

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-04-

STATE OF MAINE,)
)
) Plaintiff,)
)
) v.)
)
) INTERNATIONAL LAW)
) ENFORCEMENT GAMES, INC.,)
) d/b/a INTERNATIONAL)
) POLICE & FIRE GAMES)
)
) and)
)
) ALL-PRO TELEMARKETING)
) ASSOCIATES CORP.,)
)
) Defendants.)

COMPLAINT
(Injunctive Relief Requested)

INTRODUCTION

1. The Attorney General brings this action in the name of the State of Maine pursuant to the Maine Unfair Trade Practices Act, 5 M.R.S.A. §§ 205-A to 214.

PARTIES

2. Plaintiff State of Maine (the "State") is a sovereign state.
3. Defendant International Law Enforcement Games, Inc., d/b/a International Police & Fire Games ("ILEG"), is an Ohio corporation with a principal place of business in Jacksonville, Florida. ILEG does or has done

business in the State of Maine as a registered charitable organization, as that term is defined in 9 M.R.S.A. § 5003(1).

4. Defendant All-Pro Telemarketing Associates Corp. (“All-Pro”) is a New Jersey corporation with a principal place of business in Fairfield, New Jersey. All-Pro does or has done business in the State of Maine as a registered professional solicitor, as that term is defined in 9 M.R.S.A. § 5003(10).

JURISDICTION AND VENUE

5. This Court has jurisdiction over this action pursuant to 4 M.R.S.A. § 105 and 5 M.R.S.A. § 209, and jurisdiction over ILEG and All-Pro pursuant to 14 M.R.S.A. § 704-A.

6. Venue is properly laid in this county pursuant to 5 M.R.S.A. § 209.

STATUTORY BACKGROUND

7. Pursuant to 5 M.R.S.A. § 207, “unfair or deceptive acts or practices in the conduct of any trade or commerce are . . . unlawful.”

8. Pursuant to 25 M.R.S.A. § 3702-A, which was effective at all relevant times prior to February 1, 2004, “[a] law enforcement agency, law enforcement association, law enforcement officer or solicitation agent may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.” Section 3702-A further provides that a violation of that section is also a violation of 5 M.R.S.A. § 207.

9. Pursuant to 25 M.R.S.A. § 3702-B, which became effective February 1, 2004, “[a] person may not solicit property from the general public when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency or law enforcement association.” Section 3702-B further provides that a violation of that section is also a violation of 5 M.R.S.A. § 207.

10. Pursuant to 9 M.R.S.A. § 5012(2), a professional solicitor may not solicit contributions from a prospective donor without fully disclosing to the prospective donor at the time of solicitation but prior to the request for contributions both the name and address of the professional solicitor and the fact that the professional solicitor is a professional charitable fund raiser. Pursuant to 9 M.R.S.A. § 5014, a violation of section 5012(2) is also a violation of 5 M.R.S.A. § 207.

11. Pursuant to 5 M.R.S.A. § 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. . . .

12. Pursuant to 5 M.R.S.A. § 209, each violation of 5 M.R.S.A. § 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.

FACTS

13. ILEG was incorporated for the purpose of organizing and governing a reoccurring Olympics-style athletic competition known as the International Police and Fire Games in order to promote “physical fitness” and “a spirit of benevolence, friendship, sportsmanship, good will, and camaraderie among law enforcement officers and firefighters.”

14. On or about February 1, 2003, ILEG entered into a contract with American Trade and Convention Publications, Inc. (“AMT”), by which ILEG engaged AMT “to conduct a residential telephone solicitation campaign on behalf of ILEG throughout North America.”

15. Under the terms of the contract, AMT was authorized “to enlist the services of qualified and competent professional telemarketing companies . . . to assist with the public support solicitation.”

16. On or about August 1, 2003, AMT entered into a contract with All-Pro by which AMT engaged All-Pro to conduct a telephone solicitation campaign on behalf of ILEG in several states, including Maine.

17. All-Pro conducted a telephone solicitation campaign for ILEG in Maine in late 2003 and early 2004.

18. All-Pro solicited more than 4,700 Maine residents and collected at least \$38,933 in connection with the telephone solicitation campaign that it conducted in Maine for ILEG during 2003 and 2004.

COUNT I

19. The State repeats, realleges, and incorporates herein by reference paragraphs 1 through 18 of this complaint.

20. ILEG and All-Pro represented to Maine residents that their contributions would allow law enforcement and fire personnel to “develop their particular skills,” “sharpen the physical ability their jobs depend on,” “share in the fraternal spirit that makes their tough jobs bearable,” and “bring home the gold, silver or bronze medal as proof of their excellence.”

21. ILEG and All-Pro solicited property from Maine residents that tangibly benefited, was intended to tangibly benefit, or was represented to be for the tangible benefit of law enforcement officers and agencies, in violation of 25 M.R.S.A. §§ 3702-A and 3702-B and 5 M.R.S.A. § 207.

22. Each violation of 5 M.R.S.A. § 207, as described in this count, resulted from intentional and unfair or deceptive conduct on the parts of ILEG and All-Pro.

COUNT II

23. The State repeats, realleges, and incorporates herein by reference paragraphs 1 through 18 of this complaint.

24. All-Pro solicited contributions from Maine residents without fully disclosing to them at the time of solicitation but prior to the request for contributions both its name and address and the fact that it was a professional charitable fund raiser, in violation of 9 M.R.S.A. § 5012(2) and 5 M.R.S.A. § 207.

25. Each violation of 5 M.R.S.A. § 207, as described in this count, resulted from intentional and unfair or deceptive conduct on the part of All-Pro.

COUNT III

26. The State repeats, realleges, and incorporates herein by reference paragraphs 1 through 18 of this complaint.

27. ILEG and All-Pro represented to Maine residents that their contributions would also assist a “major children’s wish fulfillment organization.”

28. The “major children’s wish fulfillment organization” referred to in ILEG’s literature sent to Maine residents and All-Pro’s telephone solicitation of Maine residents is Children’s Wish Foundation International, a Georgia-based charitable organization (“CWFI”).

29. ILEG and All-Pro failed to identify CWFI as the “major children’s wish fulfillment organization” to which they referred, leading numerous Maine residents to believe, falsely, that their contributions would benefit the more commonly known Make-A-Wish Foundation of Maine, in violation of 5 M.R.S.A. § 207.

30. Each violation of 5 M.R.S.A. § 207, as described in this count, resulted from intentional and unfair or deceptive conduct on the parts of ILEG and All-Pro.

RELIEF REQUESTED

Accordingly, the State requests that this Court:

A. Declare that ILEG has violated 25 M.R.S.A. §§ 3702-A and 3702-B and 5 M.R.S.A. § 207, and that All-Pro has violated 25 M.R.S.A. §§ 3702-A and 3702-B, 9 M.R.S.A. § 5012(2), and 5 M.R.S.A. § 207;

B. Declare that each violation of 5 M.R.S.A. § 207 by ILEG and All-Pro resulted from intentional and unfair or deceptive conduct on their parts;

C. Issue a permanent injunction enjoining ILEG, All-Pro, and their officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of the injunction from:

(1) Directly or indirectly soliciting property from Maine residents when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit, or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency, or law enforcement association;

(2) Directly or indirectly soliciting contributions from Maine residents without fully disclosing to each prospective donor at the time of solicitation but prior to the request for contributions both the name and address of the

professional solicitor and the fact that the professional solicitor is a professional charitable fund raiser;

(3) Directly or indirectly soliciting contributions from Maine residents without fully disclosing to each prospective donor at the time of solicitation but prior to the request for contributions the identity of each beneficiary of the solicitation; and

(4) Causing, assisting, or encouraging any other person to engage in the above-prohibited conduct;

D. Order ILEG and All-Pro to pay a civil penalty of up to \$10,000 for each intentional violation of 5 M.R.S.A. § 207, pursuant to 5 M.R.S.A. § 209;


E. Order ILEG and All-Pro to pay restitution to all Maine residents who made contributions to ILEG from August 1, 2003, to the present, pursuant to 5 M.R.S.A. § 209;

F. Order ILEG and All-Pro to pay to the State its costs of the investigation and suit, including its attorney's fees, pursuant to 5 M.R.S.A. § 209 and 14 M.R.S.A. § 1522(1)(A); and

G. Grant such other and further relief as the Court deems just and proper.

DATED at Augusta, Maine, this ~~24th~~ day of August, 2004.

G. STEVEN ROWE
Attorney General

A handwritten signature in black ink, appearing to read 'Stanley W. Piecuch', written over a horizontal line.

STANLEY W. PIECUCH (Bar No. 7130)
Assistant Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800

Attorneys for State of Maine

STATE OF MAINE
KENNEBEC, ss.

SUPERIOR COURT
CIVIL ACTION
Docket No. CV-04-190

STATE OF MAINE,)
)
Plaintiff,)
)
v.)
)
INTERNATIONAL LAW)
ENFORCEMENT GAMES, INC.,)
d/b/a INTERNATIONAL)
POLICE & FIRE GAMES)
)
and)
)
ALL-PRO TELEMARKETING)
ASSOCIATES CORP.,)
)
Defendants.)

CONSENT DECREE

RECEIVED AND FILED
 KENNEBEC SUPERIOR COURT
 2005 MAY 13 A 8:21

Plaintiff State of Maine having filed a Complaint against Defendants International Law Enforcement Games, Inc., d/b/a International Police & Fire Games ("ILEG"), and All-Pro Telemarketing Associates Corp. ("All-Pro"), and all parties having consented to the entry of this Consent Decree without trial or adjudication of any issue of fact or law, and without this Consent Decree constituting any evidence against or admission by any party, it is hereby ORDERED and DECREED as follows:

JURISDICTION

The Court has jurisdiction over the persons of Plaintiff and Defendants

and over the subject matter of this action. The Complaint states a claim for relief under 5 M.R.S.A. § 207.

INJUNCTIONS

1. Pursuant to 5 M.R.S.A. § 209, Defendant ILEG and its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this injunction are hereby permanently enjoined from directly or indirectly soliciting property from Maine residents when the property or any part of that property in any way tangibly benefits, is intended to tangibly benefit, or is represented to be for the tangible benefit of any law enforcement officer, law enforcement agency, or law enforcement association, so long as 25 M.R.S.A. § 3702-A is in effect.

2. Pursuant to 5 M.R.S.A. § 209, Defendant All-Pro and its officers, agents, servants, employees, and attorneys, and those persons in active concert or participation with them who receive actual notice of this injunction are hereby enjoined from registering All-Pro as a professional solicitor in the State of Maine for a period of 5 years from the date of entry of this Consent Decree.

3. Pursuant to 5 M.R.S.A. § 209, Mark Gelvan, the principal of Defendant All-Pro, is hereby enjoined from registering, or causing to be registered, any new entity as a professional solicitor in the State of Maine for a period of 5 years from the date of entry of this Consent Decree.

COSTS

Pursuant to 5 M.R.S.A. § 209 and 14 M.R.S.A. § 1522(1)(A), Defendant All-Pro shall pay to the State its costs of the investigation of, and suit against, Defendants by the Attorney General, including attorney's fees, in the amount of \$18,000, to be paid in six installments as follows: \$3,000 on the date of entry of this Consent Decree; \$3,000 on May 15, 2005, and on the fifteenth day of each consecutive month thereafter until the amount is paid in full. All-Pro's below-named principal shall personally guarantee payment of the amount by a separate document delivered to the Attorney General.

If any payment is not made within 10 days of its due date, then All-Pro's below-named counsel, Errol Copilevitz, Esq., shall be notified of the deficiency. If the deficiency is not cured within 10 days from the date that counsel receives such notice, then any outstanding balance, plus a penalty of \$10,000, shall become immediately due and payable. Such unpaid balance and penalty shall be reduced to a judgment for the State upon request of the Attorney General, and Defendant All-Pro shall be responsible for all fees and costs of collection associated therewith.

RETENTION OF JURISDICTION

The Court shall retain jurisdiction for the purpose of enabling any of the parties to this Consent Decree to apply to the Court at any time for such further orders or directions as may be necessary or appropriate for the construction, modification, or enforcement of this Consent Decree. Each and

every violation of this Consent Decree shall be treated as a separate contempt hereof.

EFFECTIVE DATE

This Consent Decree shall be effective immediately upon its entry.

G. STEVEN ROWE
Attorney General



DATED: _____

5/11/05

LINDA J. CONTI
Bar No. 3638
Assistant Attorney General
Office of the Attorney General
6 State House Station
Augusta, Maine 04333-0006
(207) 626-8800

ATTORNEYS FOR PLAINTIFF

DATED: _____

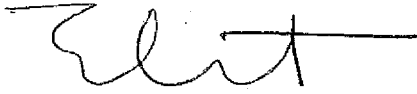
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CHRISTOPHER D. NYHAN, ESQ.
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Preti, Flaherty, Beliveau, Pachios & Haley,
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One City Center
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DATED: _____

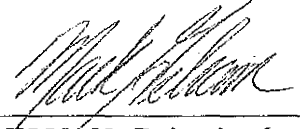
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ERROL COPILEVITZ, ESQ.
Copilevitz & Canter, LLC
423 West Eighth Street, Suite 400
Kansas City, Missouri 64105
(816) 472-9000

ATTORNEYS FOR DEFENDANTS

DATED: May 4, 2005



MARK GELVAN, Principal of Defendant
All-Pro

ORDER AND DECREE

It is hereby ORDERED and DECREED as set forth above.

DATED: 5/13/05



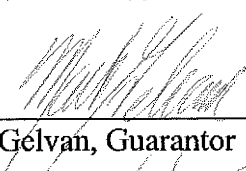
Justice, Superior Court

GUARANTEE

The undersigned, Mark Gelvan, an individual, does hereby agree to personally guarantee and does hereby personally guarantee, the monetary obligations of All-Pro Telemarketing Associates Corp. ("All-Pro") in a certain Consent Judgment rendered in the case of *State of Maine v. International Law Enforcement Games, Inc., d/b/a Internal Police and Fire Games and All-Pro Telemarketing Associates Corp.*, Superior Court, State of Maine, Kennebec County, Docket No. CV-04-190. The guarantor makes this guarantee in consideration of the agreement to resolve said litigation. Said obligation shall extend to the total sum of Eighteen Thousand (\$18,000) Dollars, which shall be paid as follows: Three Thousand (\$3,000) Dollars upon entry of the Consent Judgement, and thereafter Three Thousand (\$3,000) Dollars per month until the entire amount has been paid.

This guarantee is unconditional and extends to and includes a Ten Thousand (\$10,000) Dollar penalty if payment is in default for more than ten (10) days after notice has been given to Errol Copilevitz, counsel for All-Pro, and if the matter continues to remain in default for ten (10) days thereafter.

By his signature hereon, Mark Gelvan acknowledges he has read the terms of the Consent Judgment and as it pertains to the payment of Eighteen Thousand (\$18,000) Dollars set forth in Section _____, agrees to guarantee said payment. If All-Pro fails or refuses to make said payments as set forth in the Consent Judgment and this Guarantee, Mark Gelvan agrees to personally make said payments, and his failure to do so may be enforced by reducing this Guarantee to judgment. In the event of judgment, Mark Gelvan further acknowledges and agrees that the Attorney General of Maine will be entitled to all reasonable costs of collection.

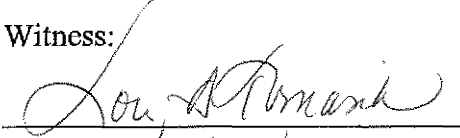


Mark Gelvan, Guarantor

Date: _____

3/3/05

Witness:



Date: _____

3/31/05