

STATE OF MAINE
CUMBERLAND, SS.

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-13-

STATE OF MAINE)
)
 Plaintiff)
)
 v.)
)
 FOREMOST, LLC, fka)
 AFFINITY LIMOUSINE, LLC,)
 JESSICA LYN KOBECKIS and)
 ROBERT J. FINLEY)
)
 Defendants)

COMPLAINT
(Injunctive Relief Requested)

I. INTRODUCTION

1. The State brings this action against Foremost, LLC, fka Affinity Limousine, LLC, Jessica Lyn Kobeckis and Robert J. Finley ("Defendants") pursuant to the Maine Unfair Trade Practices Act ("UTPA"), Title 5, ch. 10, of the Maine Revised Statutes, seeking permanent injunctive relief, restitution, civil penalties, costs and attorney's fees.

II. PARTIES

2. Plaintiff, State of Maine, is a sovereign state and brings this action by and through its Attorney General pursuant to 5 M.R.S. §§ 191 and 209 and the powers vested in her by common law.

3. Defendant Foremost, LLC, is a Maine Limited Liability Company.

4. Defendant Jessica Lyn Kobeckis is an individual with an address at 637 Cumberland Street, Westbrook, Maine. She is the sole member of Foremost, LLC, formerly known as Affinity Limousine, LLC, and formerly doing

business alternatively as Affinity Limousine and Portland Maine Limousine Service in southern Maine.

5. Defendant Robert J. Finley is an individual with an address at 637 Cumberland Street, Westbrook, Maine.

III. JURISDICTION AND VENUE

6. This court has jurisdiction over this action pursuant to 4 M.R.S. § 105 and 5 M.R.S. § 209.

7. Venue is proper in the Superior Court of Kennebec County pursuant to 5 M.R.S. § 209.

8. The Defendants were at all times relevant to this complaint engaged in trade or commerce in and from the State of Maine, to wit: Defendants advertised, offered for sale, and sold limousine services directly to Maine consumers.

IV. STATUTORY BACKGROUND

9. Under the UTPA, 5 M.R.S. § 207, unfair or deceptive acts or practices in the conduct of any trade or business are unlawful.

10. Pursuant to 5 M.R.S. § 209:

Whenever the Attorney General has reason to believe that any person is using or is about to use any method, act or practice declared by section 207 to be unlawful, and that proceedings would be in the public interest, he may bring an action in the name of the State against such person to restrain by temporary or permanent injunction the use of such method, act or practice and the court may make such orders or judgments as may be necessary to restore to any person who has suffered any ascertainable loss by reason of the use or employment of such unlawful method, act or practice, any moneys or property, real or personal, which may have been acquired by means of such method, act or practice. . . .

11. Pursuant to 5 M.R.S. § 209, each violation of § 207 that results from intentional and unfair or deceptive conduct is a civil violation for which a civil penalty of up to \$10,000 may be adjudged. In any case in which a permanent injunction is issued, the court may order costs of investigation and costs of the suit.

12. Pursuant to 14 M.R.S. § 1522(1)(A), the court shall allow the State's litigation costs, including court costs, reasonable attorney's and expert witness fees, should it prevail in an action brought pursuant to 5 M.R.S. § 209.

V. FACTS

13. From late 2011 until August, 2013, Defendants Affinity Limousine, LLC, and Jessica Lyn Kobeckis owned and operated a limousine service, operated at various times out of Buxton, Gorham and Westbrook, Maine.

14. Defendant Robert J. Finley was a co-operator of the limousine business with Defendant Kobeckis for the entire duration and together they exercised joint control over the business.

15. On multiple occasions over the duration of the business, Defendants' limousines failed to arrive at pre-determined pick-ups. In many instances of these "no-shows," consumers had pre-paid either a deposit or in full.

16. On multiple occasions, Defendants charged consumers' credit or debit cards more than the agreed amount, either knowingly or in reckless disregard of the correct amount to be charged.

17. On multiple occasions, Defendants intentionally failed to communicate with consumers, often ignoring electronic messages, voicemail messages or refusing to answer phones when they rang in Defendants' presence.

18. On multiple occasions, Defendants made false statements to consumers regarding the availability of limousine services and the status of refund requests, either knowingly or in reckless disregard of the truth.

19. As a result of Defendants' conduct, numerous consumers were required to make last-minute substitute transportation arrangements, sometimes at greater expense and less convenience, or were unable to make substitute arrangements to their detriment.

20. Defendants owe approximately \$2,300 to consumers who paid for services never rendered.

21. On multiple occasions, Defendants, directly or through their agents, knowingly posted false online reviews of their limousine business.

COUNT I

(Deceptive Trade Practices)

22. Plaintiff repeats and realleges the preceding paragraphs of the complaint.

23. Defendants have engaged in the deceptive practice of inducing consumers to book and pay in advance for services Defendants knew would not be rendered or in reckless disregard of whether they could be rendered.

24. Defendants have engaged in the deceptive practice of inducing consumers to provide debit and credit card access and subsequently charging those consumers' accounts more than the agreed amount, either knowingly or in reckless disregard of the correct amount to be charged.

25. Defendants had knowledge of and/or recklessly disregarded the falsity of representations and the material omissions they made with respect to their ability to issue refunds for pre-paid limousine services never provided.

26. Defendants have engaged in the deceptive practice of inducing consumers to book and pay for services that were never rendered by posting false positive online reviews.

27. Consumers justifiably relied on Defendants' misrepresentations and material omissions as true and acted upon them, causing damages to consumers.

28. Defendant's conduct as described herein is deceptive in violation of 5 M.R.S. § 207 and is intentional.

COUNT II

(Unfair Trade Practices)

29. Plaintiff repeats and realleges the preceding paragraphs of the complaint.

30. Defendants failed to take reasonable steps to ensure that they could provide limousine services they had agreed to provide, including services that had been pre-paid in part or in full.

31. Defendants failed to take reasonable steps to ensure their ability to issue prompt refunds to consumers who paid for services never provided.

32. Defendants failed to communicate with consumers.

32. The practices alleged in this count caused substantial harm to consumers that was not reasonably avoidable by the consumers themselves and is not outweighed by countervailing benefits to consumers or competition.

33. Defendants' conduct as described herein is unfair in violation of 5 M.R.S. § 207 and is intentional.

RELIEF REQUESTED

WHEREFORE, Plaintiff requests the following relief:

1. Declare that Defendants have intentionally violated the UTPA by inducing consumers to book and pay in advance for limousine services without disclosing that Defendants had not been consistently fulfilling their service commitments.

2. Declare that Defendants have intentionally violated the UTPA by accepting advance payments from consumers without taking reasonable steps to ensure their ability to fulfill the prepaid orders they accepted from consumers or issue prompt refunds.

3. Declare that Defendants have intentionally violated the UTPA by withdrawing funds from consumers' accounts knowing or recklessly disregarding whether the amounts were unauthorized.

4. Declare that Defendants have intentionally violated the UTPA by knowingly posting false online reviews.

5. Declare that Defendants have intentionally violated the UTPA by failing to communicate with consumers.

6. Pursuant to 5 M.R.S. § 209 and M.R. Civ. P. 65, permanently enjoin Defendants, their agents, servants, employees and those persons in active concert or participation with them who receive actual notice of the injunction from owning or operating a limousine service business in Maine.

7. Pursuant to 5 M.R.S. § 209 and M.R. Civ. P. 65, permanently enjoin Defendants, their agents, servants, employees and those persons in active concert or participation with them who receive actual notice of the injunction from taking deposits or any payment in advance of delivering products or performing services in Maine.

8. Pursuant to 5 M.R.S. § 209 order Defendants to pay restitution to the Attorney General's Office on behalf of the consumers who were harmed by their unfair and deceptive practices.

9. Pursuant to 5 M.R.S. § 209, order Defendants to pay a civil penalty of \$10,000 per violation for each intentional violation of the Unfair Trade Practices Act.

10. Pursuant to 5 M.R.S. § 209 and 14 M.R.S § 1522(1)(A), order Defendants to pay the Attorney General its costs of suit and investigation, including attorney's fees.

11. Order such other and further relief as the Court may deem necessary to remedy the effects of Defendants' unfair and deceptive business practices.

Respectfully submitted,

JANET T. MILLS
Attorney General

Dated: January 3, 2014

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CONSUMER PROTECTION DIVISION

RECEIVED

STATE OF MAINE
CUMBERLAND, SS.

MAR 12 2014

SUPERIOR COURT
CIVIL ACTION
DOCKET NO. CV-14-

86

STATE OF MAINE

OFFICE OF ATTORNEY GENERAL

Plaintiff

v.

FOREMOST, LLC, fka
AFFINITY LIMOUSINE, LLC,
JESSICA LYN KOBECKIS and
ROBERT J. FINLEY

Defendants

CONSENT JUDGMENT

Plaintiff, State of Maine ("Attorney General"), and Defendants Foremost, LLC, Jessica Kobeckis and Robert J. Finley (hereinafter collectively referred to as "Defendants"), by and through the undersigned counsel, have requested entry of a Consent Judgment. Therefore, upon consideration of the papers filed and consent of the parties hereto, it is hereby ORDERED and ADJUDGED as follows:

JURISDICTION

The parties agree that this Court has subject matter jurisdiction over this matter and jurisdiction over the parties and agree to the continuing jurisdiction of this Court over this matter and the parties. The Attorney General filed a Complaint for Injunctive and Other Statutory Relief (the "Complaint") against Defendants pursuant to the Maine Unfair Trade Practices Act ("UTPA"), 5 M.R.S. § 205-A et seq.

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INJUNCTION

Defendants, their agents, servants, employees and those persons in active concert or participation with them who receive actual notice of this injunction are enjoined from 1) owning, operating or managing a limousine service, 2) owning, operating or managing any other type of transportation for hire service without all required licenses, and 3) taking any deposits or any payment in advance of delivering products or performing services in Maine. This injunction applies to Defendant Kobeckis and Defendant Finley as a business owner, in partnership, as a controlling corporate principal or as a key employee in any such business.

RESTITUTION

Pursuant to 5 M.R.S. § 209 and within sixty (60) days of the date of this Consent Judgment, Defendants shall pay \$540.00 to the State of Maine Attorney General as restitution for distribution to individual consumers who lost money as a result of Defendants' conduct. In her sole discretion, the Attorney General shall distribute the money to consumers who demonstrate to the Attorney General's satisfaction that they are owed money by the Defendants for pre-payment of limousine services not rendered.

RETENTION OF JURISDICTION

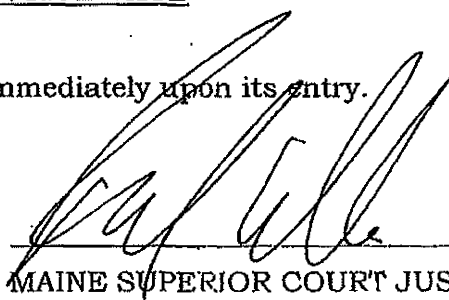
Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Consent Decree and Order to apply to the Court at any time for further order and direction as may be necessary or appropriate for the construction, enforcement, or execution of this Consent Decree and Order.

Each and every violation of this Consent Decree and Order shall be treated as a separate contempt thereof.

EFFECTIVE DATE

This Order shall be effective immediately upon its entry.

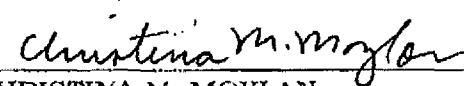
Dated: March 6, 2014



MAINE SUPERIOR COURT JUSTICE


JANET T. MILLS
Attorney General

Dated: 2-25-14



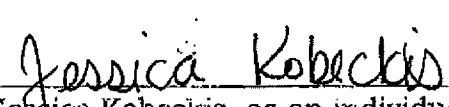
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Dated: 2/10/14



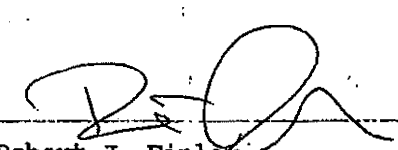
Stephen Schwartz, Esq. Bar No. 3129
P.O. Box 15337
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Attorney for the Defendants

Dated: 2/10/14



Jessica Kobeckis, as an individual and as
President of Foremost LLC

Dated: 2/10/14



Robert J. Finley