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7 **STATE OF WASHINGTON**
8 **KING COUNTY SUPERIOR COURT**

9 STATE OF WASHINGTON,

10 Plaintiff,

11 v.

12 THE PRESERVATION GROUP, LLC, an
13 Arizona Limited Liability Company, and
14 KEVIN DONALD BOTERMAN, and JANE
15 DOE BOTERMAN, as a member of a
16 marital community with KEVIN DONALD
17 BOTERMAN, and ROBERT J. FEINHOLZ
and JANE DOE FEINHOLZ as a member of
a marital community with ROBERT J.
FEINHOLZ,

Defendants.

NO.

COMPLAINT FOR INJUNCTIVE
AND OTHER RELIEF UNDER
THE CONSUMER PROTECTION ACT,
CHAPTER 19.86 RCW

18 COMES NOW Plaintiff, State of Washington, Office of the Attorney General,
19 Consumer Protection Division, by and through its attorneys, Robert M. McKenna, Attorney
20 General, and James T. Sugarman, Assistant Attorney General, and brings this action against
21 the Defendants named herein, alleging as follows:

22 **I. JURISDICTION AND VENUE**

23 **1.1.** The State files this complaint and institutes these proceedings under
24 Chapter 19.86 RCW, the Consumer Protection Act.

25 **1.2.** The Defendants or their agents have engaged in the conduct set forth in this
26 complaint in King County and elsewhere within the state of Washington.

1 **1.3.** Venue is proper in King County pursuant to RCW 4.16.020.

2 **II. DEFENDANTS**

3 **2.1.** Defendant The Preservation Group, LLC, is an Arizona Limited Liability
4 Company with its primary location in Chandler, Arizona and operating in Washington from 40
5 Lake Bellevue, #100, Bellevue, Washington 98005.

6 **2.2** Defendants Kevin Donald Boterman and Robert J. Feinholz are now, and have
7 been at all times relevant to this action, owners and principals of defendant The Preservation
8 Group, LLC. Defendants have controlled, directed, participated, and formulated the policies
9 relating to the acts, practices, and activities of the business, which are the subject of this
10 Complaint. Defendants Boterman and Feinholz are married to the Jane Doe Defendants and all
11 acts done by them were done on behalf of the marital community. When used in this
12 document, the term “Defendants” shall refer to The Preservation Group, LLC, Kevin Donald
13 Boterman, and Robert J. Feinholz.

14 **III. NATURE OF TRADE OR COMMERCE**

15 **3.1.** Defendants, at all times relevant to this action, have been engaged in trade or
16 commerce within the meaning of RCW 19.86.020 through offering and selling estate distribution
17 documents, financial planning advice, and related services.

18 **3.2.** Defendants have been at all times relevant to this action in competition with
19 others engaged in similar business in the state of Washington.

20 **IV. BACKGROUND FACTS**

21 **4.1** Defendants created, marketed and sold estate distribution documents to
22 Washington senior citizens starting in August, 2007 or earlier.

23 **4.2** The estate distribution documents included wills, powers-of-attorney and inter
24 vivos revocable trusts (so-called “living trusts”).

25 **4.3** Defendants were not licensed to practice law in Washington.
26

1 **4.4** Defendants sold their living trust packages and other products by conducting
2 informational seminars and then making appointments to visit senior citizens at their homes.
3 During the seminars and in appointments, Defendants would explain the purported benefits of
4 a living trust and the purported disadvantages of probate. Defendants misrepresented probate
5 as an extremely complex and disadvantageous process that could only be avoided if the senior
6 citizen obtained a “living trust,” and that such documents were financially and legally
7 advantageous to all clients.

8 **4.5** If a senior citizen consumer agreed to purchase a living trust package
9 Defendants would normally charge from \$2,195 to \$2,995.

10 **4.6** Defendants also asked each senior citizen client to provide detailed personal and
11 financial information, including a list of every asset and all income. Defendants did not inform
12 clients that their sensitive personal and financial information would be used for purposes other
13 than preparing the living trust package, including sales pitches for annuities or other insurance
14 products.

15 **V. FIRST CAUSE OF ACTION**
16 **Violations of the Estate Distribution Documents Act**

17 **5.1** Plaintiff realleges the facts alleged in paragraphs 1.1 through 4.7 as if fully set out
18 herein.

19 **5.2** Defendants misrepresented, either directly or by implication, that they were
20 authorized to market estate distribution documents in or from the State of Washington.

21 **5.3** In the context of conducting their business, Defendants violated the Estate
22 Distribution Documents Act, RCW 19.295.020, by marketing estate distribution documents
23 without being exempted from the requirements of that Act.

24 **5.4** Pursuant to RCW 19.295.030, violations of the Estate Distribution Documents
25 Act are per se violations of the Consumer Protection Act, RCW 19.86.
26

5.5 Notwithstanding 19.295.030, Defendants' conduct affects the public interest and has the capacity to mislead a substantial number of consumers and constitutes unfair or deceptive acts or practices in trade or commerce and unfair methods 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 Defendants' conduct complained of violated the Estate Distribution Documents Act, RCW 19.295.020 and the Consumer Protection Act, RCW 19.86.020.

6.3 That the Court issue a permanent injunction enjoining and restraining Defendants and their 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 sale of estate planning and insurance products, as Defendants have engaged in such sales in an unlawful manner.

6.4 That the Court make such orders pursuant to RCW 19.86.080 as it deems appropriate to provide for consumer restitution.

6.5 That the Court assess a civil penalty, pursuant to RCW 19.86.140, of Two Thousand Dollars (\$2,000) per violation against Defendants for each and every violation of RCW 19.86.020.

6.6 That Plaintiff, State of Washington, recover from Defendants the costs of this action, including a reasonable attorneys' fee, pursuant to RCW 19.86.080.

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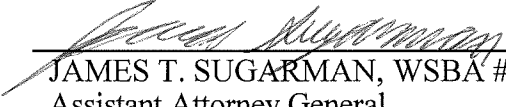
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1 **6.7** For such other relief as the Court may deem just and proper to fully and effectively
2 dissipate the effect of the conduct complained of herein or which may otherwise seem proper to
3 the Court.

4 DATED this 20th day of July, 2010.

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6 ROBERT M. MCKENNA
7 Attorney General

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9 JAMES T. SUGARMAN, WSBA #39107
10 Assistant Attorney General
11 Attorneys for Plaintiff
12 State of Washington
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