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7 **STATE OF WASHINGTON**
**KING COUNTY SUPERIOR COURT**
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9 STATE OF WASHINGTON,                    NO.

10                         Plaintiff,      COMPLAINT FOR INJUNCTIVE
                                           AND OTHER RELIEF
11      v.

12 LIONHEART MINT, LLC, a
   Washington limited liability company
13 doing business as PennyBiddr;
   KANWAL PREET SINGH, also known
14 as Laly Singh, individually and on
   behalf of his marital community,
15

16                         Defendants.

17          **COMES NOW**, Plaintiff, State of Washington (hereinafter "the State"), by and

18 through its attorneys Robert M. McKenna, Attorney General, and Jason E. Bernstein,

19 Assistant Attorney General, and brings this action against defendants named herein. The State

20 alleges the following on information and belief:

21                  **I.    JURISDICTION AND VENUE**

22      **1.1**    This Complaint is filed and these proceedings are instituted under the provisions

23 of the Consumer Protection Act (CPA), RCW 19.86.

24      **1.2**    Jurisdiction of the Attorney General to commence this action is conferred by

25 RCW 19.86.080.

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**1.3**    Venue is proper in King County pursuant to RCW 4.12.025.

**1.4**    The violations alleged herein have been and are being committed in whole or in part in King County, in the state of Washington by Defendants named herein or their agents.

## II.    DEFENDANTS

**2.1**    Defendant Lionheart Mint, LLC d/b/a PennyBiddr is a Washington for profit Limited Liability Company located at 3809 S. 337$^{th}$ Street, Federal Way, Washington 98001.

**2.2**    Defendant Kanwal P. Singh is the owner of Lionheart Mint, LLC, the registrant of the domain www.pennybiddr.com and the sole officer and director of Defendant Lionheart Mint, LLC, and as such, controls its policies, activities, and practices, including those alleged in the Complaint herein.   Defendant Singh resides at 3809 S. 337$^{th}$ Street, Federal Way, Washington 98001.

## III.    NATURE OF TRADE OR COMMERCE

**3.1**    Defendants are now, and have been at all times relevant to this lawsuit, engaged in trade or commerce within the meaning of RCW 19.86.020 through advertising, marketing, promotion, and provision of an online "penny auction" website.

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

## IV.    FACTS

**4.1**    Defendants operate a "penny auction" website located at www.pennybiddr.com. This website sells general consumer products, typically electronics through an auction-like system where consumers must purchase individual bids and use them to attempt to "win" the auction on each individual item.   Penny auctions are timed auctions where each bid also increases the amount of time remaining in the auction.

**4.2**    When a consumer wishes to participate in the auctions, he or she must create an account with www.pennybiddr.com and sign in.   As an enticement, all new members receive three free bids.

**4.3**     If a participant wishes to continue bidding after using the free, initial bids, the participant must purchase them.  Each bid costs $1.00 but larger lots of bids can often be purchased at a discount.  Each bid raises the price of an auctioned item by one-cent when used.  A participant places a bid by clicking a button marked "Bid!" next to the item up for auction.

**4.4**     All auctions are time-limited, usually beginning with a time limit of several days.  When the time remaining ticks below 5 minutes, each bid placed increases the time remaining by 30 seconds.  In this fashion, continued bidding prevents an auction from concluding until no more bids are placed.

**4.5**     When an auction closes, the individual who placed the last bid must pay the final auction price of the item in addition to any shipping and handling charges and is considered the auction winner.  In a typical arrangement, Defendants would then ship the product to the winner.

**4.6**     In many auctions, Defendants activate an "auto-bid" script that simulates bidding activity through fake bids (in penny auction circles, this script is also called a "bot," "botbidder," "bidbot," or "shill bidder").  This "auto-bid" script is included in the software used to create the penny auction website and is hailed as a "feature" by the distributors of that software, PHPPennyAuction.com.  These auto-bids were not purchased by real individuals; rather, Defendant simply executes these bids through the use of programming designed to mimic bidding activity.  No actual participant paid for the bids made using the auto-bid script.

**4.7**     By using the auto-bid script built into the penny auction website software, Defendants artificially inflate the number of bids required to win an auction for real consumers, thereby increasing the price of winning auctions.

**4.8**     Using the auto-bid script also artificially inflates the number of apparent users of a penny auction site.  This can help to drive more traffic to the site as it will appear more legitimate based on the larger number of users.

**4.9** In the event that the auto-bid script places the final bid in an auction, Defendants do not need to purchase the item and instead keep the money spent by real bidders as profit.

**4.10** Use of the auto-bid script also increases the length of auctions and makes certain items appear artificially popular, potentially driving additional legitimate bidding activity.

## V. FIRST CAUSE OF ACTION – UNFAIR OR DECEPTIVE AUCTION PRACTICES

**5.1** Plaintiff realleges Paragraphs 2.1 through 4.10 and incorporates them herein as if set forth in full.

**5.2** In the context of running their penny auction website, Defendants engage in the following acts or practices constituting unfair or deceptive acts in trade or commerce:

**5.2.1** Shill bidding through the use of an auto-bid script that artificially increases the price paid by real consumers of winning auctions by placing fake bids to increase the time for the auction, the number of bids required to win the item, and the final price of the item.

**5.2.2** Allowing the auto-bid script to "win" auctions, thereby allowing Defendants to avoid purchasing the goods and allowing them to unjustly retain the money generated from any bids purchased by real consumers for use during the auction.

**5.3** Defendants' practice of using the auto-bid script to artificially increase the cost of items and to prevent real consumers from winning items affects the public interest and has the capacity to deceive a substantial number of consumers and is an unfair or deceptive act or practice in trade or commerce and unfair method of competition in violation of RCW 19.86.020.

# VI.    PRAYER FOR RELIEF

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

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

**6.2**    That the Court adjudge and decree that the conduct complained of in Paragraphs 4.1 through 5.3 constitutes unfair or deceptive acts or practices and unfair methods of competition in violation of the CPA.

**6.3**    That the Court issue a permanent injunction enjoining and restraining Defendants and their representatives, successors, assigns, officers, agents, servants, employees, and all other persons acting or claiming to act for, on behalf of, or in active concert or participation with defendants from continuing or engaging in the unlawful conduct complained of herein.

**6.4**    That the Court assess civil penalties, pursuant to RCW 19.86.140, of up to two thousand dollars per violation against the defendants for each and every violation of RCW 19.86.020 caused by the conduct complained of herein.

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

**6.6**    That the Court make such orders pursuant to RCW 19.86.080 to provide that Plaintiff, State of Washington, have and recover from Defendants the costs of this action, including reasonable attorney's fees.

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**6.7**     That the Court order such other relief as it may deem just and proper to fully and effectively dissipate the effects of the conduct complained of herein, or which may otherwise seem proper to the Court.

DATED this _24th_ day of September, 2010

ROBERT M. MCKENNA
Attorney General

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JASON E. BERNSTEIN, WSBA #39362
Assistant Attorney General
Attorneys for Plaintiff
State of Washington

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