

STATE OF MAINE  
KENNEBEC, SS.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO.

STATE OF MAINE, )  
 )  
 Plaintiff )  
 )  
 v. )  
 )  
 MASS - MARKETING, INC., )  
 an Ohio corporation, )  
 )  
 Defendant )

COMPLAINT FOR PERMANENT  
INJUNCTION AND RESTORATION  
OF MONIES

The State of Maine, by and through Richard S. Cohen,  
Attorney General of the State of Maine, herein alleges:

JURISDICTION AND VENUE

1. This action is brought in the public interest, pursuant to 5 M.R.S.A. §209, commonly known as the Maine Unfair Trade Practices Act.
2. Venue is laid in Kennebec County, pursuant to 5 M.R.S.A. §209.

PARTIES

3. Defendant Mass - Marketing, Inc. is an Ohio corporation having its principal place of business at 636 Northland Boulevard, Forest Park, Ohio.

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NATURE OF TRADE OR COMMERCE

4. Defendant, through its Merchant Maps Division, engages in the business of soliciting advertising from merchants in given localities.
5. Defendant, for compensation, prepares, or causes to be prepared, a street and road map bearing such advertisements as it has contracted to publish. One side of the map bears a street map and directory for the urban area in which advertisements have been solicited. The other side of the map bears a road map for the county in which advertisements have been solicited. A copy of the merchant map for Penobscot County/Bangor, Maine is attached to this Complaint as Exhibit A.
6. Defendant distributes, or causes to be distributed, such merchant maps to the merchants who have contracted with it, as well as to banks, restaurants, motels, hotels, service stations, recreational facilities, car rental agencies, airports, shopping centers, etc. Such businesses, in turn, distribute said merchant maps to their customers free of charge.

Count One

7. During April and May 1978, Defendant, through its agents, solicited advertising, by telephone, from merchants in Penobscot County, Maine.

8. During said telephone solicitations, Defendant, through its agents, variously represented that Defendant would print 5,000, 7,000, or 10,000 maps to be distributed to the merchants contracting with it, as well as to banks, restaurants, motels, hotels, service stations, recreational facilities, car rental agencies, airports, shopping centers, etc.
9. During said telephone solicitations, Defendant, through its agents, represented to certain merchants that the new Bangor Mall would appear on its maps.
10. Defendant engaged in the business of selling merchandise to consumers by means of telephone contact without any permanent place of business in Maine for carrying on such business, and without having been properly licensed pursuant to 32 M.R.S.A. §4681 et seq., thereby violating said sections.
11. On or about May 23, 1978, Defendant caused approximately 2,500 merchant maps for Penobscot County/Bangor, Maine to be air freighted to Bangor International Airport.
12. Such maps were obtained from the airport by an agent for Defendant who distributed them to the merchants listed in Schedule A in the amounts there specified.
13. Defendant has not distributed, or cause to be distributed, any merchant maps to banks, restaurants, motels, hotels, service stations, recreational facilities, car rental agencies, airports, shopping centers, etc. in addition to the maps distributed directly to the merchants with whom it had contracted.

14. Said merchant maps did not indicate the location of the new Bangor Mall.
15. Defendant has failed to refund the monies paid to Defendant by the merchants listed in Schedule A in the amounts there specified.
16. Defendant did business in the State of Maine without having been authorized pursuant to 13-A M.R.S.A. §1201 et seq., thereby violating said sections.
17. Defendant's failure to distribute, or cause to be distributed, the total number of merchant maps in the manner represented to merchants solicited by it in Penobscot County, constitutes an unfair or deceptive act or practice in violation of 5 M.R.S.A. §207.
18. Defendant's misrepresentation to certain merchants solicited by it in Penobscot County that the new Bangor Mall would be indicated on its merchant maps constitutes an unfair or deceptive act or practice in violation of 5 M.R.S.A. §207.
19. Defendant's failure to restore monies to the merchants listed in Schedule A in the amounts there specified constitutes an unfair or deceptive act or practice in violation of 5 M.R.S.A. §207.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court

I. Declare that:

- A. Defendant violated 32 M.R.S.A. §4681 et seq. by engaging in the business of selling merchandise to consumers by means of telephone contact without any permanent place of business in Maine for carrying on such business, and without having been properly licensed.
- B. Defendant violated 13-A M.R.S.A. §1201 et seq. by doing business in Maine without having been authorized pursuant to 13-A M.R.S.A. §1201 et seq.
- C. Defendant's failure to distribute, or cause to be distributed, the total number of merchant maps in the manner represented to merchants solicited by it in Penobscot County, constitutes an unfair act or practice in violation of 5 M.R.S.A. §207.
- D. Defendant's misrepresentation to certain merchants solicited by it in Penobscot County that the new Bangor Mall would be indicated on its merchant maps constitutes an unfair or deceptive act or practice in violation of 5 M.R.S.A. §207.
- E. Defendant's failure to restore monies to the merchants listed in Schedule A in the amounts

there specified constitutes an unfair or deceptive act or practice in violation of 5 M.R.S.A. §207.

II. Permanently enjoin

Defendant from:

- A. Violating 32 M.R.S.A. §4681 et seq.
- B. Violating 13-A M.R.S.A. §1201 et seq.

III. Order Defendants to:

- A. Pay to Plaintiff all fees and penalties which would have been imposed upon it under the Maine Business Corporation Act, 13-A M.R.S.A. §101 et seq., had it duly applied for and received authority pursuant to 13-A M.R.S.A. §1201 et seq.
- B. Pay to Plaintiff the sum of \$25 per day for each day it has failed to pay such fees and penalties which would have been imposed upon it under the Maine Business Corporation Act, 13-A M.R.S.A. §101 et seq., pursuant to 13-A M.R.S.A. §1214.
- C. Restore monies to the merchants listed in Schedule A in the amounts there specified.

IV. Grant Plaintiff its cost of investigation of Defendant and its cost of suit, including attorney's fees, pursuant to 5 M.R.S.A. §209.

V. Grant such other equitable relief as the Court deems proper.

Dated:

Respectfully submitted,

RICHARD S. COHEN  
Attorney General

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STANLEY GREENBERG  
Assistant Attorney General  
Consumer & Antitrust Division  
State House  
Augusta, ME 04333  
(207) 289-3716

SCHEDULE A

<u>Name</u>	<u>Number of Maps Received</u>	<u>Amount Paid</u>
1. Allen Electrical Co., Inc. Western Avenue Box 127 Hampden, Maine	100	\$ 79.50
2. Andy the Tailor 356 Broadway Bangor, Maine	100	79.50
3. Auto Motion Speed Equipment Co. Penobscot Plaza Bangor, Maine	100	79.50
4. Bangor Day Care Center 323 Cleveland Street Bangor, Maine	50	59.50
5. Bangor Real Estate 18-20 State Street Bangor, Maine	500	299.50
6. Canine Campus 352 Mt. Hope Avenue Bangor, Maine	50	59.50
7. D. A. Lane & Son, Inc. 878 Stillwater Avenue Bangor, Maine	50	139.50
8. Dorr's Equipment Co. 1408 Hammond Street Bangor, Maine	100	99.50
9. Glidden Body Shop 26 Commercial Street Brewer, Maine	25	59.50
10. Land Mark Real Estate, Inc. 17 N. Main Street Brewer, Maine	150	99.50



	<u>Name</u>	<u>Number of Maps Received</u>	<u>Amount Paid</u>
11.	Lester Carlow Roofing Contractor 13 Lee Street Lincoln, Maine	100	\$139.95
12.	Maine Commercial Cleaning, Inc. 96 Harlow Street Bangor, Maine	100	99.50
13.	Perry & Morrill 1380 Hammond Street Bangor, Maine	50	59.50
14.	Roger Gould Water Well Drilling Rt. 139 W. Winterport, Maine	25	99.50
15.	Winchell Electric 31 Cottage Street Box 1128 Bangor, Maine	150	130.00
16.	Westgate Beauty & Wig Salon Westgate Mall Bangor, Maine	50	69.50
17.	Wood's Shoe Fixery Griffin Road Bangor, Maine	24	59.50