19.134.040;

21           d.       failing to provide customers with “information statements” and thus  
22 failing to provide the seven separate disclosures to be communicated by the statements  
23 in violation of RCW 19.134.050;

24           e.       failing to include in the contract the mandatory notification of the 5-day  
25 cancellation period in violation of RCW 19.134.060(1)(a);  
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1           f.       attempting to require customers to waive attorney fees and other  
2 damages provided by RCW 19.134.080 in violation of RCW 134.070(1);

3           g.       failing to provide the mandatory “notice of cancellation” forms to  
4 customers in violation of RCW 134.060(2);

5           h.       attempting to require customers to waive the 5-day cancellation period  
6 provided by RCW 19.134.060 in violation of RCW 19.134.070(1);

7           i.       failing to fully and in detail describe in the contract the services to be  
8 provided, guarantees, promises of refunds, estimated date by which the services are to  
9 be performed, or estimated length of time for performing the services in violation of  
10 RCW 19.134.060(1)(c);

11          j.       engaging in unfair or deceptive commercial telephone solicitations in  
12 violation of RCW 19.158.040(1),

13          k.       failing to provide purchasers of their services with written  
14 confirmations as required by RCW 19.158.120(1);

15          l.       failing to register with Washington State prior to conducting  
16 commercial telephone solicitations of Washington consumers in violation of RCW  
17 19.158.150;

18          m.       failing to clearly and intelligibly make the oral disclosures required by  
19 RCW 19.158.110, in violation of RCW 19.158.110(6);

20          n.       engaging in conduct the natural consequences of which is to harass,  
21 intimidate or torment any person in connection with the telephone call in violation of  
22 RCW 19.158.040(3);

23          o.       making misrepresentations or omissions constituting unfair or deceptive  
24 acts or practices in trade or commerce, and/or unfair methods of competition in  
25 violation of RCW 19.86.020, RCW 19.134.020, RCW 19.158.040, or RCW  
26 19.158.110;

1 p. engaging in unfair acts and practices constituting unfair or deceptive  
2 acts or practices in trade or commerce, or unfair methods of competition in violation of  
3 RCW 19.86.020, RCW 19.134.020, RCW 19.158.040, or RCW 19.158.110.

4 3.5. Defendants and their respective directors, successors, assigns, transferees,  
5 officers, agents, servants, employees, representatives, and all other persons in active concert or  
6 participation with any Defendant shall in good faith respond to complaints or inquiries raised  
7 by Washington consumers concerning the services Defendants market or sell, or concerning  
8 the marketing or sale of such services.

9 4. RESTITUTION

10 4.1. The Federal Trade Commission, in its enforcement action against Defendants  
11 filed in the United States District Court, Middle District of Florida, Case Number  
12 8:08-cv-1735-VMC-TBM, seeks restitution on behalf of consumers, including consumers  
13 residing in Washington State. If for any reason the resolution of the federal lawsuit does not  
14 include a court order or judgment requiring Defendants to provide restitution to consumers  
15 residing in Washington State, then Washington may petition this court to obtain an order  
16 against Defendants to provide restitution to consumers residing in Washington State as  
17 provided by RCW 19.86.080.

18 5. CIVIL PENALTIES

19 5.1. Pursuant to RCW 19.86.140, Washington shall have and recover and Defendants  
20 shall be liable for and shall pay civil penalties of \$100,000; however, \$100,000 of civil penalties is  
21 suspended as to Defendants on the condition the Defendants comply with all of the provisions of  
22 this Consent Decree.

23 5.2. In the event Defendants are in material breach of any provision of this Consent  
24 Decree, the civil penalties of \$100,000 shall automatically be unsuspended and assessed against  
25 Defendants.  
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1         **5.3.** Interest on any unpaid balance of civil penalties including those that are  
2         unsuspended and assessed shall accrue at the rate of twelve percent (12%) annum.

3   **6.         TERMS OF PAYMENT**

4                 **6.1.** Defendants shall make all payments that may be due under this Consent Decree by  
5         bank cashier's check payable to the Attorney General - State of Washington, and shall be mailed  
6         or delivered to the Office of the Attorney General, Consumer Protection Division, 800 5<sup>th</sup> Avenue,  
7         Suite 2000, Seattle, Washington, 98164-1012, Attention: Cynthia Lockridge, unless otherwise  
8         agreed to in writing by Washington.

9                 **6.2.** Defendants' failure to timely make a payment, without written agreement by  
10         Washington, shall be a material breach of this Consent Decree.

11   **7.         ENFORCEMENT**

12                 **7.1.** If, after notice to Defendants and an opportunity to be heard at an evidentiary  
13         hearing, the Court finds by a preponderance of evidence that Defendants have violated a  
14         material condition of this Consent Decree, Washington may seek imposition of additional  
15         conditions, civil penalties, restitution, injunctive relief, attorney's fees, costs and such other  
16         remedies as the Court may deem appropriate against Defendants.

17                 **7.2.** The violation of any term of this Consent Decree shall constitute a violation of the  
18         Consumer Protection Act, RCW 19.86.020.

19                 **7.3.** Jurisdiction is retained by this Court for the purpose of enabling any party to this  
20         Consent Decree with or without the prior consent of the other party to apply to the Court at any  
21         time for enforcement of compliance with this Consent Decree, to punish violations thereof, or  
22         otherwise address the provisions of this Consent Decree.

23                 **7.4.** Nothing in this Consent Decree shall be construed to limit or bar any  
24         governmental entity or other person from pursuing other available remedies against Defendants or  
25         any other person.  
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1       7.5. Under no circumstances shall this Consent Decree, or the name of the State of  
2 Washington, the Spokane County Superior Court, the Office of the Attorney General, the  
3 Consumer Protection Division, or any of their employees or representatives be used by any  
4 Defendant named in the Complaint, or any of their respective directors, successors, assigns,  
5 transferees, officers, agents, servants, employees, representatives, and all other persons or  
6 entities in active concert or participation with any Defendant, in connection with any selling,  
7 advertising, or promotion of products or services, or as an endorsement or approval of any  
8 Defendants' acts, practices, or conduct of business.

9       7.6. Washington shall be permitted, upon ten (10) days' advance notice to  
10 Defendants, to access, inspect and/or copy, all business records or documents in possession,  
11 custody or under control of Defendants in order to monitor compliance with this Consent  
12 Decree, provided that the inspection and copying shall be done in such a way as to avoid  
13 unreasonable disruption of Defendants' business activities.

14       7.7. Washington shall be permitted to question Defendants or any officer, director,  
15 agent, or employee of Defendants by deposition pursuant to the provisions of CR 30 to monitor  
16 compliance with this Consent Decree.

17       7.8. Defendants shall fully cooperate with Washington and other civil regulatory  
18 agencies in any civil investigation of any other person who advertised, marketed, or sold any of  
19 Defendants' goods, products or services. Defendants also shall fully cooperate with  
20 Washington and other civil regulatory agencies in any civil investigation of any other agent,  
21 employee, independent contractor or representative of any Defendant. Defendants' failure to  
22 fully cooperate as required by this paragraph 7.8 shall be a material breach of this Consent  
23 Decree.

24       7.9. The Complaint is hereby dismissed with prejudice with respect to Defendants and  
25 this Judgment and Consent Decree is entered pursuant to RCW 19.86.080.

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1           **7.10.** The Clerk of the Court is ordered to enter the foregoing Judgment and Consent  
2 Decree immediately.

3                           **DONE IN OPEN COURT** this \_\_\_\_\_ day of October, 2008.

4   **ROYCE H. MOE**  
5   **COURT COMMISSIONER**

6   \_\_\_\_\_  
7   JUDGE

8 Presented By:

9 **ROBERT M. MCKENNA**

10 By: 

11 JACK G. ZURLINI, JR., WSBA #30621  
12 Assistant Attorney General  
13 Attorneys for State of Washington

14 Notice of Presentment Waived and  
15 Approved as to Form by:

16 By: 

17 DALE H. SCHOFIELD, WSBA #29023  
18 Law Offices of Dale H. Schofield  
19 Attorney for Defendants United Home Savers, LLC,  
20 Stephanie Dietschy, and Darin Dietschy