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8 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
IN AND FOR THE COUNTY OF KING

9 STATE OF WASHINGTON,

NO.

10 Plaintiff,

11 v.

COMPLAINT FOR DECLARATORY,
INJUNCTIVE, AND OTHER RELIEF
UNDER THE FAIR CHANCE ACT

12 WONOLO INC.,

13 Defendant.
14

15 **I. INTRODUCTION**

16 **1.1** Plaintiff Washington State (the State), by and through its attorneys, Robert W.
17 Ferguson, Attorney General, and Colleen M. Melody, Wing Luke Civil Rights Division Chief,
18 files this action against Defendant Wonolo Inc. (Wonolo) to enforce the Washington Fair Chance
19 Act (Fair Chance Act), RCW 49.94.005-.901. The Fair Chance Act protects job applicants with
20 a criminal record so that they may compete fairly for job opportunities for which they are
21 qualified. The State seeks a declaration that Wonolo violates the Fair Chance Act, as well as
22 injunctive relief, statutory penalties, and other relief for Wonolo's actions.

23 **II. JURISDICTION**

24 **2.1** This action is brought to enforce the Fair Chance Act's restrictions on pre-
25 employment inquiries by employers into an applicant's criminal record or criminal history.
26 RCW 49.94.010(1)-(3).

1 **2.2** The Attorney General is authorized to commence this action pursuant to
2 RCW 49.94.030(1)(b), (f), RCW 49.94.030(2), and RCW 43.10.030(1).

3 **2.3** Wonolo is a for-profit business that operates in Washington State, including in
4 Seattle. The Fair Chance Act regulates “employers” which are defined to include “businesses
5 and corporations,” as well as “temporary staffing agencies . . . and job placement, referral, and
6 employment agencies.” RCW 49.94.005(2). Wonolo is an “employer” for purposes of the Fair
7 Chance Act.

8 **2.4** The violations alleged in this Complaint were committed in whole or in part in King
9 County. Wonolo transacts business in King County. Venue is proper pursuant to RCW 4.12.020
10 and RCW 4.12.025.

11 **III. FACTUAL ALLEGATIONS**

12 **3.1** Wonolo is a temporary staffing agency that utilizes a technology-based business
13 platform. Using a proprietary mobile software application, Wonolo connects employers in need
14 of short-term labor with employees seeking such work. Wonolo advertises that it helps staff a
15 variety of “frontline” positions, including warehouse operations, general labor, delivery drivers,
16 food production, event staffing, washing and cleaning, administrative, and merchandising jobs.

17 **3.2** Wonolo does business in at least 34 major metropolitan areas in the United States,
18 including Seattle and greater King County. Wonolo also provides staffing services in other
19 Washington counties, including but not limited to Benton, Chelan, Clallam, Okanogan, Pierce,
20 and Yakima Counties.

21 **3.3** Pursuant to RCW 49.94.030(1)(b), the Attorney General’s Office opened an
22 investigation into Wonolo’s employment practices in December 2018 after receiving a complaint
23 from a Seattle resident who claimed that Wonolo’s practices violate the Fair Chance Act. The
24 Attorney General’s Office investigation revealed that the following were Wonolo’s practices
25 from at least December 2018 until July 24, 2019.
26

1 **3.4** Wonolo operates the Wonolo Mobile Application, which acts as an “on-demand
2 staffing platform” for companies interested in filling temporary positions.

3 **3.5** Individuals seeking employment through Wonolo must download the Wonolo
4 Mobile Application. As part of the “onboarding” process and “initial registration with Wonolo,”
5 applicants are required to agree to and fill out a background check authorization form.
6 Acceptance of Wonolo’s terms and conditions, including consent to a criminal background
7 check, is required before applicants may view available employment opportunities.

8 **3.6** Wonolo does not permit an individual to work a job until their criminal
9 background check has been “cleared and accepted” by Wonolo.

10 **3.7** Some employment opportunities through Wonolo require applicants to agree to,
11 and pass, a “deeper background check” before the applicant may be considered for the position.

12 **3.8** If an applicant does not complete the criminal background check, or fails either
13 the “onboarding” or “deeper” background check, they are denied access to the Wonolo Mobile
14 Application and are unable to view or accept any current or future employment opportunity.

15 **3.9** Applicants who successfully complete the “onboarding” and/or “deeper”
16 background check remain subject to ongoing background checks as may be required by Wonolo
17 or an individual employer.

18 **3.10** Wonolo’s practices, as described above, are confirmed by the company’s Terms
19 of Use of Independent Contractor Services Agreement(s) that were used by Wonolo at all times
20 relevant to this Complaint.

21 **3.11** Wonolo’s practices have prevented Washingtonians from applying for work. For
22 example, the Seattle job-seeker who complained to the Attorney General’s Office downloaded
23 the Wonolo Mobile Application in December 2018 and accepted work for a Seattle-area
24 warehouse position. Before the job began, however, Wonolo notified the job-seeker that the
25 “onboarding” process was not successful due to an issue with his criminal background check.
26 The job-seeker was not permitted to work the warehouse job, and the Wonolo Mobile

1 Application thereafter stopped permitting him to view or accept other job opportunities through
2 Wonolo. When the job-seeker complained to a Wonolo customer service representative that its
3 criminal background check practices violated the Fair Chance Act, the Wonolo representative
4 informed the job-seeker that Wonolo is not subject to the Fair Chance Act.

5 **3.12** In another instance, in June 2019, an AGO Investigator/Analyst downloaded the
6 Wonolo Mobile Application in order to apply for a job in Seattle. Before having the ability to
7 see jobs available in Seattle, the Investigator was required to agree to and fill out a background
8 check form. Once the Investigator cleared the initial background check and applied for a job, the
9 Investigator was subjected to a “deeper background check.” The Investigator was informed that
10 failure of the “deeper background check” would result in a complete denial of current and future
11 access to the Wonolo Mobile Application.

12 **3.13** Based on the foregoing, the Attorney General’s Office determined that Wonolo’s
13 practices violate the Fair Chance Act. Accordingly, on January 4, 2019, the Attorney General’s
14 Office sent Wonolo a notice of first violation and offer of agency assistance pursuant to
15 RCW 49.94.030(2).

16 **3.14** Upon subsequently determining that Wonolo was still in violation of the Fair
17 Chance Act, on July 24, 2019, the Attorney General’s Office sent Wonolo a notice of second
18 violation pursuant to RCW 49.94.030(2).

19 **3.15** The Attorney General’s Office now files this Complaint to remedy Wonolo’s
20 violations and require Wonolo to conform its business practices with the requirements of the
21 Fair Chance Act.

22 **IV. CAUSES OF ACTION**

23 The State realleges paragraphs 1.1 through 3.15 and incorporates them herein as if set
24 forth in full.
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1 **FIRST CAUSE OF ACTION**
2 **(Violation of the Washington Fair Chance Act—RCW 49.94.010(1))**

3 **4.1** Wonolo has asked, inquired, received through a criminal history background
4 check, or otherwise obtained information about a Washington applicant’s criminal record before
5 initially determining that the applicant is otherwise qualified for the position, in violation of
6 RCW 49.94.010(1).

7 **SECOND CAUSE OF ACTION**
8 **(Violation of the Washington Fair Chance Act—RCW 49.94.010(2))**

9 **4.2** Wonolo has advertised employment openings in a way that excludes people with
10 criminal records from applying, in violation of RCW 49.94.010(2).

11 **THIRD CAUSE OF ACTION**
12 **(Violation of the Washington Fair Chance Act—RCW 49.94.010(3))**

13 **4.3** Wonolo has implemented a policy or practice that automatically excludes
14 individuals with a criminal record from consideration prior to an initial determination that the
15 applicant is otherwise qualified for the position, in violation of RCW 49.94.010(3).

16 **V. PRAYER FOR RELIEF**

17 WHEREFORE, Plaintiff State of Washington prays that the Court:

18 **5.1** Adjudge and decree that Wonolo has engaged in the conduct complained
19 of herein.

20 **5.2** Adjudge and decree that Wonolo’s conduct violates the Washington Fair Chance
21 Act, RCW 49.94.010(1)-(3).

22 **5.3** Issue a permanent injunction enjoining Wonolo and its directors, officers, agents,
23 and employees acting on Wonolo’s behalf from continuing or engaging in the conduct
24 complained of herein.

25 **5.4** Assess penalties, pursuant to RCW 49.94.030(1)(f) and RCW 49.94.030(2), of
26 one-thousand dollars (\$1,000) per violation against Wonolo for each and every violation of
RCW 49.94.010.

1 **5.5** Enter such orders or judgments, pursuant to RCW 49.94.030(1)(b), as may be
2 necessary to remedy injuries to complainants or aggrieved persons caused by Wonolo's conduct.

3 **5.6** Awards to the State attorneys' costs and fees incurred in investigating Wonolo's
4 conduct and in bringing this action, pursuant to RCW 49.94.030(1)(f).

5 **5.7** Award such other relief as the interests of justice may require.

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7 DATED this 6th day of May 2020.

8
9 ROBERT W. FERGUSON
Attorney General

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