



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

STATE OF WASHINGTON
KING COUNTY SUPERIOR COURT

STATE OF WASHINGTON,

Plaintiff,

v.

SOLE, INC., a Washington
Corporation; and KYUNGOK NAM,
also known as Remy Nam, individually
and as Owner of Sole, Inc.,

Defendants.

NO. 11-2-18746-2SEA

STIPULATED FINDINGS OF FACT
AND CONCLUSIONS OF LAW,
JUDGMENT AND DECREE

I. JUDGMENT SUMMARY

- 1.1 Judgment Creditor: State of Washington
- 1.2 Judgment Debtors: Sole, Inc., and Kyungok Nam
- 1.3 Principal Judgment Amount: \$37,986.24
- 1.4 Attorney for Judgment Creditor: Paula Selis, Senior Counsel
- 1.5 Attorney for Judgment Debtors: Soloman Kim

Plaintiff, State of Washington, having filed a Complaint for Injunctive and Other
Relief on May 26, 2011; and

Defendants having accepted service of the Complaint herein; and

Plaintiff appearing by and through its attorneys, Robert M. McKenna, Attorney
General, and Paula Selis, Senior Counsel; and

1 Defendants Sole, Inc. and Kyungok Nam (hereinafter "Defendants") appearing by and
2 through their attorney, Soloman Kim; and;

3 Plaintiff and Defendants having stipulated and agreed upon a basis for resolving the
4 matters alleged in the Complaint herein and to the entry of this Findings of Fact, Conclusions
5 of Law, Judgment and Decree (hereinafter "Decree") pursuant to CR 54; and

6 The Court having determined that there is no just reason for delay in the entry of a
7 final judgment against Defendants, and being fully advised, the Court hereby makes and
8 enters the following:

9 **II. FINDINGS OF FACT**

10 2.1 Defendant Sole, Inc. is a Washington corporation. Its principal place of
11 business is located at 317 - 112th Avenue N.E., Apt.#1322, Bellevue, WA 98004.

12 2.2 Defendant Kyungok Nam, also known as Remy Nam, is and has at all times
13 relevant to this action been the Owner and Officer of defendant Sole, Inc. As the Owner and
14 Officer of Sole, Inc., Defendant Kyungok Nam has control over Sole, Inc.'s policies, practices,
15 and activities. Defendant Kyungok Nam resides at 317 112th Ave N.E., Apt.# 1322, Bellevue,
16 WA 98004.

17 2.3 At all times material to this action, Defendants have promoted, advertised,
18 marketed, and sold massage chairs, bathtubs, range hoods, sinks, faucets and other household
19 goods through their Web sites, www.thefactoryoutlet.com; www.goodchairs.com;
20 www.finedia.com; www.rangehoodsmall.com; www.magicjohn.com and www.mybidets.com
21 to consumers across the country. Defendants have also sold their products via telephone. The
22 prices for Defendants' products range from small rugs costing less than \$100.00 to massage
23 chairs costing more than \$6,000.00.
24
25
26

1 2.4 When consumers place orders on Defendants' websites, Defendants accept
2 these orders and charge consumers' credit cards, or obtain payment through Paypal or Google
3 checkout.

4 2.5 Defendants have solicited, advertised, and sold products in King County,
5 Washington and are in competition with others in the State of Washington engaged in similar
6 business.

7 2.6 Throughout their business dealings, Defendants agree to deliver various
8 household goods to consumers. In reliance on Defendants' agreement to deliver these
9 products, consumers place orders on Defendants' Web site and submit payment for their
10 orders. However, despite the fact that Defendants accept consumers' payment, in some
11 instances, Defendants fail to deliver consumers' orders.

12 2.7 Defendants, in the regular course of business, make or have made a number of
13 misrepresentations, including but not limited to the following:

- 14 a. Defendants represent that they can deliver various household products to
15 consumers placing orders on their Web site. Their website states: "All
16 orders are processed between 7 a.m. and 5 p.m. (PST), Monday through
17 Friday. Your order will be shipped within 48 hours, unless otherwise
18 noted." <http://thefactoryoutlet.com/corp/helpdesk.asp>,
19 September 20, 2010. In fact, after charging consumers' credit cards for
20 their orders, in some instances, Defendants fail to deliver consumers'
21 orders within the time represented, and in some instances fail to deliver
22 the product at all.
- 23 b. When consumers contact Defendants' about the status of their late
24 shipments, Defendants in some cases represent that the delays are
25 ascribable to various issues outside of their control, such as errors made
26

1 by the salesperson who sold the item, problems with the factory, and
2 shipping issues. In such instances, Defendants promise a new delivery
3 date for the item. In fact, in many instances, the item is not delivered on
4 the date promised.

5 c. In some instances, consumers complain to Defendants about
6 malfunctioning products purchased from Defendants. Defendants
7 represent that they will provide the support necessary to fix the product,
8 by ordering a new part or sending out a technician to fix the problem. In
9 some instances, Defendants fail to do so.

10 III. CONCLUSIONS OF LAW

11 3.1 The Court has jurisdiction of the subject matter of this action and of the parties
12 hereto, and plaintiff's Complaint states claims upon which relief may be granted.

13 3.2 The Attorney General has jurisdiction to bring this action under
14 RCW 19.86.080 and RCW 19.86.040.

15 3.3 Defendants' conduct as described in Findings of Fact Nos. 2.1 through 2.7
16 constitute violations of the Consumer Protection Act, RCW 19.86 et seq.

17 3.4 Plaintiff is entitled to a Decree ordering Defendants to pay the amounts as
18 described herein.

19 3.5 Plaintiff is entitled to a Decree enjoining Defendants from the acts and practices
20 described herein.

21 The Court having made the foregoing Finding of Fact and Conclusions of Law, and in
22 accordance therewith, the Court enters the following:
23
24
25
26

1 **IV. JUDGMENT AND DECREE**

2 4.1 Defendants and their successors, assigns, transferees, officers, agents, servants,
3 directors, employees, and all other person or entities in active concert or participation with
4 Defendants shall be informed of the terms and conditions of this Order.

5 4.2 Defendants and their successors, assigns, transferees, officers, agents, servants,
6 directors, employees, and all other persons or entities in active concert or participation with
7 Defendants are hereby enjoined and restrained from engaging in the following acts and
8 practices:

- 9 a. charging consumers' credit cards for orders before their orders have
10 been delivered;
- 11 b. failing to deliver consumers' orders;
- 12 c. failing to notify consumers via email on the date their orders have been
13 shipped, and providing them with a tracking number for the shipment, if
14 such tracking number exists;
- 15 d. failing to respond to consumer inquiries within forty-eight hours of
16 Defendants' receipt of the consumer's inquiry;
- 17 e. making any misrepresentations in the context of the sale, marketing,
18 delivery or repair of any product or service;
- 19 f. misrepresenting that items are in stock;
- 20 g. misrepresenting the delivery date of an item; and
- 21 h. Violating any provisions of the Unfair-Business Practices—Consumer
22 Protection Act, RCW 19.86.

23 **V. COSTS, ATTORNEY FEES AND CIVIL PENALTIES**

24 5.1 Pursuant to RCW 19.86.080, Plaintiff shall recover and Defendants shall pay
25 the costs and reasonable attorney fees incurred by Plaintiff in pursuing this matter in the
26 amount of \$14,728.24.

1 Pursuant to RCW 19.86.140, Plaintiff shall recover and Defendants shall pay a
2 civil penalty of \$90,000.00, provided that such amount shall be suspended upon compliance
3 with the terms of this Decree.

4 VI. RESTITUTION

5 6.1 Pursuant to RCW 19.86.080, Defendants shall pay consumer restitution in the total
6 amount of \$23,258.00 to the persons listed in Exhibit A, attached hereto. The restitution shall be
7 paid to the Attorney General's Office according to the schedule described below in Paragraph 7.1.
8 At the conclusion of the 240-day period following the entry of this Stipulated Judgment, after
9 Defendants have paid the full amount of restitution, the Attorney General's Office shall disburse
10 the restitution funds to the persons listed in Exhibit A, in the amounts referenced therein.

11 6.2 In addition to the consumers listed in Exhibit A, Defendants shall also issue
12 refunds to consumers who are identified after the time of entry of this Stipulated Judgment, and
13 who paid for orders and either did not receive those orders or failed to receive a refund. Those
14 consumers shall include persons identified in complaints that are forwarded to Defendants by the
15 Washington State Attorney General's Office or any other agency, or which are received through
16 any means by Defendants at any time after the date of the signing of this Stipulated Judgment.
17 Should consumers in addition to those listed in Exhibit A be identified to Defendants, Defendants
18 shall provide restitution directly to those consumers within seven days of receiving their
19 complaints.

20 VII. PAYMENT

21 7.1 Payments owing under the provisions of this Stipulated Judgment at
22 Paragraphs 5.1 and 6.1 shall be in the form of valid checks paid to the order of the "Attorney
23 General—State of Washington" and shall be due and owing in accordance with the schedule set
24 forth in below. Payment shall be sent to the Office of the Attorney General, Attention: Cynthia
25
26

1 Lockridge, Administrative Office Manager, 800 Fifth Avenue, Suite 2000, Seattle, Washington
2 98104.

- 3 a. On June 1, 2011 a payment of \$2,584.22 shall be due and owing, which
4 shall be applied toward payment of restitution;
- 5 b. Within 30 days of the entry of this Decree, a payment of \$2,584.22 shall
6 be due and owing, which shall be applied toward payment of restitution;
7 and
- 8 c. Within 60 days of the entry of this Decree, a payment of \$2,584.22 shall
9 be due and owing, which shall be applied toward payment of restitution ;
10 and
- 11 d. Within 90 days of the entry of this Decree, a payment of \$2,584.22 shall
12 be due and owing, which shall be applied toward payment of restitution;
13 and
- 14 e. Within 120 days of the entry of this Decree, a payment of \$2,584.22
15 shall be due and owing, which shall be applied toward payment of
16 restitution; and
- 17 f. Within 150 days of the entry of this Decree, a payment of \$2,584.22
18 shall be due and owing, which shall be applied toward payment of
19 restitution; and
- 20 g. Within 180 days of the entry of this Decree, a payment of \$2,584.22
21 shall be due and owing, which shall be applied toward payment of
22 restitution ; and
- 23 h. Within 210 days of the entry of this Decree, a payment of \$2,584.22
24 shall be due and owing, which shall be applied toward payment of
25 restitution; and
26

- 1 i. Within 240 days of the entry of this Decree, a payment of \$2,584.23
2 shall be due and owing, which shall be applied toward payment of
3 restitution ; and
4 j. Within 270 days of the entry of this Decree, a payment of \$4,909.41
5 shall be due and owing, which shall be applied toward payment of
6 attorney fees and costs; and
7 k. Within 300 days of the entry of this Decree, a payment of \$4,909.41
8 shall be due and owing, which shall be applied toward payment of
9 attorney fees and costs; and
10 l. Within 330 days of the entry of this Decree, a payment of \$4,909.42
11 shall be due and owing, which shall be applied toward payment of
12 attorney fees and costs.

13 VIII. ENFORCEMENT

14 8.1 Violation of any of the terms contained in this Stipulated Judgment shall subject
15 Defendants to a civil penalty of up to \$25,000.00 per violation pursuant to RCW 19.86.140.

16 8.2 In any action to enforce the terms of this Decree, Plaintiff may seek additional
17 remedies, including, but not limited to, restitution, injunctive relief, and reasonable attorneys' fees
18 and costs, in addition to any other remedies permitted by law.

19 8.3 This Stipulated Judgment is entered pursuant to RCW 19.86.080. Jurisdiction is
20 retained for the purpose of enabling any party to this Stipulated Judgment with or without the
21 prior consent of the other party to apply to the Court at any time for enforcement of compliance
22 with this Stipulated Judgment, to punish violations thereof, or to modify or clarify this Stipulated
23 Judgment.

24 8.4 Representatives of the Office of the Attorney General shall be permitted to access,
25 inspect and/or copy all business records or documents under control of Defendants in order to
26

1 monitor compliance with this Stipulated Judgment within fourteen (14) days of written request to
2 Defendants, provided that the inspection and copying shall be done in such a way as to avoid
3 disruption of Defendants' business activities. Failure to comply with this section will be
4 considered a violation of the terms of this Stipulated Judgment.

5 8.5 Representatives of the Office of the Attorney General may be permitted to
6 question Defendants, or any officer, director, agent, or employee of any business organization
7 affiliated with Defendants, in the form of a deposition, pursuant to the provisions and notice
8 requirements of CR 30, and to issue interrogatories and requests for production of documents,
9 pursuant to the provisions and notice requirements of CR 33 and CR 34, in order to monitor
10 compliance with this Stipulated Judgment.

11 8.6 Nothing in this Stipulated Judgment shall be construed as to limit or bar any other
12 governmental entity or consumer from pursuing other available remedies against Defendants.

13 8.7 Under no circumstances shall this Stipulated Judgment or the name of the State of
14 Washington, the Office of the Attorney General, Consumer Protection Division, or any of their
15 employees or representatives be used by Defendants in connection with any selling, advertising,
16 or promotion of products or services, or as an endorsement or approval of Defendants' acts,
17 practices or conduct of business.

18 8.8 This Stipulated Judgment resolves all issues raised by the Attorney General under
19 the Consumer Protection Act pertaining to the acts or omissions addressed in the Complaint filed
20 in this matter.

21 **IX. DISMISSAL AND WAIVER OF CLAIMS**

22 9.1 Upon entry of this Stipulated Judgment, all claims in this matter not otherwise
23 addressed by this Stipulated Judgment are dismissed.
24
25
26

1 9.2 Upon Defendants' complete performance and final payment of the monetary
2 obligations listed in this Stipulation, the Plaintiff shall deliver a Satisfaction of Monetary
3 Judgment to Defendants.

4 DONE IN OPEN COURT this 26 day of MAY 26 2011, 2011.

6 **ERIC B. WATNESS**

7 JUDGE/COURT COMMISSIONER.

8 Presented by:

9 Approved for Entry, Notice of Presentation
Waived:

10 ROBERT M. MCKENNA
11 Attorney General

ORION LAW FIRM, PLLC

12 Paula Selis
PAULA SELIS, WSBA #12823
13 Senior Counsel
Attorneys for Plaintiff
14 State of Washington

[Signature]
SOLOMAN KIM, WSBA # 25435
15 Attorney for Sole, Inc. and Kyungok Nam
16
17
18
19
20
21
22
23
24
25
26